

November 17, 2016

TO: Gray Town Council
Deb Cabana, Town Manager

FROM: Doug Webster, Community Development

RE: Proposed Zoning and Subdivision Ordinance Amendments
Proposed new Residential Open Space Subdivision regulations
Proposed revised Net Residential Area and Density standards

Introduction & Timeline

In accordance with extensive efforts by the Town's Ordinance Advisory Committee and input from the Gray Town Council, this memo contains the proposed changes to both the Zoning and Subdivision Ordinance to incorporate the new Residential Open Space Subdivision and Net Residential Area/Density standards. It follows the traditional strike-thru and underline format.

The envisioned timeline is to hold the Town Council Public Hearing/First Reading on Tuesday, December 6th and the formal Planning Board Public Hearing on December 8th. The Council's envisioned second reading/adoption is anticipated for the regular TC meeting on January 3rd.

As detailed below, there are seven Zoning Ordinance changes and four Subdivision Ordinance changes to incorporate the new subdivision and net residential area/density standards.

Zoning Change #1: Delete current definition of Cluster Development in Section 402.2.2

Insert language

Zoning Change #2: Adjust definition of Net Residential Area as follows in Section 402.2.2

Insert language

Zoning Change #3: Add new definition of Residential Open Space Subdivision in Section 402.2.2

Residential Open Space Subdivision: A form of single-family residential development that provides flexibility in design and promotes creating open space by reducing lot area

and bulk requirements for individually owned lots, provided that the allowed number of lots does not exceed the required zoning density standards for the respective district.

Zoning Change #4: Add Residential Open Space Subdivisions as a permitted use in the appropriate Districts in Table 402.5.3

Insert language

Zoning Change #5: Delete in entirety current Net Residential Area standards in 402.6.3

Insert language

Zoning Change #6: Delete in entirety current Net Residential Area standards in 402.6.4

Insert language

Zoning Change #7: Add new language for Residential Open Space Subdivisions to Section 402.7.6

Section 402.7.6 Cluster Development Residential Open Space Subdivisions and Multi-Family Housing Development

A. Purposes of Residential Open Space Subdivision: The purpose of Residential Open Space Subdivision standards is to encourage greater flexibility and more creative design for the development of single-family projects. It is intended to encourage a pattern of residential development which will result in the following attributes:

1. Preservation of Gray's rural character by retention of open space and its natural resource values as determined by the Planning Board with input from appropriate organizations, other Town staff, and State departments.
2. To the greatest practical extent, preservation of existing landscape features and the utilization of such features in a harmonious fashion.
3. Protection of environmentally sensitive areas.
4. Economical and efficient building arrangement, traffic circulation, and utility construction.
5. Outdoor recreational facilities that may be better utilized and located than would otherwise be provided under more conventional land development.

B. Residential Open Space Subdivisions standards are contained in the Town of Gray Subdivision Ordinance, Chapter 401, in Section 401.13.13.

C. Section 401.13.13.I establishes the purposes of locating individually owned lots in relation to the configuration of the open space. Parties must pay particular attention to this section to ensure that the overall layout of land development is consistent with these standards.

D. Space, bulk, and dimensional standards for Residential Open Space Subdivisions shall be subject to the following:

1. The Planning Board shall have the authority to reduce setbacks to those stated in Table 401.13.13.B.1 of the Town of Gray Subdivision Ordinance.
2. Neither the Planning Board nor the Zoning Board of Appeals shall have the authority to further reduce the setbacks for the entirety of a project.
3. The Planning Board's ability to change setbacks within the project as detailed in Table 401.13.13.B.1 of the Subdivision Ordinance shall not be construed as granting variances to relieve hardship, and the action of the Zoning Board of Appeals shall not be required.
4. All other space standards except those specifically allowed in Table 401.13.13.B.1 of the Subdivision Ordinance for the respective district shall apply to the Residential Open Space Subdivision.

E. Provisions for Multi-Family Development: Provisions for multi-family development are contained in Section 402.10.14 of Site Plan Review. For the purposes of this Ordinance, multi-family development is not considered to be a Residential Open Space subdivision.

Subdivision Change #1: Adjust definition of Net Residential Area in Section 401.3

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 of Chapter 402, the Gray Zoning Ordinance Section 401.13.18 of this Chapter 401, the Gray Subdivision Ordinance.

Subdivision Change #2: Adjust definition of Net Residential Density in Section 401.3

Net Residential Density: Net residential density shall mean the number of lots or dwelling units allowed on a parcel or site after unsuitable land per Net Residential Area 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.

Subdivision Change #3: Add new language for standards for Residential Open Space Subdivisions to Section 401.13.13

Section 401.13.13 Cluster Developments Residential Open Space Subdivisions:

A. Purpose:

1. The purpose of these Residential Open Space Subdivision standards is to encourage greater flexibility and more creative design for the development of single-family projects. It is intended to encourage a pattern of residential development which will result in the following attributes:
 - a. Preservation of Gray's rural character by retention of open space and its natural resource values as determined by the Planning Board with input from appropriate organizations, other Town staff, and State departments.
 - b. To the greatest practical extent, preservation of existing landscape features and the utilization of such features in a harmonious fashion.
 - c. Protection of environmentally sensitive areas.
 - d. Economical and efficient building arrangement, traffic circulation, and utility construction.
 - e. Outdoor recreational facilities that may be better utilized and located than would otherwise be provided under more conventional land development.
2. Section 401.13.13.I establishes the purposes of locating individually owned lots in relation to the configuration of the open space. Parties must pay particular attention to this section to ensure that the overall layout of land development is consistent with these standards.

B. Dimensional Standards:

1. Table 401.13.13.B.1 entitled "Residential Open Space Subdivision Dimensional Standards Table" is hereby incorporated into this Ordinance (please see appendix of this Ordinance).
2. The Planning Board shall have the authority to reduce setbacks to those stated in Table 401.13.13.B.1.

3. Neither the Planning Board nor the Zoning Board of Appeals shall have the authority to further reduce the setbacks for the entirety of a project.
4. The Planning Board's ability to change setbacks within the project as detailed in Table 401.13.13.B.1 shall not be construed as granting variances to relieve hardship, and the action of the Zoning Board of Appeals shall not be required.
5. All other space standards except those specifically allowed in Table 401.13.13.B.1 for the respective district shall apply to the Residential Open Space Subdivision.
6. Notwithstanding Section 401.13.1.B.4 of this Subdivision Ordinance specifying the maximum ratio of lot length to width, the Planning Board shall have the authority to adjust lot configurations consistent with these standards including the Residential Open Space Dimensional Standards Table (Section 401.13.13.B.1) of this Ordinance.
7. Notwithstanding standards regarding open space, common land, facilities and services established in Section 401.13.16.E of this Ordinance, all open space areas in Residential Open Space Subdivisions shall meet and maintain standards in this Section 401.13.13.

C. Lot Density Calculations and Density Bonuses:

1. In no case shall the maximum number of lots exceed the gross density specified for the respective zoning district established in Table 402.5.4.A of the Zoning Ordinance. In all cases where the number lots permitted equals a decimal number, the number shall be rounded to the nearest whole number.
2. The maximum number of lots shall be calculated by using the Net Residential Density calculations contained in Section 401.13.18 of this Subdivision Ordinance and may be adjusted in accordance with this Section 401.13.13.C.
3. The Planning Board shall approve a density bonus that increases the number of lots if the project meets any one or more of the criteria established in this Section 401.13.13.C of the Subdivision Ordinance. The allowance for increased density may be cumulative up the maximum gross density for the respective Zoning District.
4. As determined by the Planning Board as an integral part of the review of the project, subdivisions that meet one or more of the following shall be eligible for a five percent (5%) increased number of lots for each of the following:
 - a. Developed trail network in commonly owned open space.
 - b. Links to trails outside the perimeter of the project.
 - c. A contiguous area of land larger than five (5) acres that is permanently protected by a recorded easement for agricultural purposes.

- d. A contiguous area of land larger than five (5) acres containing mature growth forest that is permanently protected from timber harvesting by a recorded easement.
 - e. Two (2) or more acres of land, which is not otherwise required to be protected, of valuable wildlife and/or environmentally sensitive areas that is permanently protected from development, other than walking trails.
 - f. Each 10% of additional deeded common open space, above the minimum required in Table 401.13.13.B.1.
5. As determined by the Planning Board as an integral part of the review of the project, subdivisions that meet one or more of the following shall be eligible for a ten percent (10%) increased number of lots for each of the following:
- a. A recorded easement granting the public rights to utilize trails in the common open space portion of the project.
 - b. Each 10% of sustainable affordable single-family housing units permanently protected by recorded deed covenants which establish fixed maximum sale prices regarding the fee transfer of title; each 10% of such permanent affordable single family dwelling housing unit is allowed a 10% density bonus increase.
 - c. Providing public water throughout the project for properties not otherwise required to be served by public water, such as properties in the McKin Superfund area.
6. As determined by the Planning Board as an integral part of the review of the subdivision, projects designed, constructed, and memorialized in recorded deed covenants approved by the Planning Board to be occupied by persons at least 55 years of age shall be eligible for a fifteen percent (15%) increased number of lots.

D. General Requirements:

- 1. Residential Open Space Subdivisions are allowed in the Rural Residential & Agricultural, Lake District, Medium Density, and Well Head-2 Zoning Districts in accordance with applicable standards.
- 2. Only single-family dwellings shall be permitted in Residential Open Space Subdivisions. Only one single-family dwelling shall be permitted on each individually owned lot. Accessory Apartments are specifically prohibited in Residential Open Space Subdivisions. A note on the face of the final signed recorded plan and/or included in deeds for each individually owned parcel shall memorialize these use limitations.
- 3. Accessory residential uses other than Accessory Apartments that are permitted in the respective Zoning District may be permitted unless specifically disallowed as part of the Planning Board's approval. In such cases, the use parameters shall be memorialized on the face of the final signed recorded plan and a clear note in the deeds for each lot.

4. All deeds for individually owned lots in the project as well as the face of the final recorded subdivision plan shall contain the following language; "Lot uses in this Residential Open Space Subdivision are limited to those single-family residential uses that are permitted in the Zoning Ordinance".
5. Except for standards specifically established in this Section 401.13.13 of this Subdivision Ordinance, Residential Open Space Subdivisions shall meet all other applicable requirements of the Subdivision Ordinance and the Zoning Ordinance.
6. In accordance with Section 401.13.15.C.1 of this Subdivision Ordinance, the Planning Board shall have the right to require that reserve rights-of-way be established and clearly shown on the face of the recorded plan if adjacent properties may be suitable for future development as determined by the Board. In such cases, lots and building envelopes shall be established and shown on the face of the final signed recorded plan to allow the construction of this future access with respect to applicable setbacks and standards.
7. Open space shall be shown on the subdivision plan, and with appropriate notation on the face of the final signed recorded plan, that it shall not be further divided for any other use.
8. An Open Space Subdivision located on a lot that is in more than one Zoning District shall be subject to all applicable provisions for each respective District.
9. All recreation areas in the project, including trails, and any limitations on their use shall be shown on the face of the final recorded plan. The Planning Board may require that the homeowners association documents and/or deeds for individual lots include provisions that ensure that the potential buyers are aware of the use and limitations of the recreational areas.
10. The Town of Gray will not be responsible for enforcement of the use of any open space or recreational areas including trails.
11. No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development specifically including a Town or State road.
12. In order to achieve maximum efficiency of lot layout, up to two (2) lots accessed by back lot development easements shall be permitted in an Open Space Subdivision.
13. Shore frontage for each lot shall not be reduced below the minimum normally required by the Shoreland Zoning Ordinance.
14. Underground utilities shall be required.

E. Water Supply & Wastewater Disposal Requirements:

1. In the event that the applicant proposes a privately owned common water supply (not Gray Water District) serving multiple lots or dwelling units, provisions shall be taken to ensure that there will be adequate separation from the water supply wellhead to any potential wastewater disposal components. If a privately owned common water supply is to be installed, all residential structures in the project shall be connected to this system. The applicant shall demonstrate to the Planning Board that sufficient measures have been taken to ensure that the on-going maintenance needs of a privately owned common water supply will be addressed such as necessary inclusions in the homeowners association documents.
2. Subsurface wastewater disposal systems for all lots and dwellings in a Residential Open Space Subdivision shall be on one of the following:
 - a. a separate disposal field located on the same individually owned lot as the dwelling.
 - b. shared wastewater disposal field(s) by two to a maximum of four lots meeting applicable standards.
 - c. a centralized collection system and wastewater disposal components for the entire project meeting applicable standards.
3. During the Planning Board's review of the Open Space Subdivision, the Board shall ensure that neither the test pit nor any portion of the proposed subsurface wastewater disposal system, including the disposal field and associated fill extensions, will be located within any minimum buffer to the perimeter of the project. In order to ensure that these standards are met, the Planning Board shall have the authority to require that a fully completed HHE-200 showing fill extensions, the perimeter buffer, and nearby stormwater buffer locations be submitted as part of the review.
4. When wastewater disposal is to be located on the same individually owned lot as the dwelling, the Planning Board shall have the authority to require the applicant to demonstrate that there are at least two locations on each individual lot that can practically accommodate a subsurface wastewater disposal field in accordance with the Maine Subsurface Wastewater Rules.
5. The maintenance responsibilities for all component(s) of a shared or centralized wastewater disposal system shall be the appropriate association(s). The face of the final signed recorded plan as well as the respective deeds shall include necessary easements for the on-going maintenance of the wastewater disposal system components.
6. A centralized collection and treatment system(s) or shared wastewater disposal system(s) shall not be located on any individually owned lot and shall not be counted as part of the minimum required open space. The location(s) of all proposed centralized collection and treatment system(s) or shared wastewater disposal system(s) shall be approved by the Planning Board with their respective location(s) shown on the face of the final signed recorded subdivision plan.

7. In the event that a centralized collection and treatment of wastewater disposal is proposed, all lots and/or dwelling units in the project shall utilize this centralized wastewater disposal system with the understanding that there may be one or more systems utilized. In addition, all of the following standards shall apply:
- a. the applicant shall demonstrate that at least one (1) site on each lot has suitable soils for wastewater disposal.
 - b. in instances where one or more of the design flow(s) exceeds one thousand (1,000) gallons per day is proposed, the applicant shall demonstrate that there is at least one (1) additional back-up site that is practically usable for each such proposed wastewater disposal field that could accommodate the wastewater disposal field.
 - c. All land areas utilized for the purposes of wastewater disposal fields for centralized collection of wastewater shall not be counted as part of the minimum required open space.
 - d. In the event that a centralized collection and treatment system is proposed for a location in the open space that is not shown on the face of the recorded subdivision plan, the plan must be amended in accordance with applicable procedures before any permits for the system(s) are issued.

F. Standards for individually owned lots:

- 1. Each individually owned lot in a Residential Open Space Subdivision shall have a building envelope sufficient to allow the development of customary residential uses as determined by the Planning Board. The dimensional standards are established in Table 401.13.13.B.1. The Planning Board shall ensure that there is ample space for access, for siting principal and accessory residential structures, and as appropriate, for locating a well and subsurface wastewater disposal system.
- 2. The Planning Board shall have the authority to require detailed proposed lot layouts for individually owned lots that demonstrate the proposed lot is capable of being developed for customary residential purposes. These lot layout plans shall include all necessary lot improvements. The Board shall also have the authority to require the applicant to demarcate these building envelopes via survey to ensure that the potential owners of the lot are aware of the applicable limitations.
- 3. The Planning Board shall ensure that neither the test pit nor any portion of the proposed subsurface wastewater disposal system, including the disposal field and associated fill extensions, will be located within any minimum buffer to the perimeter of the project. In order to ensure that this standard is met, the Planning Board shall have the authority to require that a fully completed HHE-200 showing fill extensions, the perimeter buffer, and nearby stormwater buffer locations be submitted as part of the review.

G. Standards for required setback buffers around the perimeter:

1. The Planning Board shall permit appropriate reductions in dimensional standards established in Table 401.13.13.B.1 upon a showing that the perimeter buffer is reserved in an appropriate location, shape, topography, size, condition, and nature of growth that will preserve for the residents of the project desirable common area, tree cover, scenic areas or natural features, and that adequate provisions for such dedication have been completed.
2. Setback buffers to the perimeter of the subdivision, whether to any road, side, or rear setback, shall be part of the open space for the project and in no event shall these areas be owned in entirety by any individual lot owner. The ownership and maintenance of these setback buffers to the perimeter of the subdivision shall be the same as the open space for the Subdivision.
3. Stormwater measures that compromise the required buffering standards shall not be permitted in the front perimeter buffer facing the road that provides access to the project. Stormwater measures in the side and/or rear perimeter buffer(s) shall only be permitted with Planning Board approval in instances when the applicant demonstrates that no other practicable solution is available.
4. The Homeowner/Lot owner association documents shall include language that clearly states that the association is responsible for the maintenance of the perimeter buffer.
5. The full depth of all required setback buffers to the perimeter of the subdivision shall consist of dense, mature natural vegetation as determined by the Planning Board. In the event that existing conditions do not meet this requirement at the time the application is before the Planning Board, the Board shall have the authority to require the applicant to plant trees and other appropriate vegetation to establish an adequate buffer within a reasonable time period as determined by the Planning Board during its review of the project. In order to ensure that the required setback buffer to the perimeter of the subdivision meets applicable standards, the Planning Board shall also have the authority to require the applicant to post a bond or acceptable surety sufficient to ensure that the planted vegetation remain healthy and can be replanted if necessary as specified in Section 401.13.13.G.6.
6. When the Planning Board has determined that the applicant must post a bond or acceptable surety, qualified professionals shall provide proposed surety amounts for consideration by the Planning Board. Based on these submittals, input from Town Staff and the Town's consulting engineer, and any peer reviews that may be necessary, the Planning Board shall determine the amount of the surety that is one hundred and twenty-five (125) percent of the surety amount. The final type of surety, and the associated time frame, shall be determined by the Town's legal counsel based on input from Town staff. No Building Permits for any lot or dwelling unit in the subdivision shall be issued until this bond has been duly established.

H. Standards for Open Space areas:

1. For purposes of the Planning Board's review of Residential Open Space Subdivisions, usable open space shall mean land that can reasonably be accessed and utilized by persons owning individual lots in the subdivision. The land shall be capable of practically functioning as recreational areas including but not limited to uses such as trails or other appropriate activities.
2. Open space portions of the project shall have the following traits as determined by the Planning Board:
 - a. be as continuous as possible.
 - b. contain an area that is sufficiently large to serve appropriate recreational purposes.
 - c. be suitably configured to be utilized for appropriate recreational purposes.
 - d. be located to allow for reasonable access by persons owning lots in the subdivision.
 - e. As appropriate, the natural topography shall allow for areas to be improved for recreational purposes such as ballfields.
3. Open space shall be defined as lands permanently dedicated to one or more of the following uses: agricultural, cultivation, grazing, gardening, forestry, natural resource conservation, wetland protection, wildlife habitat, undeveloped park land, scenic preservation, outdoor recreation or open space areas, including buffers, that are part of an integrated or interconnected open space system.
4. The following areas shall be excluded from open space calculations:
 - a. Full width of all roads and right-of-way(s) necessary for vehicular access to individually owned lots.
 - b. All areas of the subdivision that are to be individually owned specifically including all lots utilized for single family dwellings.
 - c. Areas devoted to common wastewater disposal field(s).
5. Lands dedicated by easement for use as recreation or park facilities open to the public or as private facilities for use by owners of lots in the subdivision shall be included in the open space and counted toward the open space requirement. Lands occupied by impervious paths or similar for common recreational facilities, not including tennis courts or buildings, may be counted as open space provided that such impervious surfaces constitute no more than five percent (5%) of the total required open space.

I. Configuration and Location of Open Space:

1. The configuration of the open space shall strive to preserve areas of the parcel that are environmentally sensitive or contain unique natural areas.

2. To the maximum extent possible, the open space shall be comprised of large unbroken tracts and the Planning Board shall discourage areas of open space connected together by narrow strips of land.
3. All lots in the Open Space Subdivision shall be located within five hundred (500) feet of the commonly owned open space to ensure practicable access.
4. The Planning Board shall ensure that the configuration, location, and size of the minimum required contiguous usable open space to have direct access immediately adjacent to the road that is required in line #6 of the Dimensional Table in Section 401.13.13.B.1 of this Ordinance will meet the needs of the subdivision as well as possible subsequent phases of the project. The purpose of this minimum required contiguous usable open space area is to reserve a readily-accessed area immediately adjacent to the road within the subdivision to be utilized by those families living in the project to afford a host of purposes including a gathering location, construct a playground, have a commonly used field, etc.
5. When reviewing the location(s) of proposed road(s), lots, and open space, the Planning Board shall consider the following criteria and purposes:
 - a. The overall layout of the project including the location of individually owned lots, roads, and configuration of open space shall promote optimal locations designed to minimize adverse effects on surrounding properties.
 - b. Individual lots, building envelopes, buildings, and streets designed to minimize the alteration of natural site features to be preserved.
 - c. The usability of open space intended for recreation or public use determined by the size, shape, topographic and location requirements of the particular purpose proposed for the site.
 - d. Consider current or planned uses for abutting parcels adjacent to the subdivision and ensure that the layout of the subdivision augments these uses to the maximum extent practicable.
 - e. Open space including irreplaceable natural features located on the tract such as stream beds and setbacks, significant stands of trees, individual trees of significant size, and rock outcroppings.
 - f. Open space intended for recreation or public use shall be easily accessible to pedestrians.
 - g. The suitability of open space intended for scenic value and purposes to achieve the best possible relationship between development and the land.
 - h. Maximize connections to recreational resources and facilities adjacent to the parcel being subdivided.
 - i. To the maximum extent practically feasible, preserve habitat functionally necessary for wildlife.

J. Ownership & Use of Open Space:

1. The fee ownership of the minimum required open space shall be either the Homeowners Association or remain fractional by the lot owners in the subdivision. The use of the open space shall be consistent with applicable Town standards specifically including those in this Subdivision Ordinance. The face of the final recorded plan shall contain a note regarding this requirement.
2. The developer or the subsequent homeowners association may choose to grant a conservation easement to the Town of Gray or an association/ land trust legally constituted for conservation purposes.
3. In the event that the developer chooses to include open space in excess of that required, that extra portion is not required to be fractionally owned by the lot owners in the subdivision.
4. Subject to obtaining the necessary permits, open space shall be usable by persons owning lots in the Residential Open Space Subdivision for the following purposes:
 - a. Passive recreation.
 - b. Construction/use of recreational trails.
 - c. Construction /use of ball fields.
 - d. Construction of small accessory structures related to allowed uses.
 - e. Playground.
 - f. Community park/open space.
5. In no event shall the open space be utilized for any commercial purpose, specifically including recreation, other than the periodic timber harvesting in accordance with a plan compiled by a qualified professional designed to re-establish and maintain the Open Space and perimeter buffer.
6. The Homeowners association documents must contain clear language specifying that it is responsible for the maintenance of the common open space in accordance with these standards.
7. The following shall be required for the formation of a community association consisting of the residents or owners of the development:
 - a. The formation and incorporation by the developer of one or more appropriate community associations shall be required prior to final approval;
 - b. Covenants for mandatory membership in the association(s) setting forth the owners' rights, interests, and privileges in the association(s) and the common land shall be approved by the Planning Board and the necessary language included in the deed, not by reference, for each lot;
 - c. The community association(s) shall have the responsibility of maintaining the open space and operating and maintaining recreational facilities and lands;
 - d. If deemed necessary by the association(s), the association(s) shall levy charges against all property owners to defray the expenses connected with the maintenance of the open space and recreational facilities and lands;

- e. The developer shall maintain control of such open space and be responsible for its maintenance until development sufficient to support the association(s) has taken place.

Subdivision Change #4: Add revised Net Residential Area/Density standards to new Section 401.13.18

New Section 401.13.18 Net Residential Area and Density:

A. Applicability:

1. All Subdivisions shall be required to conform to the Net Residential Area (NRA) and Net Residential Density (NRD) standards listed in this section 401.13.18 of the Subdivision Ordinance.
2. The NRA and NRD standards utilize the drainage classification of the soils and other NRD standards to calculate the maximum density. In order to accurately apply the soil drainage classification standards to calculate the NRA/NRD, applicants for a subdivision shall complete and submit the Soil Survey Requirements in 401.13.18.C in this section as part of the formal submittal.

B. Definitions: For the purposes of calculating NRA/NRD for subdivisions, the following definitions shall be applicable:

1. **Developed Areas** shall consist of one or more of the following:
 - a. Areas within right-of-ways where road(s) are intended to be constructed or may be constructed in a future phase(s) of the development.
 - b. Areas utilized for the construction of stormwater control and treatment measures including level lip spreaders, detention ponds, and areas adjacent to stormwater measures designed to receive stormwater in sheetflow.
 - c. All portions of lots intended to be individually owned in a Residential Open Space subdivision.
 - d. Portions of building envelopes for lots in a traditional subdivision as established on the face of final signed recorded plan and supporting documentation.
 - e. Portions of a subdivision, including a Residential Open Space Subdivision, that are intended to be utilized for the construction of recreational facilities involving drainage improvements, leveling, filling, etc. such as for creating ballfields.
 - f. Portions of a Residential Open Space Subdivision intended to be utilized for the minimum contiguous usable open space with immediate access to the roadway as required in Table 401.13.13.B.1 of this Subdivision Ordinance.

g. Portions of a Subdivision intended to be utilized for a common or shared subsurface wastewater disposal field.

2. Forested Wetland: Land areas that are freshwater wetlands dominated by woody vegetation that is six (6) meters or more or taller

3. Freshwater Wetland: Land below the upland edge of freshwater wetlands consisting of swamps, marshes, bogs, and similar areas, other than forested wetlands, which are inundated or saturated by surface ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils

4. Less Developed Areas shall consist of one or more of the following:

a. Areas within Residential Open Space Subdivisions intended to remain undeveloped.

b. Commonly owned land utilized for non-intensive recreational purposes such as developing trails, etc. as memorialized on the face of the final signed recorded plan.

c. Areas of a traditional subdivision to remain undeveloped and memorialized as such by one or more of the following means as determined by the Planning Board based on recommendations by Town Staff:

(i) on the face of the final signed recorded subdivision plan.

(ii) within the Homeowners/Lot owners association.

(iii) in the deeds for the appropriate lot(s).

(iv) demarcated on the land on the appropriate lot(s) with permanent markers and/or pins.

d. Portions of lots in a traditional subdivision that are part of an individually owned lot that are not part of the established building envelope as shown on the face of final signed recorded subdivision plan and clearly referenced within the respective deed(s).

5. Net Residential Area (NRA): The net area of a parcel or site that is generally suitable for development in its natural state. The residential area shall be determined by subtracting unsuitable and marginal areas from the gross land area as calculated in this Section 401.13.18 of the Subdivision Ordinance.

6. Net Residential Density (NRD): Net residential density shall mean the number of dwelling units allowed on a parcel or site after the 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 land area.

C. Soil Survey Requirements:

1. The use of soil terms, drainage classification, terminology, and soil survey classification shall be consistent with those accepted by the Maine Association of Professional Soil Scientists.
2. Applicants for any subdivision are required to provide information regarding on-site soils from a Certified Soil Scientist (CSS) that document the on-site findings for the criteria established in this Section 401.13.18.C. Soils information for the purposes of determining Net Residential Density shall not be deemed acceptable if submitted by a Licensed Site Evaluator (LSE).
3. Soils information for the subdivision must be determined by one of the following methods:
 - a. High-intensity (Class A) soil survey delineating soil types with a minimum map unit size of one-eighth (1/8th) of an acre may be required by the Planning Board as established in Section 401.7.4.A of this Subdivision Ordinance.
 - b. When a high-intensity soil survey is not required, **Developed Areas** of a Subdivision shall be required to submit a field verified soil survey that maps the following information at the respective inclusion size:
 - (i). Three (3) acre maximum inclusion size for soils of the following drainage classifications: Excessively Drained, Somewhat Excessively Drained, Well Drained and Moderately Well Drained.
 - (ii). One-half (1/2) acre maximum inclusion size for soils of the following drainage classifications: Somewhat Poorly Drained, Poorly Drained, and Very Poorly Drained.
 - c. When a high-intensity soil survey is not required, **Less Developed Areas** of a Subdivision shall be required to submit a field verified soil survey illustrating the following:
 - (i). Requisite portions of the Natural Resources Conservation Service (NRCS) published soil survey with field verification of soil type boundaries for the following drainage classifications: Excessively Drained, Somewhat Excessively Drained, Well Drained, and Moderately Well Drained. The submitted soils documentation from the CSS must be adjusted to reflect the information obtained from field verification.
 - (ii). Two (2) acre maximum inclusion size for Poorly Drained and Very Poorly Drained soils which may be combined.

- (iii). Two (2) acre maximum inclusion size for Somewhat Poorly Drained soils.

D. Calculation of Net Residential Area and Density:

1. For land areas that are in more than one category, the more restrictive deduction shall be applicable unless specifically established in this section 401.13.18.
2. 100% of the following land areas within the subdivision shall be deducted for the purposes of calculating Net Residential Area:
 - a. Slopes 25% or steeper;
 - b. Land which is not able to be practically accessible, usable, or unavailable due to its location and/or existing site condition(s) such as being cut off from the main parcel;
 - c. All land areas within the 100-year floodplain FEMA FIRM Maps regardless of any other classification;
 - d. Land below the normal high water mark of any waterbody;
 - e. Land below the upland edge of freshwater wetlands except Forested Wetlands that are to remain undeveloped and not located in a 100-year floodplain (see 401.13.18.D.3.c);
 - f. All lands that have been determined to be a liquidation harvesting per standards established in Title 30-A, M.R.S., Section 4404, subsection 20;
 - g. Unusable areas larger than 1,500 sq. ft. such as significant rock outcroppings, etc.;
 - h. Portions of gravel pit(s) that will not be reclaimed when the project is complete; additional sureties may be required in such instances;
 - i. Poorly drained soils unless located in a Forested Wetland that are to remain undeveloped and not located in a 100-year floodplain (see 401.13.18.D.3.c);
 - j. Very poorly drained soils.
3. 50% of the following land areas within the subdivision shall be deducted for the purposes of calculating Net Residential Area:
 - a. Somewhat poorly drained soils;
 - b. Land designated as Resource Protection that remain undeveloped;
 - c. Forested Wetlands that remain undeveloped not located in a 100-year floodplain;
 - d. Boundaries of the areas on the parcel, to remain undeveloped, containing the following with field verification as necessary:
 - (i). significant wildlife habitat as mapped by the Maine Department of Inland Fisheries and Wildlife (IF&W);
 - (ii). significant wildlife habitat as determined by the applicant in consultation with the Maine IF&W;

(iii). endangered botanical resources as mapped by the Maine Natural Areas Program;

(iv). endangered botanical resources as determined by the applicant consultation with the Maine Department of Conservation.

4. For land areas listed in Section 401.13.18.D.3 to remain undeveloped, the Planning Board shall determine the method(s) utilized to memorialize such areas including but not limited to one or more of the following:

a. on the face of the final signed recorded subdivision plan;

b. within the Homeowners/Lot owners association;

c. in the deeds for the appropriate lot(s);

d. demarcated on the land on the appropriate lot(s) with permanent markers and/or pins.

5. Roads & ROW's deduction: After the total of both 401.13.18.D.2 and 3 are deducted from the total parcel, the remaining area shall be deducted by ten (10) percent or the actual area of the parcel utilized for roads, parking, and proposed or future vehicular rights-of-way, whichever is greater.

6. Net Residential Density: The net residential density shall be calculated by dividing the land area determined as the net residential area in this section 401.13.18 by the minimum lot area (or dwelling unit for multi-family) for respective Zoning District as established in Table 402.5.4A of the Town of Gray Zoning Ordinance to determine the maximum number of lots or dwelling units permitted.