CHAPTER 401
SUBDIVISION ORDINANCE
TOWN OF GRAY MAINE

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ARTICLE 1 - PURPOSES AND STATUTORY REVIEW CRITERIA

401.1 – PURPOSES

The purposes of these regulations are:

A. To provide for an expeditious and efficient process for the review of proposed subdivisions;

B. To assure new development in the Town of Gray meets the goals and conforms to the policies of the Comprehensive Plan;

C. To assure the safety, health and welfare of the people of the Town of Gray;

D. To protect the environment and conserve the natural and cultural resources identified in the Gray Comprehensive Plan as important to the community;

E. To assure that a minimal level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures;

F. To minimize the potential impacts from new subdivisions on neighboring properties and on the municipality; and

G. To promote the development of an economically sound and stable community.

401.2 – STATUTORY REVIEW CRITERIA

When reviewing any application for a subdivision, as defined by Article 3, the Planning Board shall find that the following criteria as found in Title 30-A M.R.S.A. §4404 have been met, as well as all applicable provisions of the Gray Zoning Ordinance and other sections of this Ordinance, before granting approval. For a subdivision to be approved under this Ordinance, a majority vote of the Planning Board members present shall be required to determine that the applicant has adequately proven compliance with each of the following ordinance criteria, with each criterion considered separately. For most of the criteria, compliance with the specific standards of this ordinance shall constitute prima facie evidence that the general criteria have been met. The Board may, however, require additional documentation when presented with factual evidence that a subdivision criterion is not met by the application as submitted:

A. Pollution. Will not result in undue water or air pollution. In making this determination, it shall at least consider:

   1. The elevation of the land above sea level and its relation to the flood plains;
   2. The nature of soils and subsoils and their ability to adequately support waste disposal;
   3. The slope of the land and its effect on effluents;
   4. The availability of streams for disposal of effluents; and
   5. The applicable State and local health and water resources rules and regulations;

B. Sufficient Water. Has sufficient water available for the reasonably foreseeable needs of the subdivision;

C. Municipal Water Supply. Will not cause an unreasonable burden on an existing public water supply, if one is to be used;

D. Erosion. Will not cause unreasonable soil erosion or reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;

E. Traffic. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway, located outside the urban compact area of an urban compact municipality, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section;

F. Sewage Disposal. Will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;

G. Solid Waste. Will not cause an unreasonable burden on the municipality's ability to dispose of solid waste if municipal services are to be utilized;

H. Significant Aesthetic, Natural, or Cultural Areas. For natural and cultural resources identified in the Comprehensive Plan or other studies of the Town, State or Federal governments, will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, and historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

I. Conformity with Local Ordinances and Plans. Is in conformance with specific provisions of a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the Planning Board may interpret these ordinances and plans;

J. Financial and Technical Capacity. The developer has adequate financial and technical capacity to meet the standards of this section.

K. Surface Waters. Whenever situated entirely or partially within the watershed of any regulated pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, sections 435 through 490, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.

L. Ground Water. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

M. Flood Areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the applicant shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision or project plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

N. Fresh Water Wetlands. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;

O. River, Stream, or Brook. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;

P. Storm Water. The proposed subdivision will provide for adequate storm water management;

Q. Spaghetti-lots Prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;

R. Lake Phosphorus Concentration. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision;

S. Impact on Adjoining Municipality. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

T. Lands Subject to Liquidation Harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, M.R.S.A section 8869, subsection 14.

ARTICLE 2 – AUTHORITY AND ADMINISTRATION

401.2.1 – AUTHORITY

A. These standards have been prepared in accordance with the provisions of Title 30-A M.R.S.A., §4403.

B. These standards shall be known and may be cited as "Subdivision Ordinance of the Town of Gray, Maine."

401.2.2 – ADMINISTRATION

A. The Planning Board of the Town of Gray, hereinafter called the Board, shall administer these regulations.

B. The provisions of these regulations shall pertain to all land and buildings proposed for subdivision within the boundaries of the Town of Gray.

401.2.3 – AMENDMENTS

A. These regulations may be only amended by the Town Council of the Town of Gray or by the voters of Gray under the provisions of the Town Charter, subject to any requirements of applicable State statutes.

ARTICLE 3 – DEFINITIONS

In general, words and terms used in these regulations shall have their customary dictionary meanings. Any word or term defined in the Gray Zoning Ordinance shall have the definition contained in that ordinance, unless defined differently below. Other words and terms used herein are defined as follows:

SECTION 401.3 – DEFINITIONS

Applicant: The person applying for subdivision approval under these regulations.

Average Daily Traffic (ADT): The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

Building envelope, usable: A defined area of a buildable lot with soil and topographical characteristics suitable to allow the development of all required elements of a customary residential use, exclusive of septic system, based on the dimensional standards in this ordinance.

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

Buffer, undisturbed perimeter: A strip of land made up of either dense, vegetation or planted vegetation as established in the performance standards of this ordinance, along the property lines of a Residential Open Space subdivision property (but not lot) boundary, separating the project from abutting properties, subject to the performance standards in this ordinance.

Capital Improvements Program (CIP): The Town's proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

Capital Investment Plan: The portion of the comprehensive plan that identifies the projects for consideration for inclusion within the capital improvements program, together with an estimate of the order of magnitude for the cost of each project.

Cluster Development: A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space.

Common Open Space: Land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by these regulations unless waived, after the applicant's written request, by a vote by the Board . The Board shall issue a written statement to the applicant upon its determination that an application is complete.

Complete Substantial Construction: The completion of a portion of the improvements which represents no less than thirty percent of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

Comprehensive Plan: A document or interrelated documents adopted by the Town Council, containing the elements established under Title 30-A M.R.S.A. §4326 sub-§§ 1 to 4, including the strategies for an implementation program which are consistent with the State goals and guidelines established under Title 30-A M.R.S.A. §§4311 through 4350.

Condominium: A form of property ownership based upon building occupancy and use rather than traditional lot boundaries as defined in the Maine Condominium Act, Chapter 31 of the Maine Revised Statutes as amended from time to time.

Conservation Easement: A nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

Density: The number of dwelling units per acre of land.

Direct Watershed of a Great Pond: That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond.

Driveway: A vehicular accessway serving two lots or less.

Dwelling Unit: A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, and sleeping facilities; includes single family houses, and the units in a duplex, apartment house, multifamily dwellings, and residential condominiums.

Engineered Subsurface Wastewater Disposal System: A subsurface wastewater disposal system designed, installed, and operated as a single unit to treat and dispose of two thousand (2,000) gallons of wastewater per day or more; or any system designed to be capable of treating wastewater with higher BOD5 and total suspended solids concentrations than domestic wastewater.

Final Plan: The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, may be recorded at the Registry of Deeds.

Forested Wetland: A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

Freshwater Wetland: Areas which are inundated or saturated by surface or 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; and are not part of a great pond, coastal wetland, river, stream or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

Great Pond: Any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased which has surface area in excess of thirty (30) acres, except for the purposes of these regulations, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

High Intensity Soil Survey: A soil map prepared by a qualified professional showing soil types, composition, and limitations at a scale detailed enough to provide important information for the development of engineering, stormwater management, septic and other design components of the subdivision process.

100-Year Flood: The highest level of flood that, on the average, has a one percent chance of occurring in any given year.

Level of Service: A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the Highway Capacity Manual, most recent edition, published by the National Academy of Sciences, Transportation Research Board. There are six levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

Multifamily Development: A subdivision which contains three or more dwelling units on land in common ownership, such as apartment buildings, condominiums or mobile home parks.

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 401.13.18 of this Chapter 401, the Gray Subdivision Ordinance.

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.

Open Space: Land within a Residential Open Space subdivision that is permanently dedicated to one or more of the following uses: agricultural, grazing, gardening, forestry, natural resource conservation, wetland protection, wildlife habitat, undeveloped park land, scenic preservation, outdoor recreation or buffers. No structures may be placed within open space except for those incidental to its use as open space. For example: trail kiosks or gardening sheds.

Open Space, Total: For the purposes of Residential Open Space subdivisions, total open space shall include all open space as defined in this ordinance, including the undisturbed perimeter buffer, usable open space and common park area open space, subject to the dimensional standards in this ordinance.

Open Space, Usable: That portion of the open space which due to its slope, drainage characteristics and soil conditions can support active recreation uses such as trails and open fields, horticulture or agriculture; and can reasonably be accessed and utilized by persons owning individual lots in the subdivision. In order to be considered usable open space, the land must not contain poorly drained or very poorly drained soils or areas with slopes exceeding ten (10%) percent and is subject to the dimensional standards in this ordinance.

Open Space- Usable Improved Common Park Area: An area of contiguous open space in a Residential Open Space subdivision, with access adjacent to the subdivision road as well as soil and topographical characteristics suitable for utilization by the lot owners as a public gathering space, such as a recreational field area, playground or picnic pavilion, as determined by the Planning Board and subject to the dimensional standards in this ordinance.

Person: Includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

Planning Board: The Planning Board of the Town of Gray.

Preliminary Plan: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

Professional Engineer: A professional engineer, registered in the State of Maine.

Public Water System: A water supply system that provides water to at least fifteen (15) service connections or services water to at least twenty-five (25) individuals daily for at least 30 days a year.

Recording Plan: An original of the Final Plan, suitable for recording at the Registry of Deeds and which need show only information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

Residential Open Space Subdivision: A residential subdivision development subject to the provisions of 30-A M.R.S. §4401, with reduced dimensional standards, as per Table 401.13.13.B.1 conditioned upon the retention of open space within such subdivisions and compliance with all associated requirements of the same.

Sight Distance: The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in these regulations as a reference for unobstructed road visibility.

Sketch Plan: Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval.

Street: Public and private ways such as alleys, avenues, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way for vehicular access other than driveways.

Street Classification:

- Arterial Street: A major thoroughfare which serves as a major traffic way for travel to other communities and through the Town. The following roadways shall be considered arterial streets:
    - West Gray Road (Route 202)
    - Shaker Road (Route 26)
    - Lewiston Road (Route 100)
    - Wildlife Park Way (Route 26A)
    - Portland Road (Route 100/26)
- Collector Street: A street with average daily traffic of between 500 and 5000 vehicles per, or streets which serve as feeders to arterial streets, and collect traffic from sub-collectors and minor streets.
- Cul-de-sac: A street with only one outlet and having the other end for the reversal of traffic movement.
- Industrial or Commercial Street: Streets servicing industrial or commercial uses.
- Minor Residential Street: A street servicing only residential properties and which has an average daily traffic of less than 250 vehicles per day.
- Sub-collector Street: A street with average daily traffic of between 250 and 500 vehicles per, or streets which serve as feeders to arterial streets or collectors, and collect traffic from minor streets.

Subdivision: The term shall be defined as in Title 30-A M.R.S.A. §4401, sub-§4, as amended. Generally, a legal subdivision is created when a lot or parcel of land is divided into three or more lots in a single, five-year period. State law, however, has numerous exemptions and qualifications that come into play in determining whether a subdivision of land requiring Planning Board approval has occurred.

Subdivision Classification:

- Major Subdivision: A subdivision of land into five (5) or more lots or that involves the construction of a new road or extension of an existing road, and/or the extension of public water to serve the proposed lots.
- Minor Subdivision: A subdivision of land into four (4) or fewer lots and where there is no street construction or extension of public water to serve the lots.

Town Engineer: Any registered professional engineer hired or retained by the municipality, either as staff or on a consulting basis.

Tract or Parcel of Land: All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

ARTICLE 4 - ADMINISTRATIVE PROCEDURE

SECTION 401.4 – PREPARATION OF AGENDAS

A. Deadline for Submitting Applications – In order to establish an orderly, equitable and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Planning Office shall prepare a written agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda at least twenty-one (21) days in advance of a regularly scheduled meeting by submitting an application with all accompanying submissions and fees.

B. Notifications – Upon determination that a complete application has been submitted for review, the Board shall notify the applicant in writing. The Board shall also notify the Public Works Director, Fire Chief and Superintendent of Schools of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multifamily, commercial or industrial buildings. If the subdivision is located within the Wellhead zoning districts or will be serviced by the Gray Water District, the Director of the District shall also be notified. The Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision. The Board shall determine whether to hold a public hearing on the preliminary plan application.

C. Public Hearings – If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of determining that it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven (7) days prior to the hearing. In addition, the notice of the hearing shall be posted in at least two (2) prominent places within the municipality at least seven (7) days prior to the hearing. A copy of the notice shall be sent by First Class mail to abutting landowners and to the applicant, at least ten (10) days prior to the hearing. For the purposes of this section, the owners of the property shall be considered to be the parties listed by the tax assessor for the Town of Gray as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Board.

D. Joint Meetings with Abutting Municipalities - If any portion of a subdivision crosses municipal boundaries, all meetings and hearings to review the application must be held jointly by the reviewing authorities from each municipality. All meetings and hearings to review an application for a revision

or amendment to a subdivision that crosses municipal boundaries must be held jointly by the reviewing authorities from each municipality. In addition to other review criteria, the reviewing authorities shall consider and make a finding of fact regarding the subdivision criteria. The reviewing authorities in each municipality, upon written agreement, may waive the requirement under this subsection for any joint meeting or hearing.

E. Outstanding Subdivision Violation(s): Any person or entity that has one or more outstanding subdivision Notice(s) of Violation(s) at the time that they make application for any other subdivision project shall not be placed on a Planning Board agenda nor reviewed by the Planning Board until all subdivision violations have been corrected or resolved.

ARTICLE 5 – SKETCH PLAN MEETING AND SITE INSPECTION

401.5.1 – PURPOSE

Prior to the submittal of a subdivision application, the applicant shall request a pre-application conference with the Planning Board. The purpose of the sketch plan meeting and on-site inspection is for the applicant to present general information regarding the proposed subdivision to the Board and to receive the Board's comments prior to the expenditure of substantial sums of money on surveying, soils identification, wetland and vernal pool mapping, and engineering by the applicant.

401.5.2 – SKETCH PLAN MEETING PROCEDURE

A. Prior to the Preapplication Sketch Plan presentation to the Planning Board, the Open Space Committee shall review the sketch plan and shall submit nonbinding, advisory recommendations and comments to the Planning Board.

The purpose of this review is to advise the Planning Board on the proposal's conformance with the open space provisions of the subdivision ordinance and alignment with the Town of Gray Open Space Plan.

The Open Space Committee shall comment on the following elements of the development proposal:

- Connectivity to abutting open space, trails and natural features
- Potential public access, public and/or conservation easements, land use agreements
- For Residential Open Space Subdivisions: The quality, size and location of the total open space, usable open space and usable improved common park area(s) as per the review criteria in the Open Space Standards, 401.13.13.I.

B. The applicant shall present the Preapplication Sketch Plan to the Planning Board and make a verbal presentation regarding the site and the proposed subdivision.

C. Following the applicant's presentation, the Board may ask questions, point out potential problems or issues for future discussions, including studies that may be needed, discuss the recommendations and comments of the Open Space Committee, and make suggestions to be incorporated by the applicant into the subsequent application. Substantive, lengthy discussions about compliance with review standards or the consideration of waiver requests shall be postponed until the subsequent review of the full application.

D. The Board will indicate whether a proposed subdivision should be classified as a major or minor subdivision if that is in question.

E. The Board will discuss an appropriate contour interval for developed and undeveloped portions of the project site based on input of the applicant and peer reviewers.

F. The date of the on-site inspection will be selected.

401.5. 3 – SKETCH PLAN SUBMISSIONS

The sketch plan and all supporting materials must be submitted twenty-one (21) days prior to a regularly scheduled Planning Board meeting, in order to be placed on the Board's agenda. The sketch plan shall show, in simple sketch form, the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The sketch plan, which does not have to be engineered and may be a freehand penciled sketch drawn to scale, shall show site conditions such as steep slopes, wet areas and vegetative cover in a general manner. The applicant will consult the Town Planner to confirm the number of copies the Planning Board will require for the review process.

The sketch plan shall be supplemented with a written project narrative, with general information to describe or outline the existing conditions of the site and a full description of the proposed development. The narrative should include general proposals for how utilities, roads and drainage systems, and any common areas will be constructed, managed, and maintained. The sketch plan should be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land is located. The sketch plan shall be accompanied by:

A. A sketch plan application form, and a sketch plan application fee as set forth in the Schedule of Fees adopted by the Town Council;

B. A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision; unless the proposed subdivision is less than 10 acres in size.

C. A copy of that portion of the Cumberland County Soil Survey covering the proposed subdivision, showing the outline of the proposed subdivision development, and

D. A written project narrative as described above.

E. Proof of interest in the property, such as signed consent from the current property owner, as determined by the Code Enforcement Officer.

401.5.4 – ON-SITE INSPECTION

Within thirty (30) days of the sketch plan meeting, the Board shall hold an on-site inspection of the property. The applicant shall place flagging at the centerline of any proposed streets, and at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection. If the proposed project includes buildings, the approximate corners of building footprints shall be flagged.

The on-site inspection is intended for members of the board to become familiar with the site in a manner that cannot be matched by reading the project plans. During the on-site inspection the Board should walk over those portions of the property which are proposed for development. While on the inspection, the Board should pay close attention to drainage, slope, and indications of soils types; look at the sight distances at proposed intersections or driveways; and look for neighboring land uses or conditions which should be taken into account by the design of the subdivision. If there is deep snow on the ground, many of the features which members need to see will not be visible, particularly wetlands and minor drainage areas. Therefore on-site inspections should not be held when the ground is covered with snow.

On-site inspections are considered public meetings under 1 M.R.S.A. §§401-410, and notice shall be provided as required by law. The public shall be allowed to accompany the Board, but no public comment will be taken. The Board shall provide a written summary of its site walk observations at the first meeting where the formal application is heard.

401.5.5 – FACTORS TO CONSIDER IN SKETCH PLAN REVIEW

A. General character and condition of the site;

B. Forest cover and predominant vegetation types;

C. Topography with respect to low flat areas prone to drainage problems and steep slope areas that pose challenges to road construction and are prone to erosion. Also gullies that need to be crossed;

D. Streams and wetlands that will involve special environmental permitting;

E. Wildlife habitats of rare, threatened or endangered species identified by State agencies;

F. Historic land uses that may have involved contaminants;

G. Historic buildings that may warrant special preservation efforts;

H. Existing buildings and other man-made features that will be worked into the development or removed;

I. Availability of public utilities or the need to depend on on-site water for household supplies and fire protection, and on septic systems;

J. Traffic conditions on roads providing access to the site in terms of volume, speed, and sight distances of possible entrance points, as well as condition of the existing road(s) to safely carry additional traffic;

K. Legal rights of access to the property for roads and utilities;

L. Abutting uses that may warrant or require buffering of proposed buildings;

M. Low lying areas that may be subject to periodic flooding or are located in mapped flood plains.

N. Portions of the site ideally suited to development and those that should be avoided due to hazards or constraints.

401.5.6 – NO SUBSTANTIVE REVIEW OR VESTED

The sketch plan meeting, the submittal or review of the sketch plan or the on-site inspection shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1 M.R.S.A., §302. The Planning Board will not be engaging in a substantive review of a completed development approval application, and the applicant will not be exempt from any ordinance changes that may be in progress.

ARTICLE 6 – MINOR SUBDIVISIONS

401.6.1 – MINOR SUBDIVISION PLAN REVIEW AND APPROVAL PROCEDURE

A. Time Frames for Submission of Minor Subdivision Plan - Within six (6 months) after Sketch Plan acceptance by the Board, the subdivider shall submit an application for the consideration of a Minor Subdivision Plan. Failure to do so shall require re-submission of the Sketch Plan to the Board for review. The Minor Subdivision Plan shall conform to the layout shown on the Sketch Plan plus any

recommendations made by the Board on design and/or documentation needed to verify compliance with the criteria and standards of this Ordinance.

B. Fees and Review Escrows - All applications for preliminary plan shall be accompanied by reviews and peer review escrows as established by the fee schedule adopted by the Town Council. Escrow fees shall be deposited in a special escrow account designated for that subdivision application, to be used by the Board for hiring independent consulting services to review planning, engineering, and other technical submissions associated with the application, and to ensure compliance with the Zoning Ordinance and Subdivision regulations. If the balance in this special account is drawn down by seventy-five (75%) percent, the Board shall notify the applicant, and require that the balance be brought back up to the original deposit amount. The Board shall continue to notify the applicant and require a deposit as necessary whenever the balance of the escrow account is drawn down by seventy-five (75%) percent of the original deposit, but the applicant shall be responsible for all peer review costs incurred by the Town. Any balance in the escrow account remaining after a decision on the final plan application by the Board shall be returned to the applicant. The applicant can reduce peer review costs by ensuring that submissions are complete and carefully prepared.

C. Attendance at Meetings Required - The Board shall not review any preliminary plan application unless the applicant or applicant's representative attends the meeting. Should the applicant or applicant's representative fail to attend, the Board shall reschedule review of the application at a subsequent meeting.

D. Receipt & Notification of Filing - Within seven (7) days of the receipt of the Preliminary Plan application, the Board, or its designee, shall:

   1. Issue a dated receipt to the applicant.

   2. Notify in writing by First Class Mail all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project. For the purposes of this section, the owners of the property shall be considered to be the parties listed by the tax assessor for the Town of Gray as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Board.

      If the proposed subdivision is located within a Wellhead Zoning District, notice shall also be sent to the Gray Water District at least ten (10) days prior to the hearing.

   3. Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.

E. Determination of Completed Application - Within thirty (30) days of the receipt of the preliminary plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.

F. Public Hearing Notices - If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days of determining that it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven (7) days prior to the hearing. In addition, the notice of the hearing shall be posted in at least two (2) prominent places within the municipality at least seven (7) days prior to the hearing. A copy of the notice shall be sent

by First Class mail to abutting landowners and to the applicant, at least ten (10) days prior to the hearing. For the purposes of this section, the owners of the property shall be considered to be the parties listed by the tax assessor for the Town of Gray as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Board.

G. Time Frame for Planning Board Decision - Within thirty (30) days from the public hearing or within sixty (60) days of determining a complete application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the preliminary plan application. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

H. Negotiated Exactions - All minor subdivisions shall be required to comply with the standards established in Section 401.8.2 of this Subdivision Ordinance.

401.6.2 – REQUIRED SUBMISSIONS FOR MINOR SUBDIVISION PLAN

Deadline & Submittals – The following items shall be submitted as part of the Minor Subdivision Plan Application, unless the applicant submits a written waiver request, and is granted a waiver from the submission requirement by the Planning Board, pursuant to Article 12. All materials shall be delivered to the Town Office, at least twenty-one (21) days prior to a regularly scheduled Planning Board meeting, in order for the application to be placed on the Board's agenda. The Board may require additional information to be submitted, as necessary, in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 for subdivisions are met. The applicant will consult the Town Planner to confirm the number of copies the Planning Board will require for the review process.

Minor Subdivision Plan Format & Content - The minor subdivision plan shall be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch, provided all necessary detail can easily be read. Three (3) sets of plans shall be no larger than 24 by 36 inches in size. Plan sets of 11 by 17 inch and one (1) universally accessible digital format e.g. PDF of all plans shall be submitted. The applicant will consult with the Town Planner to confirm the number of copies the Planning Board will require for the review process. The application materials for preliminary plan approval shall be bound and separated by labeled dividers for ease of review, and shall include the following information:

Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.

Verification of right, title or interest in the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest.

A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The entire parcel or tract shall be shown, including all contiguous land in common ownership within the last five years, as required by Title 30-A M.R.S.A. section 4401. Any parcels that have been sold or transferred in the prior five years shall be so noted on the plan.

A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.

A copy of any proposed deed restrictions intended to cover all or part of the lots, dwellings, or common land in the subdivision.

An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, prepared by a Licensed Site Evaluator or Certified Soil Scientist shall be provided. A map showing the location of all test pits dug on the site shall be submitted.

An indication of the type of water supply system(s) to be used in the subdivision. When water is to be supplied by a public water supply, a written statement from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision. (Note: If public water lines must be extended from beyond the site location, a major subdivision application is required).

The date the plan was prepared, north point, and graphic map scale.

The names and addresses of the record owner, applicant, and individual or company who prepared the plan and adjoining property owners.

Wetland areas shall be delineated on the survey, regardless of size.

The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.

The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.

The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.

The location, names, and present widths of existing streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.

The width and location of any streets, public improvements or open space shown upon the official map and the comprehensive plan, if any, within the subdivision.

The location, boundaries, area, and property line setbacks of every proposed lot. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and subdivision boundary line to be readily determined and be reproduced upon the ground. The location, bearing and length of street lines, lot lines and parcel boundary lines shall be certified by a professional land surveyor. The original reproducible plan shall be embossed with the seal of the professional land surveyor and be signed by that individual.

If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.

Areas within or adjacent to the proposed subdivision which have been identified by the Maine Department of Inland Fisheries and Wildlife Beginning with Habitat Project or within the comprehensive plan. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program or Maine Department of Inland Fisheries & Wildlife Beginning With Habitat Project the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.

All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the National Register of Historic Places, or have been identified in the comprehensive plan or by the Maine Historic Preservation Commission as sensitive or likely to contain such sites.

All applicable submissions as required in the Performance and Design Standards (Article 13).

401.6.3 – ADDITIONAL INFORMATION THAT MAY BE REQUIRED BY THE PLANNING BOARD

The Planning Board may require any additional information not listed above, when it is determined necessary by the Board based on factual information collected during the review process that such additional information is needed to determine whether the statutory review criteria of Title 30-A M.R.S.A. §4404 for subdivisions have been met. In determining what additional information will be required to verify compliance with the statutory review criteria, the Board shall review the submission and study requirements of Article 7 for preliminary major subdivision reviews and any applicable standards of Article 13.

401.6.4 – APPROVAL AND FILING OF THE MINOR SUBDIVISION PLAN

A. Determination by the Planning Board - Upon determination by the Planning Board that the proposed subdivision has met the requirements in Article 5 for preapplication review, the requirements of Sections 401.6.1 through 401.6.3 for Minor Subdivision above, and the statutory review criteria of Section 401.2 for all subdivisions, minor subdivision approval shall be affirmatively voted on by the Board with findings, and the mylar copy shall be properly signed by a majority of the members of the Board, using black ink.

B. Time Limit for Recording Approved Plan - After the Minor Subdivision Plan has had the mylar approval entered upon it, a copy of the plan shall be returned to the subdivider. One signed copy, including the sepia copy, shall be retained by the Town to be maintained in the Subdivision Plan File. The Plan shall be filed by the applicant with the Cumberland County Registry of Deeds. Any Subdivision Plan not so filed or recorded within ninety (90) days of the date upon which such Plan is approved, shall become null and void, unless the particular circumstances of said applicant warrant the Board to grant an extension which shall not exceed one additional period of ninety (90) days. This 90-day period shall begin the day the plan is signed by the Planning Board. Any extension of this 90-day period must be requested of the Planning Board before the first 90-day period expires.

C. Plan Recording & Receipt Before Building Permits –The applicant shall provide the Code Enforcement Officer (CEO) with a receipt from the Registry of Deeds within that time limit stating that the Plan has been filed and giving the Book and Page numbers. No building permits for an approved plan will be issued until the plan has been registered with the Registry of Deeds and a letter from the subdivider's surveyor has been submitted to the Town stating that all permanent survey markers have been placed for each lot.

401.6.5 – AMENDMENTS TO A PREVIOUSLY APPROVED MINOR SUBDIVISION PLAN

Prior to making any change, erasure, modification or revision to a Minor Subdivision Plan which has been approved by the Board and endorsed in writing on the plan, the plan must be resubmitted to the Board for their review and approval of the proposed modifications. A public hearing may be held concerning a subdivision amendment as prescribed in Section 401.6.1 F above. All amended plans must be signed by the Board and recorded in the Registry of Deeds within ninety (90) days of the date of approval. Any amended plan not so filed or recorded within ninety (90) days of the date upon which

such plan is approved shall become null and void, unless the particular circumstances of said applicant warrant the Board to grant an extension which shall not exceed one additional period of ninety (90) days. The applicant shall provide the Code Enforcement Officer (CEO) with a receipt from the Registry of Deeds within that time limit stating that the plan has been filed and giving the book and page numbers as provided in Section 401.6.4 above.

ARTICLE 7 – MAJOR SUBDIVISION PRELIMINARY PLAN APPLICATION

401.7.1 – PRELIMINARY PLAN REVIEW AND APPROVAL PROCEDURE

A. Time Frames for Submission of Preliminary Plan - Within six (6) months after the on-site inspection by the Board, the applicant shall submit an application for approval of a preliminary plan at least twenty-one (21) days prior to a scheduled meeting of the Board. Applications shall be submitted by mail or by hand to the municipal offices. Failure to submit an application within six (6) months shall require resubmission of the Sketch Plan to the Board. The preliminary plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.

B. Fees and Review Escrows - All applications for preliminary plan shall be accompanied by reviews and peer review escrows as established by the fee schedule adopted by the Town Council. Escrow fees shall be deposited in a special escrow account designated for that subdivision application, to be used by the Board for hiring independent consulting services to review planning, engineering, and other technical submissions associated with the application, and to ensure compliance with the Zoning Ordinance and Subdivision Regulations. If the balance in this special account is drawn down by seventy-five (75%) percent, the Board shall notify the applicant, and require that the balance be brought back up to the original deposit amount. The Board shall continue to notify the applicant and require a deposit as necessary whenever the balance of the escrow account is drawn down by seventy-five (75%) percent of the original deposit, but the applicant shall be responsible for all peer review costs incurred by the Town. Any balance in the escrow account remaining after a decision on the final plan application by the Board shall be returned to the applicant. The applicant can reduce peer review costs by ensuring that submissions are complete and carefully prepared.

C. Attendance at Meetings Required - The Board shall not review any preliminary plan application unless the applicant or applicant's representative attends the meeting. Should the applicant or applicant's representative fail to attend, the Board shall reschedule review of the application at its next regular meeting.

D. Receipt & Notification of Filing - Within seven (7) days of the receipt of the Preliminary Plan application, the Board, or its designee, shall:

1. Issue a dated receipt to the applicant.
2. Notify in writing by First Class Mail all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project. For the purposes of this section, the owners of the property shall be considered to be the parties listed by the tax assessor for the Town of Gray as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Board.

   If the proposed subdivision is located within a Wellhead Zoning District, notice shall also be sent to the Gray Water District at least ten (10) days prior to the hearing.

3. Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.

E. Determination of Completed Application - Within thirty (30) days of the receipt of the preliminary plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.

F. Notifications of Completed Application - Upon determination that a complete application has been submitted for review, the Board shall notify the applicant in writing. The Board shall also notify the Public Works Director, Fire Chief and Superintendent of Schools of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multifamily, commercial or industrial buildings. If the subdivision is located within the Wellhead zoning districts or will be serviced by the Gray Water District, the Director of the District shall also be notified. The Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision. The Board shall determine whether to hold a public hearing on the preliminary plan application.

G. Public Hearing Notices - If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days of determining that it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven (7) days prior to the hearing. In addition, the notice of the hearing shall be posted in at least two (2) prominent places within the municipality at least seven (7) days prior to the hearing. A copy of the notice shall be sent by First Class mail to abutting landowners and to the applicant, at least ten (10) days prior to the hearing. For the purposes of this section, the owners of the property shall be considered to be the parties listed by the tax assessor for the Town of Gray as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Board.

H. Time Frame for Planning Board Decision - Within thirty (30) days from the public hearing or within sixty (60) days of determining a complete application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the preliminary plan application. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

I. Conditions of Preliminary Approval - When granting approval to a preliminary plan, the Board shall state the conditions of such approval, if any, with respect to:

1. The specific changes that it will require in the final plan;

2. The character and extent of the required improvements for which waivers may have been requested and which the Board finds may be waived without jeopardy to the public health, safety, and general welfare; and

3. The construction items for which cost estimates and performance guarantees will be required as prerequisite to the approval of the final plan.

J. Relationship of Preliminary Approval to Final Plan - Approval of a preliminary plan shall not constitute approval of the final plan or intent to approve the final plan, but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the

final plan. The final plan shall be submitted for approval by the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the final plan, the Board may require that additional information be submitted and changes in the plan be made as a result of further study of the proposed subdivision or as a result of new information received.

401.7.2 – REQUIRED SUBMISSIONS FOR PRELIMINARY PLAN

The following items shall be submitted as part of the Preliminary Plan Application, unless the applicant submits a written waiver request, and is granted a waiver from the submission requirement by the Planning Board, pursuant to Article 12 for waivers. All materials shall be delivered to the Town Office, at least twenty-one (21) days prior to a regularly scheduled Planning Board meeting, in order for the application to be placed on the Board's agenda. The applicant will consult with the Town Planner to confirm the number of copies the Planning Board will require for the review process.

A. Application Form - The application form and any accompanying information.

B. Location Map - The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The location map shall show:

   1. Existing subdivisions in the proximity of the proposed subdivision.
   2. Locations and names of existing and proposed streets.
   3. Boundaries and designations of zoning districts.
   4. An outline of the proposed subdivision and any remaining portion of the owner's property if the preliminary plan submitted covers only a portion of the owner's entire contiguous holding.

C. Preliminary Plan Format & Content - The preliminary plan shall be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch, provided all necessary detail can easily be read. Three (3) sets of plans shall be no larger than 24 by 36 inches in size. Plan sets of 11 by 17 inch and one (1) universally accessible digital format e.g. PDF of all plans shall be submitted. The applicant will consult with the Town Planner to confirm the number of copies the Planning Board will require for the review process. The application materials for preliminary plan approval shall include the following information:

   1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
   2. Verification of right, title or interest in the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest. Additionally, if an applicant is represented before the Planning Board by an agent, such as an engineer or planning consultant, the applicant must submit an agent authorization letter confirming the agent's authority to present the project before the Town and the Planning Board.
   3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The entire parcel or tract shall be shown, including all contiguous land in common ownership within the last five (5) years, as required by

Title 30-A M.R.S.A. section 4401. Any parcels that have been sold or transferred in the prior five years shall be so noted on the plan.

4. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
5. A copy of any proposed deed restrictions intended to cover all or part of the lots, dwellings, or common land in the subdivision.
6. An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, prepared by a Licensed Site Evaluator or Certified Soil Scientist shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
7. An indication of the type of water supply system(s) to be used in the subdivision. When water is to be supplied by a public water supply, a written statement from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision.
8. The date the plan was prepared, north point, and graphic map scale.
9. The names and addresses of the record owner, applicant, and individual or company who prepared the plan and adjoining property owners.
10. Wetland areas shall be delineated on the survey, regardless of size.
11. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, unusually large specimen trees, if present, and other essential existing physical features.
12. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.
13. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
14. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
15. The location, names, and present widths of existing streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
16. The width and location of any streets, public improvements or open space shown upon the official map and the comprehensive plan, if any, within the subdivision.
17. The proposed lot lines with approximate dimensions and lot areas.
18. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
19. The location of any open space to be preserved or common areas to be created, and a general description of proposed ownership, improvement and management.
20. The area on each lot where existing forest cover will be permitted to be removed and converted to lawn, structures or other cover and any proposed restrictions to be placed on clearing existing vegetation.

21. The proposed driveway access to the area of each lot that will be developed as indicated in Subsection 20, and any drainage or topographic features that must be crossed to access the proposed home site.
22. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
23. Areas within or adjacent to the proposed subdivision which have been identified by the Maine Department of Inland Fisheries and Wildlife Beginning with Habitat Project or within the comprehensive plan. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program or Maine Department of Inland Fisheries & Wildlife Beginning With Habitat Project the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
24. All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the National Register of Historic Places, or have been identified in the comprehensive plan or by the Maine Historic Preservation Commission as sensitive or likely to contain such sites.

401.7.3 – ADDITIONAL REQUIRED PLANS AND STUDIES

The preliminary plan shall also include or be accompanied by the following information:

A. Contour Lines – Prepared by an engineer or surveyor at the interval specified by the Planning Board, showing elevations in relation to mean sea level. Areas with sustained slopes greater than twenty-five (25%) percent covering more than one acre shall be delineated.

B. Erosion & Sedimentation Control Plan – An erosion and sedimentation control plan prepared in accordance with the Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices, published by the Maine Department of Environmental Protection and the Cumberland County Soil and Water Conservation District, 1991. The Board may waive submission of the erosion and sedimentation control plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than five (5%) percent of the area of the subdivision.

C. Stormwater Management Plan – A stormwater management plan, prepared by a registered professional engineer in accordance with the most recent edition of Stormwater Management for Maine: BMPS Technical Design Manual, published by the Maine Department of Environmental Protection, 2006. Another methodology may be used if the applicant can demonstrate it is equally applicable to the site. The Board may waive submission of the stormwater management plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than five percent (5%) of the area of the subdivision.

D. Phosphorus Management Plan - A phosphorous management plan shall be required if any portion of the proposed subdivision is in the direct watershed of a great pond and meets one or more of the following criteria:

a. Five (5) or more lots;

b. Eight hundred (800) or more cumulative linear feet of street(s) and/or driveway(s).

The following shall be submitted or indicated on the phosphorous management plan:

1. A phosphorus impact analysis and control plan conducted using the procedures set forth in DEP Phosphorus Design Manual, Volume II of the Maine Stormwater Best Management Practices Manual, 2006. The analysis and control plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures, as required by the Technical Guide.
2. A long-term maintenance plan for all phosphorus control measures.

401.7.4 – REQUIRED SUBMISSIONS FOR WHICH A WAIVER MAY BE GRANTED

The following items shall be submitted as part of the Preliminary Plan Application, unless the applicant submits a written waiver request, and is granted a waiver from the submission requirement by the Planning Board, pursuant to Article 12, Waivers:

A. High-Intensity Soil Survey - Prepared by a registered soil scientist identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to a limiting factor such as seasonal high water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface wastewater disposal systems shall not be considered to constitute high intensity soil surveys. Soil survey information is subject to the soil survey requirements for determination of Net Residential Area and net Residential Density in this section (401.13.18 C).

B. Hydrogeologic Assessment - A hydrogeologic assessment prepared by a certified geologist or registered professional engineer, experienced in hydrogeology, when:

   1. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey, 1998, File No. 98-138, 144 and 147; or
   2. The subdivision has an average density of more than one dwelling unit per 100,000 square feet.

C. The Board may require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on groundwater quality. These cases include extensive areas of shallow to bedrock soils; or cluster developments in which the average density is less than one dwelling unit per 100,000 square feet but the density of the developed portion is in excess of one dwelling unit per 80,000 square feet; and/or proposed use of shared or common subsurface wastewater disposal systems. The hydrogeologic assessment shall be conducted in accordance with the provisions of Section 401.13.9.

D. Traffic Generation and Safe Entrance Sight Distances - An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from the most recent available edition of the Trip Generation Manual, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the

applicant demonstrates that these sources better reflect local conditions. If the Board waives the requirement of submission of trip generation rates, the applicant shall provide verification of the intersection sight distances for any existing or proposed streets and driveways that will serve the subdivision.

E. Traffic Impact Analysis - For subdivisions involving twenty-eight (28) or more parking spaces in the case of commercial subdivisions or projected to generate more than one hundred and forty (140) vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.

401.7.5 – ADDITIONAL INFORMATION THAT MAY BE REQUIRED BY THE PLANNING BOARD

The Planning Board may require any additional information not listed above, when it is determined necessary by the Board based on factual information collected during the review process that such additional information is needed to determine whether the statutory review criteria of Title 30-A M.R.S.A. §4404 for subdivisions have been met.

ARTICLE 8 - FINAL PLAN APPLICATION

401.8.1 – PROCEDURE

A. Time Frames for Submission of Final Plan - Within six months after the approval of the preliminary plan, the applicant shall submit copies of an application for approval of the final plan with all supporting materials, at least twenty-one (21) days prior to a scheduled meeting of the Board. The applicant will consult with the Town Planner to confirm the number of copies the Planning Board will require for the review process. Applications shall be submitted by mail or delivered by hand to the municipal offices. If the application for the final plan is not submitted within six months after preliminary plan approval, the Board shall require resubmission of the preliminary plan, except as stipulated below. The final plan shall follow the layout shown on the preliminary plan, plus any changes required by the Board.

   If an applicant cannot submit the final plan within six (6) months, due to delays caused by other regulatory bodies or other reasons, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the filing period. In considering the request for an extension the Board shall make findings that the applicant has made due progress in preparation of the final plan and in pursuing approval of the plans before other agencies, and that municipal ordinances or regulations which may impact on the proposed development have not been amended.

B. Fees and Review Escrows - All applications for final plan approval for a major subdivision shall be accompanied by a review fee and peer review escrows as set in the Schedule of Fees adopted by the Town Council. The Planning Board may continue to require the replenishment of the escrow account for hiring independent consulting services to review the application for final plan approval, along with any supporting materials, pursuant to the procedures of Section 401.7.1.B for review escrows.

C. Outside Agency Approvals - Prior to submittal of the final plan application, the following approvals shall be obtained in writing, where applicable:

1. Maine Department of Environmental Protection, under the Site Location of Development Act.
2. Maine Department of Environmental Protection, under the Natural Resources Protection Act or Stormwater Law, or if an MEPDES wastewater discharge license is needed.
3. Maine Department of Human Services, if the applicant proposes to provide a public water system.
4. Maine Department of Human Services, if an engineered subsurface wastewater disposal system(s) is to be utilized (2000 gallons per day capacity or greater).
5. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required (for wetland or vernal pool habitat alterations).
6. Maine Department of Transportation Traffic Movement Permit, and/or Highway Entrance/Driveway Access Management Permit
7. If the Board is unsure whether a permit or license from a state or federal agency is necessary, the applicant may be required to obtain a written opinion from the appropriate agency as to the applicability of their regulations.

D. Historic Preservation Review - If the preliminary plan identified any areas listed on or eligible to be listed on the National Register of Historic Places, in accordance with Section 401.7.2.C.23, the applicant shall submit a copy of the plan and a copy of any proposed mitigation measures to the Maine Historic Preservation commission prior to submitting the final plan application.

E. 911 Street Addressing Review - Written approval of any proposed street names from the Town of Gray E911 Addressing Officer.

F. Attendance at Meetings Required - The Board shall not review any preliminary plan application unless the applicant or applicant's representative attends the meeting. Should the applicant or applicant's representative fail to attend, the Board shall reschedule review of the application at a subsequent meeting.

G. Receipt & Notification of a Completed Application - Within seven (7) days of the receipt of the Final Plan application, the Board, or its designee, shall issue a dated receipt to the applicant. Within thirty (30) days of the receipt of the final plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application. Upon determination that a complete application has been submitted for review, the Board shall notify the applicant in writing.

H. Notifications for Public Hearings - The Board shall determine whether to hold a public hearing on the final plan application. If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days of determining it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of local circulation at least two times, the date of the first publication to be at least seven (7) days prior to the hearing. In addition, the notice of the hearing shall be posted in at least two (2) prominent places within the municipality at least seven (7) days prior to the hearing.

I. A copy of the notice shall be sent by First Class mail to abutting landowners and to the applicant, at least ten (10) days prior to the hearing. For the purposes of this section, the owners of the property shall be considered to be the parties listed by the tax assessor for the Town of Gray as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Board.

J. If the proposed subdivision is located within a Wellhead Zoning District, notice shall also be sent to the Gray Water District at least ten (10) days prior to the hearing.

K. Performance Guarantee for Construction of Improvements - Before the Board grants approval of the final plan, the applicant shall meet the performance guarantee requirements contained in Article 11. The proposed amount and form of performance guarantee for infrastructure improvements shall be submitted to the Board along with a letter of commitment from a qualified lending institution indicating that the lender has reviewed the project details and is prepared to finance the project for the amount needed to complete the project if approval is given. Issuance of the actual performance guarantee shall be performed prior to release of the recording plan with Planning Board signatures.

L. Time Frame & Basis for Planning Board Decision - Within thirty (30) days from the public hearing or within sixty (60) days of receiving a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria for approval contained in Title 30-A M.R.S.A., §4404 and the standards of these regulations. If the Board finds that all the criteria of the statute and the standards of these regulations have been met, they shall approve the final plan. If the Board majority finds that any of the individual statutory criteria or the standards of this Ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

401.8.2 – NEGOTIATED EXACTIONS

Purpose: Negotiated Exactions are intended to serve the following purposes:

Ensure that publicly owned facilities and infrastructure are not adversely affected by new residential and/or commercial development

Provide the administrative steps to establish a process to quantify the cumulative effects of a development proposal

Establish mechanisms to minimize and ideally eliminate the necessity to expend public funds to address implications of private development on public infrastructure

Ensure that new private development provided the same level of service available to existing development

Establish a fair process to ensure that adequate public facilities are available to serve new growth and development

Provide new growth and development that bears a proportional share of the cost new public facilities needed to serve them

Accommodate orderly growth and development in a safe and fair manner

Protect the public health, safety, and welfare of the citizens of Gray and those who utilize public infrastructure in the Town

Authority:

In accordance with 30-A, M.R.S.A. Section 4404 (Subdivision), 30-A, M.R.S.A. Sections 1911 to 1916 (Home Rule), and 30-A M.R.S.A. 4354 (Fees), the Town of Gray Planning Board shall have the authority to administer and require Negotiated Exactions as established in this Section 401.8.1 of the Town's Subdivision Ordinance.

The Planning Board shall have the authority to require the owner or applicant of a development proposal meeting one or more of the thresholds established in Section 401.8.1.D to complete one or more of the following as part and/or all of the Negotiated Exaction:

Roadway and/or intersection improvements to maintain existing capacity and/or retain the current level of service

In order to maintain existing capacity and/or retain the current level of service, make necessary improvements to public infrastructure or provide the necessary surety for such improvements to occur

Donate land to the Town of Gray and/or State of Maine as necessary to complete public infrastructure such as currently proposed and/or future road widening, intersection improvements, or similar improvements

Acquire and/or purchase land or easement rights to be transferred to the Town of Gray and/or State of Maine necessary to complete public infrastructure

Posting a bond, cash, or other financial sureties as established in this Section 401.8.1.

As established in Section 401.8.1.G.1, the fair value of any land area donated, acquired, or purchased shall be duly considered by the Planning Board, Town Council and the Town as an integral component in determining the Negotiated Exaction.

Administrative Procedure:

As an integral part of the Planning Board's review of a development proposal, prior to final approval, the Board shall have the authority to require the applicant to submit a written summary of the cumulative anticipated implications of the proposed development upon public infrastructure as established in this Section 401.8.1.D and F. The purpose of providing this summary for the Board's review is to ensure that the Planning Board has sufficient information upon which to make an informed decision to require a full assessment as detailed in Section 401.8.1.F below.

The Planning Board shall review the summary and determine if any aspects warrant obtaining further information and/or if elements need to be verified by a duly qualified independent third party chosen by the Board with input from Town Staff at the applicant's expense.

After the summary and necessary information is received, the Planning Board shall have the authority to determine if a full assessment will be required.

In the event that the Planning Board determines that a full assessment is warranted based on the standards in this Section 401.8.1, the applicant shall compile and submit this for the Board's consideration using the requirements detailed in Section 401.8.1.F below and in accordance with professionally accepted practices.

Once the Town Planner has determined that the assessment is sufficiently complete, the Planning Board shall review the assessment and determine if further information and/or if elements need to be verified by a duly qualified independent third party chosen by the Board with input from Town Staff at the applicant's expense.

With input as necessary from duly qualified professionals to quantify the implications of the proposed development, the Planning Board shall determine the cumulative responsibilities of the applicant/developer in accordance with the options established in Section 401.8.1.G below.

Upon establishing a negotiated exactions agreement for an infrastructure improvement project, the Planning Board shall describe an improvement benefit area(s) within which subsequent development is likely to benefit from the required improvements. The proposed benefit area(s) and the methodology to be used in assessing future allocation cost sharing and carrying cost reallocation shall then be referred to the Town Council for enactment. Benefit area(s) enacted by the Town Council shall be effective for the agreed upon period, not to exceed three (3) years from the date of enactment.

Within each negotiated exactions benefit area enacted by the Town Council, all subsequent development applications for site plan and/or subdivision approval shall be required to participate in cost sharing and/or carrying costs for the infrastructure improvement project unless the Planning Board determines that no benefit has been derived from the prior improvement project.

If the improvement is not completed within the agreed upon period, the fee, plus interest, must be returned to the applicant. If the improvement is made at a cost less than was anticipated, the remaining portion shall be returned to the applicant(s) at amounts equal to their fair share of the improvement.

The Town shall segregate the funds received from exaction agreements from the general revenue fund and shall expend those funds solely for the purpose that was intended.

Prior to final approval for the project, the Planning Board and/or Town Staff shall solicit input from the Town's Counsel to ensure that the necessary legal assurances have been established and formally executed to ensure the completion of the improvements, payments, etc. as finally determined by the Planning Board in accordance with this Section 401.8.1.

Applicability: Except as specifically exempted in Section 401.8.1.E, development proposals that adversely affects existing public infrastructure by creating demand(s) upon, or the need for, public facilities causing one or more of the following, as determined by the Planning Board, are required to comply with this Section 401.8.1:

Project(s) that lower the level of service (LOS) nearby intersection(s) including but not limited to the following:

Adjusting signal timing and/or upgraded signals

Adding turn lane(s)

Widening portions of the intersection

Constructing roadway portions adjacent to intersections for proper alignment i.e. taper lanes, etc.

Adding length to existing turn lane(s)

Project(s) that reduce the capacity of a roadway segment

Project(s) that place additional demand upon publicly owned stormwater facilities

Project(s) that create additional stormwater that adversely affects publicly owned land or facilities

Project(s) that require extending, upgrading, or increasing the water main size of a public water supply

Project(s) that add additional wastewater to a publicly owned and/or operated treatment facility

Project(s) that place special demands upon the Gray Public Safety Department such as a requirement for special equipment to serve the project

Project(s) that increase the workload on the Gray Public Works Department excepting winter maintenance as established in the Gray Street Ordinance (Chapter 400)

Project(s) that increase the demand for police or law enforcement

Project(s) that place additional demands on publicly owned recreational facilities

Project(s) that place demands on publicly owned bicycle and/or pedestrian infrastructure specifically including sidewalks and bicycle lanes

Project(s) that involve a new use, change of use, or expansion of an existing use

Exemptions: The following developments are specifically exempt from this Section 401.8.1:

Existing, proposed, or expanded public facility(ies) owned by the Town of Gray

Reconstruction of a building or structure located on property which was damaged or destroyed by fire or other casualty or which was voluntarily demolished during the past year provided that all of the following are met:

No additional dwelling unit(s) are created.

The use is not changed.

The use is not expanded.

Alteration, remodeling rehabilitation, and/or reconstruction of any existing legal nonresidential structure where none of the following are associated with the proposed development:

No net increase in square footage of the structure

The use is not changed

There is not an expansion of an existing use

No new use(s) are proposed

Conducting the Assessment:

The Planning Board may require the applicant to participate in municipally or state-owned, off-site capital improvements. In accordance with 401.8.1.D where it appears that the proposed development will result in a negative impact or decline in the level of service of any existing off-site capital improvement, the Planning Board shall assess and establish the applicant's level of participation in the off-site capital improvement.

In conducting the assessment, the Planning Board shall consider the following:

The status of the system and service as a result of the analysis and any potential relationship to items noted and scheduled in the comprehensive plan and capital improvement program.

The net effect of the proposed development on the capacity of the capital improvement, indicating the percentage share caused by the development.

A cost estimate for this capital improvement so as to meet the increased demand, a breakdown of the applicant's share of that cost, and an estimate of the remaining capacity and post improvement capacity available to developments other than the applicant.

Improvement Responsibilities:

The fair value of any land area donated, acquired, or purchased by the owner/applicant shall be duly considered by the Planning Board, Town Council and the Town as an integral component in determining the Negotiated Exaction.

Once the applicant's share of capital improvement impact has been established by the Planning Board, the Board shall select the method in which the applicant must participate in the capital improvement. The following alternatives are available:

The applicant makes the improvement:

The applicant must agree to make the necessary infrastructure improvements, providing all initial financial carrying costs, establish a construction schedule, and post a performance guarantee to cover all associated costs. The applicant may recover the improvement costs (including engineering and design, construction, and financing expenses) within ten (10) years after improvements are made and in accordance with a specified level of service range associated with the improvement.

For the applicant to recover these costs, subsequent developments must realize a benefit by using the infrastructure improvements financed by the applicant. Cost reimbursement for the applicant shall be established as subsequent developments go through the subdivision or site plan review process.

Calculations shall include adjustments for time-price differentials using the coupon issue yield equivalent of 52-week United States Treasury Bills (1-year Treasury Rate) as an index. Payments shall be made prior to the release of the signed final plan for recording purposes or the building permit where no recording mylar is involved.

Cost Sharing for Subsequent Development:

Allocation Cost Sharing for Subsequent Development(s). In arriving at the appropriate cost share for subsequent development, applicants shall use the same methodology as that utilized by the initial applicant. In applying the methodology, subsequent applicants shall establish their cost based on the percentage utilization of the improvements in terms of post-construction level of service.

Reallocation of Carrying Costs. At the request of the developer and at the discretion of the Planning Board, the Town may also require subsequent developments to share in the initial financial carrying costs of the necessary infrastructure improvements. If so determined, the carrying costs shall be shared between the initial and subsequent development(s) in direct proportion to their relative impact on the capital improvement. Once apportioned, the initial and subsequent development(s) are eligible for cost reimbursement from subsequent development(s) as described above.

Town makes improvements: The Town may agree to complete the improvements. The applicant shall pay the required share of the cost to the Town prior to the release of the signed final plan or building permit, said payment to be held in a reserve fund until the improvement is completed. Subsequent developments that realize a benefit by using the infrastructure improvements financed by the Town shall also pay a fair share contribution.

Cost Sharing agreement between Applicant and/or Town and/or MDOT to complete infrastructure improvements and/or partial contribution toward future Town infrastructure Improvement related to development application and/or land acquisition.

401.8.3 – REQUIRED FINAL PLAN SUBMISSIONS

A. Format & Content - Format & Content- The final plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary details can easily be read. Plans shall be no larger than 24 by 36 inches in size. Space shall be reserved on the plan for endorsement by the Board and shall include the State of Maine professional certification seal with wet ink signature of the licensed land surveyor. Four (4) full-sized (24 by 36 inches) paper copies of the recording plan(s) to be recorded at the Registry of Deeds, one (1) full-sized set of paper copies of all the final plan sheets, and any supporting documents shall be submitted. Additionally, 11 by 17 inch copies and one (1) universally accessible digital format e.g. PDF of all plans shall be submitted. The applicant will consult with the Town Planner to confirm the number of 11 by 17-inch copies the Planning Board will require.

B. Required Information on the Plans - The final plan shall include or be accompanied by the following mandatory submissions of information:

   1. Completed final plan application form and final plan application submissions checklist.
   2. Proposed name of the subdivision and the name of the municipality in which it is located, plus the assessor’s map and lot numbers.
   3. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
   4. An indication of the type of sewage disposal to be used in the subdivision.
   5. An indication of the type of water supply system(s) to be used in the subdivision.

a. When water is to be supplied by an existing public water supply, a written statement from the servicing water district shall be submitted indicating the district has reviewed and approved the water system design.

b. A written statement shall be submitted by the Fire Chief approving all hydrant locations or other fire protection measures deemed necessary.

c. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area. Where there is question as to the quantity or quality of groundwater supplies for potable water, the Plan shall carry a note requiring the developer to provide a tested well prior to sale of the lot.

6. The date the plan was prepared, north point, graphic map scale.
7. The names and addresses of the record owner, applicant, and individual or company who prepared the plan.
8. The location of any zoning boundaries affecting the subdivision.
9. If different than those submitted with the preliminary plan, a copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
10. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
11. The location, names, and present widths of existing and proposed streets, highways, easements, buildings, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The location, bearing and length of street lines, lot lines and parcel boundary lines shall be certified by a professional land surveyor. The original reproducible plan shall be embossed with the seal of the professional land surveyor and be signed by that individual.
12. Street plans, meeting the requirements of Section 401.13.16.
13. The width and location of any proposed new streets or public improvements or open space within the subject property that are shown upon the official map, in the comprehensive plan, or Capital Improvements Program, if any.
14. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public ways and open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be managed and maintained shall be submitted. These may include homeowners' association or condominium bylaws and declarations. If proposed streets and/or open spaces or other land is to be offered to the municipality, written evidence that the Town Council is willing to accept the property interest(s) and that the Town Attorney is satisfied with the legal sufficiency of the written offer to convey title shall be included.
15. The boundaries of any flood hazard areas and the 100-year flood elevation as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
16. The location and method of disposal for land clearing and construction debris.

17. All studies and plans submitted and made part of the preliminary plan approval.

18. Copies of all outside agency reviews and permits.

401.8.4 – FINAL SUBDIVISION PLAN APPROVAL AND FILING

A. Violation of Prior Approvals - No plan shall be approved by the Board as long as the applicant is in violation of the provisions of a previously approved subdivision within the municipality.

B. Documentation of Final Plan Board Decisions - Upon findings of fact and determination that all standards in Title 30-A M.R.S.A., §4404, and these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the final plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the tax assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety (90) days of the date upon which the plan is approved and signed by the Board shall become null and void, unless the particular circumstances of said applicant warrant the Board to grant an extension which shall not exceed one additional period of ninety (90) days. This 90-day period shall begin the day the plan is signed by the Planning Board. Any extension of this 90-day period must be requested of the Planning Board before the first 90-day period expires.

C. Plan Recording & Receipt Before Building Permits –The applicant shall provide the Code Enforcement Officer (CEO) with a receipt from the Registry of Deeds within that time limit stating that the Plan has been filed and giving the Book and Page numbers. No building permits for an approved plan will be issued until the plan has been registered with the Registry of Deeds and a letter from the subdivider has been submitted to the Town stating that all permanent survey markers have been placed for each lot.

D. Phasing of Projects to Match Planned Capacity Expansion of Municipal Facilities. At the time the Board grants final plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If the expansion, addition or purchase of the needed facilities is included in the municipality's capital improvements program, the time period of the phasing shall be no longer than the time period contained in the capital improvements program for the expansion, addition or purchase. (Note: Applicants may also request approval of a phasing plan under Section 401.11.5 for performance guarantees).

E. Changes to the Approved Subdivision Plan - No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless a revised final plan is first submitted and the Board approves any modifications, in accordance with the provisions of Article 9. The Board shall make findings that the revised plan meets the criteria of Title 30-A M.R.S.A., §4404, and the standards of these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.

F. Approval of a Subdivision Plan does not Constitute Acceptance of any Property Interests by the Town of Gray - The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Town Council covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

G. Failure to Complete Substantial Construction - Except in the case of a phased development plan, failure to complete substantial construction of the subdivision within five (5) years of the date of approval and signing of the plan shall render the project in violation of this Ordinance. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

ARTICLE 9 - REVISIONS TO MAJOR SUBDIVISION PLANS

401.9.1 – PROCEDURE

An applicant for a revision to a previously approved plan shall, at least twenty-one (21) days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the procedures for preliminary plan approval shall be followed. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed.

401.9.2 – SUBMISSIONS

The applicant shall submit a copy of the approved plan as well as copies of the proposed revisions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Registry of Deeds. The applicant will consult with the Town Planner to confirm the number of copies required for the review process.

401.9.3 – SCOPE OF REVIEW

The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

ARTICLE 10 - INSPECTIONS AND ENFORCEMENT

401.10.1 – INSPECTION OF REQUIRED IMPROVEMENTS

A. Pre-construction Meeting – After final approval and at no fewer than two weeks prior to commencing site work, the applicant shall participate in a pre-construction meeting with the Town Planner, Town's Consulting Engineer and Code Enforcement Officer to provide a detailed construction timeline, establish points of contact for the project, review the conditions of the project approval, and review all elements of construction that are subject to inspection.

This meeting will serve to ensure that all parties have a clear understanding of the construction process, timelines and inspection requirements. The developer shall attend, as well as the site work contractor and general contractor for the project, if known, in addition to other parties as applicable.

The cost for the town's consulting engineer to attend this meeting shall be paid by the applicant from the inspection escrow. No decisions may be made as part of a pre-construction meeting and the pre-construction meeting shall not in any circumstances be considered substantive review of the application.

B. At least five days prior to commencing construction of required improvements, the subdivider or builder shall:

   1. Notification – Notify the Town Engineer, Town Planner and Code Enforcement Officer in writing of the time when proposed to construction of such improvements will commence, so that the Town can arrange for inspections to assure that all municipal specifications, requirements, and conditions of approval are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.

   2. Inspection Fees – Deposit with the Town Manager a fee for the inspection of the project infrastructure construction. The fee shall be based on three (3) percent of the cost of construction of the road, utilities, stormwater infrastructure, and improvements to complete the project as depicted on the approved final plans. The applicant shall submit construction cost estimates for each component of the project, including details as necessary, to the Town Planner. The Town Planner shall approve the final amount of the inspection fees, with input from the town's consulting engineer. The full amount of the approved inspection fee escrow and the performance guarantees as described in Article 11 – Performance Guarantees, must be duly received by the Town prior to commencement of construction.

C. Notification of Needed Corrections – If the Town Planner, the Town's consulting engineer or their designees find upon inspection that any of the subdivision's required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, the Town's consulting engineer shall so report in writing to the Town Planner, the subdivider and the appropriate contractors associated with the project builder. The Code Enforcement Officer, with input from the Town's consulting engineer and Town Planner, shall take any steps necessary to assure compliance with the approved plans, including, if necessary, issuing a stop work order or other notice to the property owner and associated contractors or initiating proceedings for default and use of the subdivider's provided performance guarantee, consistent with 401.11.7.

D. Approval of Minor Field Changes – If at any time it appears necessary or desirable to modify the required improvements before or during the construction of the required improvements, the Town's consulting engineer is authorized to approve minor modifications, but only those needed due to unforeseen natural conditions on the subject property, such as encountering hidden outcrops of bedrock, natural springs, etc. Following consultation with the Town's consulting engineer, the Town Planner shall issue any approval under this section in writing and shall transmit a copy of the approval to the Planning Board. Except for those minor modifications above, all other modifications to an approved subdivision must be reviewed and approved by the Planning Board consistent with Article 9 of this Chapter.

E. Close of Construction Season Inspection - At the close of each summer construction season the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual, as detailed in this section. By October 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate, based on the design approved by the Board. The report shall also include a discussion and recommendations on any problems which were encountered. The developer shall implement any recommendations in the inspection report by November 1.

F. Certification of Surveying Monuments - Prior to the sale of any lot, the subdivider shall provide the Town's consulting engineer and Code Enforcement Officer with a letter from a professional land surveyor, stating that all monumentation shown on the plan has been installed.

G. Certification of Street Construction for Public Acceptance or Winter Maintenance - Upon completion of street construction and prior to a vote by the Town Council to accept a street as a town way or accept a public easement (for winter maintenance, or other purposes as stated therein) over said street, a written certification signed by a professional engineer shall be submitted to the Town Council at the expense of the applicant, certifying that the proposed town way or public easement meets or exceeds the design and construction requirements of this chapter. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility prior to council consideration of a request for street acceptance. "As built" plans shall also be submitted to the Town Council with the request for town way or public easement acceptance.

H. Developer Responsibility to Maintain Streets - The subdivider shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality or control is placed with a lot owners' association. All other aspects of ownership and/or maintenance shall be as established in the Street Ordinance, Chapter 400.

401.10.2 – VIOLATIONS AND ENFORCEMENT

A. No Plan to be Recorded without Prior Planning Board Approval - No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Board in accordance with these regulations.

B. No Land to be Conveyed or Offered - A person shall not convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.

C. All Lots to be Shown on Approved Plan - A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.

D. No Utility to Serve Non-approved Lots - No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Board.

E. No Site Development without Approvals - Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a plan approved as provided in these regulations and recorded in the Registry of Deeds.

F. No Lot Sales without Infrastructure Completion - No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts and utilities to serve the lot are completed in accordance with these regulations up to and including the entire frontage of the lot unless an approved performance guarantee is in place to ensure street construction and utilities completion. No home on a lot or unit in a multi-family development shall be occupied before the street upon which the unit is accessed and the utilities to serve the residences are serviceable to the satisfaction of the Town Engineer and Code Enforcement Officer.

G. Development to Follow Approved Plans – All development activity within an approved subdivision shall follow the plans approved by the Planning Board and any conditions of approval applied by the Board.

H. Remedies - Violations of the above provisions of this Ordinance shall be punished in accordance with the provisions of Title 30-A M.R.S.A., §4452.

ARTICLE 11 - PERFORMANCE GUARANTEES

401.11.1 – TYPES OF GUARANTEES

With submittal of the application for final plan approval, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

A. Cash - Either a certified check payable to the municipality or a savings account or certificate of deposit naming the Town of Gray as owner, for the establishment of an escrow account;

B. Letter of Credit - An irrevocable letter of credit from a financial institution approved by the Town Attorney establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate.

C. Conditional Agreement – A restriction on the sale of lots and issuance of building permits within the subdivision until the required improvements are completed. A letter of credit or cash fund shall be required to cover the cost of erosion controls and site stabilization. The restriction on lot sales and building permits shall be lifted at any point in the construction process where a performance guarantee under subsections A or B above is posted for the remaining improvements. The owner of a subdivision approved by the Planning Board prior to November 10, 2008 (December 10 effective date) may ask to amend the subdivision approval to add or substitute a conditional agreement provision under this subsection. Such an amendment will require the review and approval of the Planning Board and must comply with all of the requirements of this subsection, but may not request any other plan changes under the design requirements or review standards. Approval of a plan amendment under this subsection shall not extend the time periods established by Section 401.8.3(C) or (G). [Amended March 17, 2009]

The conditions and amount of the performance guarantee shall be determined by the Planning Board with the advice of the Town Engineer, Public Works Director, and Town Attorney.

401.11.2 – CONTENTS OF GUARANTEES

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after

which the applicant will be in default and the municipality shall have access to the funds to finish construction. Said default date shall be at least sixty (60) days prior to expiration of the performance guarantee.

401.11.3 – CASH ESCROW ACCOUNT

A cash contribution to the establishment of an escrow account shall be made by either a certified check, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the applicant, the municipality shall be named as owner. Any interest earned on the escrow account shall be returned to the applicant unless the municipality has found it necessary to draw on the account due to default of the developer.

401.11.4 – LETTER OF CREDIT

An irrevocable letter of credit from a bank or other lending institution with offices in the region, shall indicate that funds have been set aside for the construction of the subdivision for the duration of the project and may not be used for any other project or loan.

401.11.5 – PHASING OF DEVELOPMENT

The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases and with posting of a new performance guarantee for the next phase. Preliminary subdivision approval of all development phases in a phased subdivision shall establish vested rights against future ordinance changes provided that adequate design documentation is submitted to verify that all project phases meet all ordinance requirements in effect at the time of final approval of the first project phase.

401.11.6 – RELEASE OF GUARANTEE

Prior to the release of any part of the performance guarantee, the Town Manager or his/her designee shall determine to its satisfaction, in part upon the report of the Town Engineer or other qualified individual retained by the municipality and any other agencies and departments who may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested.

401.11.7 – DEFAULT

If upon inspection, the Town Engineer or other qualified individual retained by the municipality finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the Code Enforcement Officer, the Town Manager, the Board, and the applicant or builder. The Town Manager shall take any steps necessary to preserve the municipality's rights, including but not limited to initiating proceedings for default and use of the subdivider's provided performance guarantee and using the proceeds to hire a replacement developer to complete the required improvements.

401.11.8 – IMPROVEMENTS TO BE COVERED BY GUARANTEES

Performance guarantees shall be tendered for all public or common improvements required to meet the standards of these regulations including but not limited to the construction of the streets, storm water management facilities, public sewage collection or disposal facilities, public water systems, and erosion

and sedimentation control measures.

ARTICLE 12 - WAIVERS

401.12.1 – WAIVERS OF CERTAIN SUBMISSION REQUIREMENTS AUTHORIZED.

Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, or that the application is simple and minor in nature, it may waive portions of the submission requirements, unless prohibited by these regulations or Maine statutes, provided the applicant has demonstrated that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the zoning ordinance, or these regulations.

401.12.2 – WAIVERS OF CERTAIN IMPROVEMENTS AUTHORIZED.

Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the Zoning Ordinance, or these regulations, and further provided the performance standards of these regulations and the criteria of the subdivision statute have been or will be met by the proposed subdivision.

In granting any waivers for required improvements, the Planning Board shall make findings that:

A. The need for a waiver is based on unique circumstances relating to the specific site and development application and that these conditions would not be expected to be encountered elsewhere;

B. The application of the standards is not requisite to public health, safety, and general welfare;

C. The waiver would not qualify for relief granted by the Board of Appeals under Article 9.

D. The granting of the waiver in other situations would not have the effect of amending the Ordinance requirements; and,

E. Appropriate conditions are applied.

401.12.3 – WAIVER OF PROCEDURAL STEPS

The Board may allow an applicant to combine the final plan and preliminary plan application steps into one procedure, upon making all of the following written findings of fact:

A. No approvals are required from the Maine Department of Environmental Protection under the Site Location of Development Act, Stormwater Law, or Natural Resources Protection Act, other than a "Permit by Rule;"

B. The Board agrees to approve a waiver from the requirement to submit a stormwater management plan and sedimentation and erosion control plan, as ordinarily required by Article 7 or Article 8; and

C. The application contains all other applicable submissions required for both the preliminary and final plan steps, except for those items for which a waiver of a required submission has been requested and granted.

401.12.4 – CONDITIONS FOR WAIVERS

Unless otherwise specified in this Ordinance, waivers may only be granted in accordance with Sections 401.12.1, 401.12.2 and 401.12.3 above. When granting waivers, the Board shall set conditions so that the purposes of these regulations are met.

401.12.5 – WAIVERS TO BE SHOWN ON FINAL PLAN.

When the Board grants a waiver under Section 401.12.2 to any of the improvements required by these regulations, the final plan, to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.

ARTICLE 13 - PERFORMANCE & DESIGN STANDARDS

The performance and design standards in this article are intended to clarify and expand upon the statutory review criteria found in Section 401.2. In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance and design standards and make findings that each has been met prior to the approval of a final plan. In all instances, the burden of proof shall be upon the applicant to present adequate information to indicate all performance and design standards and statutory criteria for approval have been or will be met.

401.13.1 – BASIC SUBDIVISION LAYOUT

A. Blocks.
Where street lengths exceed one thousand (1,000) feet between intersections with other streets, the Board may require a utility/pedestrian easement, at least twenty (20) feet in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five feet in width constructed in accordance with design standards for sidewalks below. Maintenance obligations of the easement shall be included in the written description of the easement.

B. Lots.

1. Wherever possible, side lot lines shall be perpendicular to the street.
2. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the subdivision statute, the standards of these regulations and conditions placed on the original approval.
3. If a lot on one side of a stream (as defined in the DEP Minimum Shoreland Zoning Guidelines) or road fails to meet the minimum requirements for lot size, it may not be combined with land on the other side of the stream or road to meet the minimum lot size.
4. The ratio of lot length to width, outside of the shoreland zone, shall not be more than three to one. For non-rectangular parcels with unequal widths, the board may allow deviation from this requirement based on review of the development constraints on the site, provided the entirety of the area of the building envelope meets the 3:1 ratio. Flag lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision shall have a lot depth to shore frontage ratio greater than 5 to 1. The Planning Board shall have additional authority to adjust lot configurations in Residential Open Space subdivisions.

5. In areas served by a postal carrier, lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers. The lot numbering shall be reviewed by the E-911 Addressing Officer and the comments shall be considered by the Board.

6. In accordance with Tables 402.5.4.A & B of the Zoning Ordinance, the Planning Board shall have the authority to reduce the minimum street frontage to fifty (50) percent of the required frontage but in no case less than sixty (60) feet of street frontage, whichever is greater, for lots in a Planning Board approved residential subdivision for one or more lots having street frontage only on a cul-de-sac. In such instances, street frontage shall be measured along the outside radius of the cul-de-sac. Lots which have any street frontage not on a cul-de-sac radius as well as lots in a commercial subdivision shall not be eligible for reduced street frontage. Except as established in Table 401.13.13.B.1 for Residential Open Space Subdivisions, no subdivision lot shall be permitted that does not have frontage on an existing or proposed street or private way, as those terms are defined in Chapter 402, Section 402.2.2.

C. Utilities.
Utilities serving lots with a street frontage of one hundred and fifty (150 ft.) feet or less shall be installed underground.

D. Monuments.

1. Stone or precast concrete monuments with metal detection shall be set at all street intersections and points of curvature, but no further than seven hundred and fifty (750 ft.) feet apart along street lines without curves or intersections. Monuments shall be required on only one side of the street.

2. Stone or precast concrete monuments shall be set at all corners of the subdivision boundary, and at all angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less. In the event that the corner(s) of the subdivision boundary have a duly established marker set by a Professional Land Surveyor, the Planning Board shall have the authority to require one or more stone or precast monuments in the vicinity of the respective corner(s) of the subdivision boundary. A stone wall shall not constitute a duly established survey marker for the purposes of this provision.

3. The preferred material for all lot corner markers shall be rebar five-eighths (5/8 in) inch in diameter. Alternate acceptable materials for lot corner markers shall be iron pipe one (1 in) inch in diameter and stone monuments four (4 in) inches square.

4. Stone or concrete monuments shall be a minimum of four inches square at the top and three feet in length. Monuments shall beset so the top shall be flush with the finished grade After they are set, drill hole 1/2 inch deep shall locate the point or points described above.

5. All other subdivision boundary corners and angle points, as well as all lot boundary corners, rear lot lines and angle points shall be marked by suitable monumentation, as required by the Maine Board of Registration of Land Surveyors.

4. All monuments are to be not less than thirty-six (36 in) inches in total length unless they are drilled at least three (3 in) inches into solid ledge or rock.

5. All monuments shall have the Surveyor's identification suitably attached.

6. The town's consulting engineer shall confirm installation of all required monuments as part of the construction inspections, prior to final release of escrows for the project.

401.13.2 – SUFFICIENT WATER

A. Public Water:

1. A subdivision located partially or wholly within the Environmental Protection Agency's (EPA) McKin Superfund Site shall provide public water to all parts and all development within the entire project.
2. When a subdivision is to be served by a public water system, the complete supply system within the subdivision including fire hydrants, shall be installed at the expense of the applicant. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the Gray Water District and the Fire Chief.
3. Subdivisions not located partially or wholly within the EPA McKin Superfund Site shall not be required to supply public water provided that adequate drinking water and sufficient fire protection measures are adhered to as required in this Ordinance and other applicable standards.

B. Drinking Water:

1. When a proposed subdivision is not served by public water, water supply shall be from individual wells. Due to the increased chance of contamination from surface water, dug wells shall be prohibited.
2. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface wastewater disposal systems and other sources of potential contamination.
3. Wells shall not be constructed within 100 feet of the traveled way of any street, if located downhill from the street, or within 50 feet of the traveled way of any street, if located uphill of the street. This restriction shall be included as a note on the plan and deed restriction to the affected lots.
4. Lots shall be designed to accommodate the placement of wells and septic systems meeting the requirements of the State of Maine Subsurface Wastewater Disposal Rules and Well Driller and Pump Installer Rules, which generally require a one hundred (100) foot separation between wells and septic systems. Additional restrictions on well locations may be required per hydrogeologic assessments under Section 401.13.9.A.6.
5. Water Quality: Water supplies shall meet primary drinking water standards contained in the State of Maine Rules Relating to Drinking Water. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact shall be disclosed in a note on the plan to be recorded at the Registry of Deeds.

C. Fire Protection:

1. The developer shall provide adequate Fire Protection by one or more of the following methods meeting applicable standards approved by the Gray Department of Public Safety:
   a. Fire Hydrant(s);
   b. Underground reservoir(s) (cisterns); and/or

c. Sprinkler system(s).

2. A suitable accessway to the hydrant or other water source shall be constructed. An easement in perpetuity shall be granted to the Town of Gray granting access to and maintenance of hydrants or reservoirs where necessary.
3. When a subdivision is to be served by public water, all of the following apply:
   a. Applicable standards detailed above in 401.13.2.A.2
   b. Fire hydrants connected to a public water supply shall be located such that no building is more than six hundred (600) feet from a hydrant, measured from the hydrant to the closest portion of the building envelope.
   c. Hydrants or other provisions for drafting water shall be provided to the specifications of the Gray Department of Public Safety, in accordance with Gray Water District standards and professional accepted practices.
4. For underground reservoirs (cisterns), a minimum storage capacity of 10,000 gallons shall be provided to serve up to five (5) dwelling units. The Board may require additional or reduced storage capacity upon a recommendation from the Gray Department of Public Safety, based on factors such location, access, number of cumulative and/or attached dwelling units, and distance to a secondary water supply.

   A. All cisterns and their installation shall comply with the requirements of the currently adopted Maine NFPA Standards, and in the absence of adopted standards, the most current NFPA standard will apply. Minimum pipe size connecting to storage vaults shall be six inches. No dwelling unit shall be located more than one thousand (1,000) feet from an underground reservoir.

   B. The subdivision plan shall indicate:

   The location(s) of the cistern(s) and the structures that are to be protected within 1,000 feet of each cistern.

   The location(s) and dimensions of the Vehicle Pad(s), designed in consultation with the Fire Chief or his/her designee.

   The location and dimensions of guardrails, bollards or boulders to be installed for protection against vehicular damage to the cistern and piping, as well as “no parking” signs.

   The location(s) and dimensions of easements to be granted to the Town pursuant to these regulations.

   The responsible party or parties for cistern ownership and maintenance, with reference to any conditions, agreements or documentation outlining the party’s obligations.

C. The Responsible Party or Parties shall own the cistern(s) and, at their expense, install, maintain, and ensure that each cistern remains Fully Operational. They shall also:

1. Provide the Town of Gray with easements — minimum 10 feet on all sides of the cistern and an additional 25-foot access easement from a roadway.
2. Maintain year-round access to the cistern(s) and Vehicle Pad(s).
3. Make prompt repairs as indicated by inspection or testing.
4. Bear costs of biennial inspections, testing, and refilling.
5. If a homeowners' or similar association, ensure governing documents include a mechanism to fund maintenance obligations.
6. If an individual or developer, provide security for obligations as required by the Planning Board.
7. If the Responsible Party fails to perform, the Town may perform the obligations and place a lien on each lot or condominium unit served by the cistern.

D. Inspection, Testing, and Approval

1. All inspections and tests shall be performed by the Fire Chief or his/her designee, who may engage additional resources as necessary at the Responsible Party's expense.
2. A cistern shall be deemed Fully Operational after passing inspections and operational tests (Compaction, Leakage, and Flow) and certification by a Maine licensed engineer.
3. Inspections shall occur at each installation phase:
    a. Rough excavation
    b. Tie-down or strapping
    c. Backfill
    d. Accessibility and maintenance of area and easements
    e. Vehicle pad
4. Biennially, the Fire Chief or his/her designee shall inspect accessibility, maintenance, and perform a Flow Test, at the Responsible Party's expense, per the Town of Gray fee schedule. The Responsible Party shall promptly address deficiencies.

5. Sprinklers utilized to meet fire protection for this Section 401.13.2.C shall be designed and installed to NFPA standards and to the following specifications:

    a. Developers of a subdivision shall submit plans for Fire Protection to the Gray Department of Public Safety for review and approval

    b. Residential sprinklers shall follow National Fire Protection Association (NFPA) 13D and 13R for life safety

    c. Commercial sprinklers shall follow NFPA 13

    d. Commercial sprinkler systems will have a Fire Department connection that is in an accessible location and clearly marked outside the building

    e. All sprinkler systems using more than six (6) sprinkler heads shall be approved by the State of Maine Department of Public Safety/Fire Marshall's Office.

    f. Developers shall provide educational materials to homeowners explaining the system operation and testing.

401.13.3 – EROSION AND SEDIMENTATION AND IMPACT ON WATER BODIES

A. The proposed subdivision shall prevent soil erosion and sedimentation from entering waterbodies, wetlands, and adjacent properties.

B. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.

C. Cutting or removal of vegetation along waterbodies shall not increase water temperature or result in shoreline erosion or sedimentation.

D. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

401.13.4 – SEWAGE DISPOSAL

A. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.

B. The site evaluator shall certify in writing that all test pits which meet the requirements for a new system represent an area large enough for a disposal area on soils which meet the Disposal Rules.

C. On lots in which the limiting factor has been identified as being within fifteen (15) inches or less of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted in the deed so as not to be built upon.

D. In no instance shall a disposal area be on a site which requires a New System Variance from the Subsurface Wastewater Disposal Rules.

E. In no instance shall a lot be approved that has its septic system located on an easement on another lot.

401.13.5 – SOLID WASTE

If the additional solid waste from the proposed subdivision exceeds the capacity of the municipal solid waste facility, causes the municipal facility to no longer be in compliance with its license from the Department of Environmental Protection, or causes the municipality to exceed its contract with a non-municipal facility, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility which is in compliance with its license. The Board may not require the alternate arrangement to exceed a period of five years.

401.13.6 – IMPACT ON NATURAL BEAUTY, AESTHETICS, HISTORIC SITES, WILDLIFE HABITAT, RARE NATURAL AREAS OR PUBLIC ACCESS TO THE SHORELINE

A. Preservation of Natural Beauty and Aesthetics.

1. The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.

2. Except in areas of the municipality designated by the comprehensive plan as growth areas, the subdivision shall be designed to minimize the visibility of buildings from existing public roads. Outside of designated growth areas, a subdivision in which the land cover type at the time of application is forested, shall maintain a wooded buffer strip no less than fifty (50) feet in width along all existing public roads. The buffer may be broken only for driveways and streets.

3. The Board may require the application to include a landscape plan that will show the preservation of any existing large specimen trees, the replacement of trees and vegetation, and graded contours.

4. Unless located in areas designated as a growth area in the Comprehensive Plan, building locations shall be limited in open fields, and shall be located to the maximum extent possible, through clustering or control of building locations, within forested portions of the subdivision. When the subdivision contains no forest or insufficient forested portions to include all buildings, the subdivision shall be designed to minimize the appearance of buildings when viewed from existing public streets. When a proposed subdivision street traverses open fields, the plan shall include the planting of street trees. Street trees shall include a mix of tall shade trees and medium height flowering species. Trees shall be planted no more than fifty feet apart.

B. Retention of Open Spaces and Natural or Historic Features.

1. If any portion of the subdivision is located within an area designated by the comprehensive plan as open space or greenbelt, measures for preservation of that portion shall be included in the project design.
2. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
3. If any portion of the subdivision is designated a site of historic or prehistoric importance by the comprehensive plan, National Register of Historic Places, or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan. When the historic features to be protected include buildings, the placement and the architectural design of new structures in the subdivision shall be compatible with the historic structures. The Board shall seek the advice of the Maine Historic Preservation Commission in reviewing such plans.
4. The subdivision shall reserve sufficient undeveloped land to provide for the recreational needs of the occupants, which shall be a minimum of five (5%) percent of the gross area of the parent parcel from which the subdivision is created. Portions of the proposed subdivision selected for use as open space for scenic or passive recreation shall be provided at least 25 feet of road frontage and such other access amenities as the Planning Board may deem reasonable and necessary.
5. Subdivisions with an average density of more than three (3) dwelling units per acre shall provide no less than fifty percent of the open space as usable open space to be improved for ball fields, playgrounds or other similar active recreation facilities. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one or more streets of at least two hundred (200 ft.) feet, and have no major dimensions of less than two hundred (200 ft.) feet.
6. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended.
7. Where land within the subdivision is not suitable or is insufficient in amount for open space and recreation needs of the development, the developer may make a payment in lieu of dedication, as per the Town Fee Schedule, which the Planning Board may agree to accept as substitute for the reservation of all or part of the open space requirement. The payment in lieu of dedication shall be deposited into a municipal land open space or outdoor recreation facility acquisition or improvement fund.

C. Protection of Significant Wildlife Habitat.
If any portion of a proposed subdivision lies within:

1. Two hundred and fifty (250 ft.) feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife Beginning with Habitat Project Primary Maps 1 and 2 or the Comprehensive Plan as:

   a. Habitat for species appearing on the official state or federal lists of endangered or threatened species;

   b. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;

   c. Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; or

2. Other important habitat areas identified in the comprehensive plan or in the Department of Inland Fisheries and Wildlife Beginning with Habitat Project Primary Maps 1 and 2;

the applicant shall demonstrate that there shall be no undue adverse impacts on the habitat and species it supports. There shall be no cutting of vegetation within such areas, or within the strip of land extending at least seventy-five (75 ft.) feet from the edge or normal high-water mark of such habitat areas without prior consultation with and submission of comments from the Regional Biologist of the Maine Department of Inland Fisheries and Wildlife. The Board may require a report to be submitted, prepared by a wildlife biologist, selected or approved by the Board, with demonstrated experience with the wildlife resource being impacted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe any additional appropriate mitigation measures to ensure that the subdivision will have no undue adverse impacts on the habitat and the species it supports.

D. Protection of Important Shoreland Areas.

1. Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the open space with provisions made for continued public access.

2. Within areas subject to the state mandated shoreland zone, within a strip of land extending one hundred (100 ft.) feet inland from the normal high-water line of a great pond or any tributary to a great pond, and seventy-five (75 ft.) feet from any other water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved. The plan notes shall contain the following restrictions:

   a. Tree removal shall be limited to no more than forty (40%) percent of the volume of trees four (4 in.) inches or more in diameter measured at 4 1/2 (4.5 ft.) feet above the ground level on any lot in any ten year period.

   b. There shall be no cleared opening greater than two hundred and fifty (250 sq. ft.) square feet in the forest canopy as measured from the outer limits of the tree crown.

   c. However, a footpath not to exceed ten feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not

created. Adjacent to a great pond, or a tributary to a great pond, the width of the foot path shall be limited to six (6) feet.

d. In order to protect water quality and wildlife habitat adjacent to great ponds, and tributaries to great ponds, existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described above.

e. Pruning of tree branches, on the bottom third of the tree is permitted.

3. Within areas subject to the state mandated shoreland zone, beyond the buffer strip designated above, and out to two hundred and fifty (250 ft.) feet from the normal high water line of a water body or upland edge of a wetland, cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, shall not exceed in the aggregate, twenty-five (25%) percent of the lot area or ten thousand (10,000 sq. ft.) square feet, whichever is greater, including land previously developed.

E. Reservation or Dedication and Maintenance of Open Space and Common Land, Facilities and Services.

1. All open space common land, facilities and property shall be owned by:

a. The owners of the lots or dwelling units by means of a lot owners' association;

b. An association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or

c. The municipality.

2. Further subdivision of the common land or open space and its use for other than non-commercial recreation, agriculture, or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land. When open space is to be owned by an entity other than the municipality, there shall be a conservation easement deeded to the municipality prohibiting future development.

3. The common land or open space shall be shown on the final plan with appropriate notations on the plan to indicate:

a. It shall not be used for future building lots; and

b. Which portions of the open space, if any, may be dedicated for acceptance by the municipality.

4. The final plan application shall include the following:

a. Covenants for mandatory membership in the lot owners' association setting forth the owners' rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling.

b. Draft articles of incorporation of the proposed lot owners' association as a not-for-profit corporation; and

c. Draft by-laws of the proposed lot owners' association specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities. Provisions dealing with matters not relating to the criteria

and standards of the Subdivision Ordinance such as requirements for minimum home sizes and prohibitions on satellite dishes shall be separated and shall not be enforceable by the Town of Gray.

F. In combination, the documents referenced in paragraph E 1. through 4. above shall provide for the following.

   a. The homeowners' association shall have the responsibility of maintaining the common property or facilities.

   b. The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair and replacement of common property and facilities and tax assessments.

   c. The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.

   d. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place.

401.13.7 – CONFORMANCE WITH ZONING ORDINANCE AND OTHER LAND USE ORDINANCES

All lots, other than those found within cluster developments approved pursuant to section 401.13.13, shall meet the minimum dimensional requirements of the Zoning Ordinance for the zoning district in which they are located. The proposed subdivision shall meet all applicable performance standards or design criteria from the Zoning Ordinance and other land use ordinances.

401.13.8 – FINANCIAL AND TECHNICAL CAPACITY

A. Financial Capacity
   The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of these regulations. When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation. Provision of a commitment letter from a lending institution offering to finance construction of the specific project for amounts confirmed by the Town's peer reviewers shall constitute demonstration of financial capacity when combined with a performance guarantee meeting the requirements of Section 401.11.

B. Technical Ability

   1. The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.

   2. In determining the applicant's technical ability, the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

401.13.9 – IMPACT ON GROUND WATER QUALITY OR QUANTITY

A. Ground Water Quality

1. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
    a. A map showing the basic soils types.
    b. The depth to the water table at representative points throughout the subdivision.
    c. Drainage conditions throughout the subdivision.
    d. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
    e. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, or at the subdivision boundaries; or at a distance of 1,000 feet from potential contamination sources, whichever is a shortest distance.
    f. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
2. Projections of ground water quality shall be based on the assumption of drought conditions (assuming sixty (60%) percent of annual average precipitation).
3. No subdivision shall increase any contaminant concentration in the ground water at any subdivision water supply well or any project boundary to more than the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water at said locations to more than the Secondary Drinking Water Standards. A hydrogeological evaluation demonstrating that the groundwater concentrations of nitrate as nitrogen meet the Maximum Contaminant Level standard of 10 mg/L of the EPA's National Primary Drinking Water Regulations at the project boundaries. Where past land activities, such as agriculture, indicate the potential for high background levels of nitrate nitrogen or other groundwater contaminants, the Planning Board may require testing to determine background levels and may place limitations on total groundwater discharges to ensure safe drinking water supplies for existing and/or proposed households.
4. If ground water is to be used for potable purposes and contains contaminants in excess of the primary standards, the applicant shall demonstrate how water quality will be improved or treated.
5. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed one hundred and fifty (150%) percent of the ambient concentration.
6. Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, such as required well exclusion zones, those standards shall be included as a note on the final plan, and as restrictions in the deeds to the affected lots.
7. Whenever the Board determines that there is a potential that some lots in the proposed subdivision may have difficulty obtaining a well with adequate quantity and quality for potable water, the developer shall be required to drill wells and verify the water supply before the lot is sold.

B. Ground Water Quantity

1. Any water table drawdowns beyond the subdivision boundaries, due to groundwater withdrawals by the proposed subdivision, shall not adversely impact groundwater supply availability to existing wells nor cause structural damage (e.g., settlement).
2. A proposed subdivision shall not result in a lowering of the water table at the subdivision boundary by increasing runoff with a corresponding decrease in infiltration of precipitation. This standard shall be met by one of the following measures:
    a. Limiting the impervious surfaces within the project site to no more than 10 (10%) percent of the land surface.
    b. Providing analysis by a hydrogeologist or qualified engineer that soil and substrate conditions are such that a groundwater drawdown due to increased runoff will not significantly reduce infiltration or cause long term settlements in clay that could result in structural damage. Upon recommendation of peer review consultants engaged by the Town, the Board may require test borings to verify assumptions made by the hydrologist or engineer.
    c. Installation of groundwater infiltration measures to ensure that water table recharge is not depleted by more than ten (10%) percent.

401.13.10 – FLOODPLAIN MANAGEMENT.

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency:

A. All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages.

B. Adequate drainage shall be provided so as to reduce exposure to flood hazards.

C. The plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on the plan.

401.13.11 – IDENTIFICATION OF FRESHWATER WETLANDS, RIVERS, STREAMS OR BROOKS

Freshwater wetlands within the proposed subdivision shall be identified in accordance with the 1987 Corps of Engineers Wetland Delineation Manual, published by the United States Army Corps of Engineers. Any rivers, streams, or brooks within or abutting the proposed subdivision shall be identified.

401.13.12 – STORMWATER MANAGEMENT

A. Stormwater management for major subdivisions shall incorporate appropriate treatment measures for water quantity and quality to meet the requirements specified below for development of the lots as well as the infrastructure to support the project. Each application shall include maximum developed,

disturbed and impervious areas for each lot based upon the definitions contained within DEP Chapter 500 Stormwater Management.

B. For major subdivisions that require DEP review under the Site Location of Development Act (SLDA), a stormwater management plan shall be submitted which complies with the SLDA and the requirements of DEP Chapter 500 Stormwater Management.

C. For major subdivisions that do not require a SLDA permit, but require a DEP permit under the Stormwater Law, a stormwater management plan shall be submitted which complies with the requirements of DEP Chapter 500 Stormwater Management.

D. For major subdivisions outside of the watershed of a Great Pond, that require neither a SLDA permit, nor a DEP Stormwater permit a stormwater management plan shall be submitted which complies with the Basic and General Standards of DEP Chapter 500 Stormwater Management.

E. For the purposes of these regulations, the watershed boundaries shall be as delineated in the Comprehensive Plan, or as depicted in the drainage divide data layer provided by the Maine Office of GIS. Due to the scale of the map there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant cannot agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a professional land surveyor showing where the drainage divide lies.

F. For major and minor subdivisions within the watershed of a Great Pond, that require neither a DEP SLDA permit nor a DEP Stormwater Permit, a stormwater management plan shall be submitted which complies with the Basic Standards of DEP Chapter 500 Stormwater Management. In addition, the stormwater management plan shall comply with the Phosphorous Standard of Chapter 500. If the Great Pond is not severely blooming as listed in MDEP Chapter 502, then the stormwater management plan shall comply with either the General Standard or the Phosphorous Standard of Chapter 500 at the Applicant's choice.

G. For all major subdivisions, regardless of size, a stormwater management plan shall be submitted which complies with the Flooding Standard of DEP Chapter 500 Stormwater Management. For a project that does not require a DEP SLDA Permit, the Planning Board upon a request by the Applicant may waive the Flooding Standard, in the event that greater than seventy-five (75%) percent of the impervious and developed areas (as defined in Chapter 500) for both the lots and infrastructure are treated through the use of buffers in accordance with Chapter 500.

401.13.13 – 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 residential 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 and the dimensional standards contained therein shall apply to all Residential Open Space subdivisions. To the extent not amended by Table 401.13.13.B.1, all other dimensional standards otherwise imposed by Chapter 402 shall remain in effect.

2. The Zoning Board of Appeals does not have the authority to grant a variance for any dimensional standard within a Residential Open Space subdivision.

3. 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.

4. 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%) increase in the permitted number of lots for each of the following:

a. Developed trail network in commonly owned open space. Such trail network shall consist of at least a five-foot wide footpath, cleared of brush and vegetation. No tree clearing is required, other than trimming of limbs as necessary to create a cleared path with 6 (six) feet of height clearance. No surface improvements or earth disturbance is required to create a trail path. In areas of the footpath with slopes of more than 15%, 4-foot-wide stairs are to be installed.

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 conservation easement or equivalent instrument.

e. 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%) increase in the permitted number of lots for each of the following:

   a. A recorded easement granting the public rights in perpetuity 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. The principal use of lots in a Residential Open Space subdivision shall be for residential purposes only. A note on the face of the final signed recorded plan and/or included in deeds for each individually owned parcel shall memorialize this use limitation. Accessory residential uses that are permitted in the respective Zoning District may be permitted, subject to any performance standard imposed by ordinance, with use parameters memorialized on the face of the final signed recorded plan and a clear note in the deeds for each lot.

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. 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.
5. 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 for use 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.
6. Open space and common park areas 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.
7. 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.
8. 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 homeowner's 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.
9. The Town of Gray will not be responsible for enforcement of the use of any open space or recreational areas including trails.
10. No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time the application is submitted, specifically including a Town or State road.
11. In order to achieve maximum efficiency of lot layout, up to two (2) lots accessed by back lot development easements shall be permitted per every 14 lots in an Open Space Subdivision, as per Table 401.13.13.B.1.
12. Shore frontage for each lot shall not be reduced below the minimum normally required by the Shoreland Zoning Ordinance.
13. 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 within the project property 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 developer is unable to adhere to the approved location(s) for the centralized collection and treatment system as shown on the face of the recorded subdivision

plan, the plan must be amended in accordance with applicable procedures before any permits can be issued for the system if it is proposed to be relocated to any part of the subdivision total open space. The Planning Board review shall be focused on confirming adherence to the setback requirements of the Subsurface Wastewater Disposal Rule and minimizing any potential adverse impacts to existing and/or future well locations. a centralized collection and treatment system.

F. Standards for individually owned lots:

1. Each individually owned lot in a Residential Open Space Subdivision shall have a usable 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 undisturbed perimeter buffer, and nearby stormwater buffer locations be submitted as part of the review.

G. Standards for the required undisturbed perimeter buffer:

1. The entirety of the undisturbed perimeter buffer shall be part of the open space for the project, to be owned by the resulting association or other separate entity, and in no event shall these areas be owned in entirety by any individual lot owner. The ownership and maintenance of the undisturbed perimeter buffer of the subdivision shall be the same as the open space for the subdivision, consistent with the requirements of this chapter and the approved subdivision plan.
2. 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.
3. The Homeowner/Lot owner association documents shall include language that clearly states that the association is responsible for the maintenance of the perimeter buffer.
4. 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.

5. When the Planning Board has determined that the applicant must post a bond or acceptable performance guarantee, qualified professionals shall provide proposed guarantee 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 performance guarantee, 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:

Residential Open Space subdivisions include three types of open space requirements: Total open space (including the undisturbed perimeter buffer), usable open space, and the usable improved common park area.

1. **Total Open Space**: Total Open Space shall include the required undisturbed perimeter buffer, usable open space and the improved usable common park area; as well as any land within the subdivision that is permanently dedicated to one or more of the following uses: agricultural, grazing, gardening, forestry, natural resource conservation, wetland protection, wildlife habitat, undeveloped park land, scenic preservation, outdoor recreation or buffers.
   a. Open space portions of the project shall have the following traits as determined by the Planning Board:
      (i) be as continuous as possible.
      (ii) contain an area that is sufficiently large to serve appropriate recreational purposes.
      (iii) be suitably configured to be utilized for appropriate recreational purposes such as trails and fields.
      (iv) be located to allow for reasonable access by persons owning lots in the subdivision.

   b. The following areas shall be excluded from total 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 dwelling units.

2. **Usable Open Space**: That portion of the open space which due to its slope, drainage characteristics and soil conditions can support active recreation uses such as trails and open fields; horticulture or agriculture; and can reasonably be accessed and utilized by persons owning individual lots in the subdivision. In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or areas with slopes exceeding ten (10%) percent and is subject to the dimensional standards in this ordinance.

   A. 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 usable open space and counted toward the usable and total open space requirement. Lands occupied by impervious paths or similar for common recreational facilities, not including tennis courts or buildings, may be counted as usable and total open space provided that such impervious surfaces constitute no more than five percent (5%) of the total required open space.

   B. Subject to obtaining the necessary permits, usable open space shall be accessible for 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.

   C. Usable open space portions of the project shall have the following traits as determined by the Planning Board:

      a. be as continuous as possible.

      b. be suitably configured to be utilized for appropriate recreational purposes such as trails and fields.

      c. be located to allow for reasonable access by persons owning lots in the subdivision.

3. **Usable Improved Common Park Area**: For purposes of the Planning Board's review of Residential Open Space Subdivisions, the common park area shall mean an area of contiguous open space, subject to the dimensional standards in this ordinance.

   a. The usable improved common park area shall have soil and topographical characteristics suitable for utilization by the lot owners as a public gathering space, such as a recreational field area, playground or picnic pavilion, as determined by the Planning Board.

   b. The usable improved common park area must have direct access immediately adjacent to the road and meet the dimensional requirements of this Ordinance.

   c. Land that is used for a wastewater disposal field is not eligible to be counted as part of the usable improved common park area.

d. A minimum area of 50 SF x 50 square feet within the usable improved common park area must be cleared, loamed and seeded to allow for recreational improvements and/or use by subdivision residents.

4. For a Residential Open Space Subdivision:

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 land intended as usable open space for recreation or public use determined by the size, shape, topographic and location requirements of the particular purpose proposed for the site. The Planning Board shall 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.

d. 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.

e. Usable open space intended for recreation or public use shall be easily accessible to pedestrians.

f. The suitability of open space intended for scenic value and purposes to achieve the best possible relationship between development and the land.

g. Maximize connections to recreational resources, existing open space areas and facilities adjacent to the parcel being subdivided.

h. To the maximum extent practically feasible, preserve habitat functionally necessary for wildlife.

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 Residential Open Space Subdivision shall be located within one thousand (1,000) feet of the usable open space to ensure practicable access.

J. Ownership & Use of Open Space:

1. The fee ownership of the total minimum required open space shall be either the Homeowners Association or remain fractional by the lot owners in the subdivision, but in no event may any

portion of the total minimum required open space be owned in fee by any fewer than all lot owners. 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. Otherwise, the homeowners' association declaration must perpetually protect the open space from development and may not permit the construction of any structures except for those reasonably necessary to the achievement of the recreational purpose of the open space. The homeowners' association declaration shall be subject to review and approval by the Town Attorney prior to the issuance of any building permits.
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. 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.
5. 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.
6. 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.

401.13.14 – COMPLIANCE WITH TIMBER HARVESTING RULES.

The Board shall ascertain that any timber harvested on the parcel being subdivided, has been harvested in compliance with rules adopted pursuant to Title 12, M.R.S.A section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired

the parcel. The Planning Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the Board may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If the Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the Bureau notifies the Planning Board that it will not provide assistance, the Board may require a subdivision applicant to provide a determination certified by a licensed forester. For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, M.R.S.A section 8868, subsection 6 and "parcel" means a contiguous area within one municipality owned by one person or a group of persons in common or joint ownership.

401.13.15 – TRAFFIC CONDITIONS AND STREETS

A. General Goals
The Planning Board shall review the potential internal and external traffic impacts of all proposed subdivisions in order to ensure that:

1. The subdivision transportation system provides safeguards against hazards to vehicles, bicyclists and pedestrians in interior subdivision streets and access connections to external streets;
2. The subdivision transportation system is designed to avoid traffic congestion on any street;
3. The subdivision transportation system provides safe and convenient circulation for vehicles, bicyclists and pedestrians on interior subdivision streets and access connections to external streets;
4. The subdivision transportation system is designed to be compatible with the estimated Average Annual Daily Traffic of the street, the land uses accommodated by the street, and the lot density of the street; and
5. The subdivision transportation system will reflect the natural and built setting of the proposed subdivision site.

B. General Access Standards.
All subdivision accesses connecting with external streets shall meet the following standards:

1. Accesses connecting to any state or state-aid highway shall meet the minimum access permitting requirements of the Maine Department of Transportation “Highway Driveway and Entrance Rules”
2. Accesses that are expected to carry more than 100 passenger vehicle equivalent trips in the peak hour shall meet the minimum access permitting requirements of the Maine Department of Transportation “Rules and Regulations Pertaining to Traffic Movement Permits.”
3. The street giving access to the subdivision and neighboring streets and intersections which can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. No subdivision shall reduce the Level of Service (LOS) of streets or intersections neighboring the subdivision to a LOS of “E” or below, unless:
    a. The comprehensive plan has indicated that Levels of Service "E" or "F" are acceptable for that street or intersection; or
    b. The level of service of the road or intersection will be raised to D or above through road or intersection improvements and/or by transportation demand management techniques; or

c. The applicant provides evidence that it is not possible to raise the level of service of the road or intersection to D or above by road or intersection improvements or by transportation demand management techniques, but improvements will be made or transportation demand management techniques will be used such that the proposed development will not increase delay at a signalized or unsignalized intersection, or otherwise worsen the operational condition of the road or intersection in the horizon year; or

d. Improvements cannot reasonably be made because the road or intersection is located in Gray Village or because implementation of the improvements will adversely affect a historic site as defined in 06-096 CMR 375(11) (Preservation of Historic Sites) and transportation demand management techniques will be implemented to the fullest extent practical; or

e. The development is located in a designated growth area, in which case the applicant shall be entitled to an exception from the level of service mitigation requirements set forth under the General Standards in this Section. This exception applies even if part or all of the traffic impacts of the proposed development will occur outside the boundaries of the designated growth area. This exception does not exempt the development from meeting safety standards, and greater mitigation measures may be required than otherwise provided in this subsection if needed to address safety issues; or

f. In the case of unsignalized intersections, if traffic with the development in place would not meet the warrant criteria for signalization or turning lanes, as set forth in the Federal Highway Administration's "Manual on Uniform Traffic Control Devices," (1988), then the Planning Board upon consultation with the Town Engineer may reduce the mitigation requirement for those measures so long as the resulting traffic conditions provide for safe traffic movement.

4. Accesses to non-residential subdivisions or to multifamily developments shall be designed to avoid queuing of entering vehicles on any street. The need for left turn storage treatment shall be evaluated for the subdivision using the guidelines set forth in the Maine DOT Highway Design Guide and standard practices of the Maine DOT.

C. General Internal Subdivision Street Standards [Adopted Dec 7, 2010]
All internal subdivision streets shall meet the following minimum standards.

1. The street or street system of the proposed subdivision shall be designed to coordinate with existing, proposed, and planned streets. Wherever a proposed development abuts unplatted land or a future development phase of the same development, the street right of way shall be extended to the property line as deemed necessary by the Planning Board with input from the Town Planner and Town Engineer to provide access to abutting properties or to logically extend the street system. If possible, local streets in the subdivision shall connect with surrounding streets to permit convenient movement of traffic between residential neighborhoods, to reduce service vehicle mileage, to permit looping of utilities, and/or facilitate emergency access and evacuation, but such connections should not have the effect of encouraging the use of such streets by substantial through traffic unless the street is designed for such purpose.

2. As determined by traffic engineering studies performed by qualified professionals, where necessary to safeguard against off-site hazards to vehicle drivers, bicyclists and pedestrians and/or to avoid traffic congestion, the Planning Board with input from the Town Engineer may require turning lanes, traffic directional islands, frontage roads, sidewalks, bike lanes, and traffic

controls within the subdivision and/or on existing public streets that are impacted by the development.

3. Street Names and Signs Lighting.
   Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Street names shall not continue beyond a new intersection unless the street is a direct continuation of that street through the intersection with no turning movements. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality, and shall be subject to the approval of the Planning Board based on input of the Department of Public Safety. No street name shall be the common given name of a person. The developer shall either install street name, traffic safety and control signs meeting municipal specifications or reimburse the municipality for the costs of their installation.
4. Street Lighting.
   Street lights meeting Central Maine Power Company standards shall be installed at all intersections.
5. During street construction, the entire right of way shall not be cleared unless clearing is necessary for utilities, drainage or other infrastructure necessities, or to remove trees that will shade pavement in winter. Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire right of way created during the street construction process. If on-site disposal of the stumps and debris is proposed, the disposal site shall be indicated on the plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

401.13.16 – SPECIFIC ACCESS AND STREET DESIGN STANDARDS

A. Access Control.

1. To the maximum extent possible, all subdivision accesses shall be constructed perpendicular to the external street providing access to the subdivision. No subdivision access shall intersect the external street at an angle of less than seventy-five (75°) degrees based upon a showing that the perpendicular alignment is not possible. In such cases the right of way shall be curved to achieve a perpendicular alignment at the intersection for a distance of seventy-five (75 ft.) feet.
2. Where a major subdivision abuts an arterial or major collector street (all numbered State routes in Gray), no lot may have vehicular access directly onto the arterial or collector street. Minor subdivisions on arterials and major collectors shall have shared driveways subject to the requirements of the Street Ordinance and MDOT permitting requirements. Access restrictions on such lots shall be noted on the subdivision plan and in the deeds. The Planning Board shall have the authority to require shared driveways for any subdivision lots with access directly onto a town or State road, with consideration given to traffic volumes and sight distance information compiled as part of the administrative record.
3. Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. This restriction shall appear as a note on the subdivision plan and as a deed restriction to the affected lots. In cases where creating an access to a lesser traveled way is problematic, the Planning Board, with input from the Town Engineer, may allow an access on the higher volume street if the access does not significantly detract from public safety. For accesses on higher volume streets, the Board shall consider the functional

classification of the external street, the length of frontage on the external street, the intensity of traffic generated by the proposed subdivision, the geography along the frontage of the public way with lesser potential for traffic, and the distance to the public way with lesser potential for traffic.

4. Cross (four-corner) street intersections shall be aligned on opposite sides of the through street. If it is not possible to align the intersecting streets, a distance of at least two hundred (200') feet shall be maintained between centerlines of offset intersecting streets and between new intersections on the same side of a street. This intersection alignment rule shall apply to both external and internal intersections.
5. The minimum centerline curve radius shall be two hundred (200') feet. For road sections with greater than five (5%) percent grade, the centerline radius shall be increased by fifty (50') feet for every one (1%) increase in grade above five (5%).
6. Minimum Sight Distance Standards
    a. Minimum sight distance requirements for all subdivision accesses connecting to external streets shall be contingent on the posted speed of the external street connecting to the subdivision access. On roads that are designated by the Maine Department of Transportation as Mobility or Retrograde Arterials, the third column in Table 13.16-1 shall apply.

TABLE 13.16-1 REQUIRED ROAD ACCESS SAFE SIGHT DISTANCES		
Posted Speed (MPH)	Sight Distance (Feet)	Mobility Sight Distance[1] (Feet)
20	155	225
25	200	300
30	250	380
35	305	480
40	360	580
45	425	710
50	495	840
55 & over	570	990
[1] Mobility or Retrograde Arterials are critical travel corridors identified by MDOT. In Gray, the only such designated corridor is Route 26 from Cumberland through to New Gloucester.		

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

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

7. Proposed Subdivisions on Existing Substandard Roads [Adopted 5-17-2011]
When a proposed subdivision is to be located on an existing road, whether publicly or privately owned, not meeting the design and construction standards of Table 401.13.16-2, the existing road shall be upgraded per the following requirements:

a. The existing road shall be upgraded to meet the design requirements for a Rural Public Easement street from the intersection of the new subdivision street(s) with the existing road to the point where a paved public road provides access. The limit of dwelling units shall not apply to the existing substandard road if it is upgraded.

b. The applicant for subdivision shall prepare plans for the road improvements meeting the requirements of Section 401.13.16 B.1.a. through c.

c. The existing substandard road shall be upgraded to meet the drainage requirements of Section 401.13.16 B.3,

d. Construction improvements on the existing road shall meet the standards of Section 401.13.16 C. 2 through 5 for road base and paving specifications.

e. The Planning Board may grant waivers per the criteria of Section 401.12.2 of the construction standards for spot locations on the existing road per recommendations of the Town Engineer provided that the overall condition of the substandard road is brought up to the ordinance standards.

B. Street Design Standards

1. General Requirements

a. The Planning Board shall not approve any subdivision plan unless proposed streets are designed in accordance with the specifications contained in these regulations. Approval of the final plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement (see Section 401.13.16 2. f below).

b. Applicants shall submit to the Planning Board, as part of the preliminary plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets. The plan view shall be at a scale of one inch equals no more than fifty feet. The vertical scale of the profile shall be one inch equals no more than five feet. The plans shall include the following information:

(i) Date, scale, and north point, indicating magnetic or true.

(ii) Intersections of the proposed street with existing streets.

(iii) Intersections of other existing or proposed streets within 300 feet of proposed intersections.

(iv) Roadway and right-of-way limits including edge of pavement or aggregate base, edge of shoulder, clear zone, sidewalks, and curbs.

(v) Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways or drainage systems that could be affected by the proposed development, and proposed drainage ways and stormwater management systems.

(vi) Complete curve data shall be indicated for all horizontal and vertical curves.

(vii) Turning radii at all intersections.

(viii) Centerline gradients.

(ix) Size, type, vertical clearance and locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, electricity, telephone, lighting, and cable television.

(x) A soil erosion and sedimentation control plan showing interim and final control provisions.

(xi) For streets that are to be located within the watershed of a great pond (Little Sebago Lake, Crystal Lake, or Forest Lake), a phosphorous impact plan in conformance with

the recommendations presented in Phosphorous Control in Lake Watersheds published by Maine Department of Environmental Protection.

c. Upon receipt of plans for a proposed street the Planning Board shall forward one copy to Public Works Director, and the Town Engineer for review and comment. Plans for streets which are not proposed to be accepted by the municipality shall be sent to the Town Engineer for review and comment.

d. Where the applicant proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the Public Works Director or the Maine Department of Transportation, as appropriate.

e. Private Roads.

(i) Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan:

"All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town except for roads that meet requirements for winter maintenance under a public easement."

(ii) A road maintenance agreement or homeowners' association framework, prepared by the applicant's attorney and approved by the Town Attorney shall be recorded with the deed of each property to be served by a common private road. The agreement or association framework shall provide for a method to initiate and finance a private road and maintain that road in good condition, and a method of apportioning maintenance costs to current and future users.

2. Street Design

a. These design standards shall control the roadway, shoulders, clear zones, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with the street, and shall be met by all streets within a subdivision, unless waivers are granted by the Planning Board with input of the Town Engineer and in keeping with the waiver criteria of Article 12.

b. Reserve strips controlling access to streets shall be prohibited except where their control is placed with the municipality.

c. All streets in approved residential subdivisions shall meet the variable design standards of Table 13.16-2 (Commercial and multi-family subdivision access drives shall meet the requirements of Chapter 402.10.11 for site plan review).

d. All residential subdivision streets in the Medium Density (MD) and Village Center (VC) Zoning Districts shall meet the standards for Village Public Streets or Sub-collector streets. Subdivision streets in other zoning districts shall meet the standards for Local Minor Street, Rural Public Easement, Rural Public Street, or Sub-collector based on the number of dwelling units served by the street.

e. In determining the classification of streets where a loop configuration is formed and vehicles have multiple access options, the classification should be based on an analysis of routes and destinations on individual road segments rather than the full street length. Starting at an intersection with an existing street, proposed new streets shall meet the highest applicable classification of Table 401.13.16-2 based on the total number of dwelling units expected to

travel that street or street segment. At each internal intersection, the street classification shall be reduced to reflect the number of dwelling units served.

C. TABLE 401.13.16-2

ITEM	Sub-collector Streets	Village Public Street	Rural Public Street	Rural Public Easement Street	Minor Rural Street
A. Minimum width right of way[1]	60 ft	60 ft	50 ft	50 ft[5]	50 ft
B. Minimum grade	.5 percent[2]	.5 percent[2]	1 percent	1 percent	1 percent
C. Maximum grade	8 percent	8 percent	10 percent	10 percent[3]	10 percent[3]
D. Maximum grade within 75 ft of intersection	3 percent	3 percent	3 percent	3 percent	3 percent
E. Width of shoulders on each side	4 ft (paved)	4 ft (paved)	4 ft (paved)	2 ft (gravel)	2 ft (gravel)
F. Minimum travel way width	22 ft	20 ft	20 ft	18 ft	16 ft
G. Aggregate sub-base course gravel	15 inches	15 inches	15 inches	15 inches	15 inches
H. Aggregate upper base crushed gravel	3 inches	3 inches	3 inches	3 inches	3 inches
I. Bituminous paving	3-1/4 inches	3-1/4 inches	3-1/4 inches	3-1/4 inches	
J. Sidewalks (one side min.):					
Minimum width	5 ft	5 ft			
Aggregate sub-base course gravel	8 inches	8 inches			
Aggregate upper base crushed gravel	2 inches	2 inches			
Bituminous paving	2 inches	2 inches			
K. Minimum curb radii:					
90 degree intersections	40 ft	25 ft	25 ft	15 ft	15 ft
Less than 90 degrees	40 ft	30 ft	30 ft	20 ft	20 ft
L. Minimum dwelling units	51	4	26	11	2
M. Maximum dwelling units	100[4]	50	50	25	10

[1] Where road grading extends beyond the specified right of way width, the right of way shall be widened at that location to include the areas of extended grading

[2] Increase to 1 percent grade with open drainage system

[3] Road sections of less than 500 feet length can add 2 percent to the maximum grade provided that such sections are separated by a minimum distance of 500 feet and do exceed the limitations of Section 401.13.16.A.5 for horizontal curvature of the road.

[4] Streets serving more than 100 homes shall meet the sub-collector standards with four (4 in) inch pavement per Section 401.13.16 C.2.

[5] Upgrades of existing roads under Section 401.13.16.7 may be done on a "three-rod road" with a right of way measuring 49.5 feet. [Adopted 5-17-2011]

f. Dead-end Streets

(i) In addition to the design standards in Table 401.13.16-2, dead-end streets shall be constructed to provide a cul-de-sac (circular) turnaround with a travel lane and width equal to the minimum width required for the internal subdivision street.

(ii) The maximum length of a dead-end street shall be three thousand (3,000 ft) feet.

(iii) A turn-around shall be provided for every fifteen hundred (1500 ft) feet of dead-end road.

(iv) A minimum of one (1) paper street following the interconnection criteria of Section 401.13.15. C. 1. shall be provided for every fifteen hundred (1500 ft) feet of dead-end road.

(v) The length of a dead-end street shall be measured from the centerline of the street it accesses to the center of the turnaround.

(vi) The maximum number of homes on a dead-end street shall be twenty-five (25).

(vii) The minimum outside travel way radius for cul-de-sac turnarounds shall be forty-two (42 ft) feet and the minimum right of way radius shall be sixty (60 ft) feet.

(viii) Where the cul-de-sac is in a wooded area prior to development, a stand of trees shall be maintained within the center of the cul-de-sac, or be replanted in the event that safe and healthy retention of the trees is not feasible.

(ix) The Planning Board shall require the reservation of a twenty (20 ft) foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a right-of-way easement equal to the right of way width of the internal subdivision street in line with the street to provide continuation of the road where future subdivision is possible.

(x) A T-turn around is permissible for residential subdivisions carrying an ADT of one hundred (100 ft) or less. The turnaround area easement shall be located fifty (50 ft) feet from the street terminus and shall have a width equal to the street right of way width, a five (5 ft) foot lot line radius, and a total depth of fifty (50 ft) feet. The travel way of the turnaround shall be the same width as the street it serves and be forty (40') feet in depth, and shall have a curb radius of fifteen (15 ft) feet. The plan shall contain a note indicating that the turnaround easement area will be vacated and returned to the lot that contains it in the event the street is extended in the future.

(xi) All driveways located on T-turnarounds shall be located so as to facilitate plowing and storage of snow in accordance with the requirements of Section 401.13.17 E.

g. Street classifications and public street acceptance policies.

(i) Sub-collectors, Village Public Streets, and Rural Public Streets generally are designed for full public ownership and maintenance. Sub-collectors and Rural Public Streets carry high volumes of traffic and/or provide through connections between existing streets that improve traffic flows through the community.

(ii) Rural Public Easement Streets are designed for public winter maintenance under the Town's private road public easement policy. Minor Rural Streets are designed for full private ownership and maintenance under a maintenance agreement or homeowners' association framework.

(iii) All new public streets/easements shall not be isolated from existing public streets/easements by intervening private streets. New public streets/public easements must either intersect existing public streets/easements or there shall be a continuous path

from new public street/easements through other new public streets to one or more existing public streets.

(iv) All decisions to accept public ownership or public easements, however, are subject to the discretionary authority of the Town Council, and all proposed streets shall be covered by a private maintenance agreement or homeowners' association framework until they are accepted by the Town. Upon receiving preliminary subdivision approval, applicants are required to seek indication of whether the Town Council is willing to accept public ownership of fee interests or public easements.

3. Stormwater Design Standards

a. In order to drain stormwater from the surface of roadways, streets shall be crowned such that the pavement slopes from the centerline to the shoulder at a pitch of ¼ inch per foot. For gravel roads, the crown pitch shall be increased to ½ inch per foot.

b. No storm water shall be permitted to drain across a street or across an intersection.

c. An adequate piped storm drainage system including appurtenances such as catch basins and manholes shall be provided for proper drainage of storm water collected in Sub-collector and Village Public Streets for sides with esplanades and sidewalks. Appropriate conveyances for outlets to drainage systems must be provided. A minimum easement width of thirty (30 ft) feet is required along the centerline of any pipe system or drainage course. If ponding will occur at culvert inlets or if permanent erosion control measures extend outside of the right of way, then easements on abutting property are required.

d. All storm water systems for streets shall be designed to meet the criteria of a fifty (50)-year storm based on rainfall data from the National Weather Service in Gray. Road culverts shall be designed to meet the criteria for a fifty (50-yr) year storm with the low point in the road profile treated to pass storm flows in excess of a 50-year storm without washing out the street. Road culverts shall be aligned to maintain the direction of natural drainage courses rather than causing such drainage to change directions. Flows shall be computed by a method acceptable to the Town Engineer. Design computations of flows shall be submitted for approval.

e. The minimum driveway culvert size shall be fifteen (15 in) inches. Larger culverts may be required in some locations based on a stormwater management analysis and plan. Culvert inlets and outlets shall be properly treated with erosion control measures.

f. Existing downstream drainage facilities shall be studied to determine the effect of development on downstream drainage. The applicant shall demonstrate to the satisfaction of the Town Engineer that the storm drainage will not, in any way, overload existing downstream drainage systems, including any modifications that may be needed to those downstream systems to prevent erosion and/or flooding.

g. All subdivision streets that lack a piped drainage system shall convey storm water in open ditches or swales meeting the standards and specifications of this ordinance.

h. All sideslopes of a street shall be graded at a maximum slope of three (3 ft) feet horizontal to one (1 ft) foot vertical from the shoulder to the ditch bottom. Sideslope steepness may be increased to minimize impacts on wetlands or other natural features provided that guardrail and erosion control measures are installed to the satisfaction of the Town Engineer.

i. All sideslopes shall be finished with loam or other suitable mixture to a minimum compacted depth of four (4 in) inches and seeded or planted as appropriate.

j. The final grade level of ditch bottoms shall be a minimum of six (6 in) inches below the subgrade level of the street. The sub-base course gravel shall taper and pitch from the travel way and street shoulders to the ditch base for proper drainage of the road base. The base of the ditch shall be a minimum of two (2 ft) feet in width.

k. All ditch backslopes shall be graded at a maximum slope of two (2 ft) feet horizontal to one (1 ft) foot vertical. All backslopes shall be finished with loam or other suitable mixture to a minimum compacted depth of four (4 in) inches and seeded or planted as appropriate. Erosion control mesh shall be installed on all slopes that are steeper than one (1 ft) foot horizontal to three (3 ft) feet vertical.

l. Where a cut results in exposed ledge, a side slope no steeper than one (1 ft) foot horizontal to four (4 ft) feet vertical is permitted.

4. Closed Drainage Construction Materials & Standards

a. Pipes: All drainage piping shall be of plastic or reinforced concrete materials in accordance with Maine Department of Transportation Standard Specifications.

b. Manholes: Manholes shall be of precast concrete section construction. Precast sections shall meet the requirements of ASTM Designation C-478. Cones shall be truncated. Castings shall be of cast iron meeting Town of Gray standards. Brick inverts shall be shaped to the crown of the pipe for sizes up to eighteen (18) inches, and to spring line for larger pipes.

c. Catch Basins: Catch Basins shall be of precast concrete construction. Castings shall be square cast iron as required for the particular inlet condition with the gratings perpendicular to the curb line. All catch basins shall be provided with a Type 1 curb face inlet and transition stones if necessary.

d. All trenching shall be accomplished in accordance with all appropriate Federal and State safety requirements.

e. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two (2) feet.

f. Pipe shall be bedded in a granular material with a minimum depth of six (6 in) inches below the bottom of the pipe and extending to six (6 in) inches above the top of the pipe.

g. Drain alignment shall be straight in both horizontal and vertical alignment.

h. Manholes shall be provided at all changes in vertical and horizontal alignment, and at all junctions. On straight runs, manholes shall be placed at intervals of no more than three-hundred (300 ft) feet.

i. Catch basin leads shall enter the drainage system only at manholes. The difference in elevation between the inverts of the lead and the main drain shall not exceed twelve (12 in) inches.

j. All drain outlets shall be riprapped to prevent erosion. Facilities for energy dissipation shall be provided (e.g., plunge pools).

k. When used, underdrains shall be laid with perforation down with a backfill of three-quarter (3/4 in) inch crushed stone wrapped in a filter fabric envelope.

5. Curbing Standards

a. Curbs shall be installed for stormwater purposes and/or to protect the pavement edge from unraveling along parking lanes or in very intensive developments where heavy use may erode the planted area at the edge of the pavement. Curbs for stormwater management shall be contingent on the stormwater design standards specified in Sections 401.13.12 and 401.13.16.A.3.d above.

b. Curbing shall be in accordance with Section 609 of the Maine Department of Transportation Standard Specifications except as follows:

(i) Curbing shall be limited to Type 1 (granite stone curbing) and Type 3 (bituminous concrete curbing), or other acceptable materials.

(ii) Bituminous concrete curbing, or other acceptable material, shall have a minimum reveal of six (6 in) inches.

(iii) All curb radii will be of Type 1 (granite stone curbing).

(iv) All curbing on roads proposed for full public ownership and maintenance (paving and plowing) shall be vertical or sloped Type 1 (granite stone curbing).

C. Street Construction Standards

All construction shall comply with the latest revision of the Maine Department of Transportation Standard Specifications. In the event of a conflict between the MDOT Standard Specifications and this Chapter, the more stringent standards shall apply.

1. Roadway Preparation:

a. Before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at fifty (50 ft) foot intervals for curved sections and one hundred (100 ft) foot intervals for straight sections. The centerline of the roadway shall be the centerline of the right-of-way.

b. Before grading is started, the entire area within the right-of-way necessary for traveled way, shoulders, clear zones, sidewalks, drainage-ways, and utilities shall be cleared of all stumps, roots, and brush. All shallow ledge, large boulders and tree stumps shall be removed from the cleared area.

c. All organic materials, boulders, or other deleterious material shall be removed below the subgrade of the roadway. On soils which have been identified by the Town Engineer as not suitable for roadways, a Maine Department of Transportation approved stabilization geotextile shall be used (MDOT Standard Specifications Section 203).

d. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building storm drains and water service connections shall be installed to the edge of the right-of-way prior to paving.

e. Subdivision roadways are subject to street survey monument standards in the Monuments section of this ordinance (401.13.1. D).

2. Bases and Pavement Thicknesses

The minimum thickness of material after compaction shall meet the specifications in Table 13.16-3:

Table 13.16-3
Minimum Street Materials Thicknesses

Street Materials	Thickness Standards	Subcollector
Aggregate Subbase Course		
Without base gravel	18 inch	
With base gravel	15 inches	
Crushed Aggregate Base Course (if necessary)	3 inches	
Hot Bituminous Pavement		
Total Thickness	3 ¼ inches	4 inches
Surface Course (9 mm)	1 ¼ inches	1 ½ inches
Base Course (19 mm)	2 inches	2 ½ inches
Surface Gravel (if permissible)	3 inches	

3. Base/Subbase Screening.

a. The Aggregate subbase course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three inch square mesh sieve shall meet the screening requirements of Table 13.16-4. Aggregate for the subbase shall contain no particles of rock exceeding six inches in any dimension.

Table 13.16-4
Aggregate Subbase Grading Requirements

Sieve Designation	Percentage by Weight Passing Square Mesh
1/4 inch	25-70%
No. 40	0-30%
No. 200	0-30%

b. If the Aggregate Subbase Course is found to be not fine-gradable because of larger stones, then a minimum of three inches of Aggregate Base Course shall be placed on top of the subbase course. The Aggregate Base Course shall be screened or crushed gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three inch square mesh sieve shall meet the grading requirements of Table 13.16-5. Aggregate for the base shall contain no particles of rock exceeding two inches in any dimension.

Table 13.16-5 Grading Requirements	
Sieve Designation Sieves	**Percentage by Weight Passing Square Mesh**
1/2 inch	45-70%
1/4 inch	30-55%
No. 40	0-20%
No. 200	0-5%

4. Pavement Specifications
   All pavement installations shall meet the specifications of the Maine Department of Transportation Standards and Specifications Section 401 for Hot Mix Asphalt (HMA).

5. Pavement Joints
   Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.

D. Sidewalks.
   The Planning Board may require sidewalks along the project frontage and to off-site destinations in any situation where the proximity of the proposed subdivision to existing or proposed neighborhood businesses, schools, community facilities, or other pedestrian destinations suggest sidewalks will be needed. The Planning Board shall determine if sidewalks will be installed on one side or both sides of the internal street(s).

   1. Location.
      Sidewalks may be located adjacent to the curb or shall be located a minimum of five (5') feet from the curb facing or edge of shoulder if the street is not curbed.

   2. Bituminous Sidewalks.

      a. The "subbase" aggregate course shall be no less than twelve inches thick after compaction.

      b. All pavement installations shall meet the specifications of the Maine Department of Transportation Standards and Specifications Section 401 for Hot Mix Asphalt (HMA).

401.13.17 – DRIVEWAY DESIGN STANDARDS

A. All proposed private driveways shall be shown in a fixed location on the face of the subdivision plan and designed by the project engineer in profile and grading, per the submitted detail sheets. All driveways must meet the Private Driveway standards of the Street Ordinance, Chapter 400 Section 5. Driveways that conform with the Private Driveway standards shall be approved as part of the subdivision plan review process and shall not require separate driveway permits through the Code Enforcement Office. Following subdivision plan final approval, changes to the driveway designs are allowed subject to the submission of alternative engineering specifications approved by the Code Enforcement Officer in consultation with the town's consulting engineer and will not require a separate amendment of the subdivision plan.

B. The arrangement, character, extent, and location of all private driveways shall be considered in their relation to existing or planned streets, to topographical conditions, to public convenience and safety, their appropriate relation to the proposed use of land, and to minimize conflict with the flow of traffic.

C. Private driveways on street end turnarounds shall be located so as not to interfere with snow storage requirements for winter maintenance. Locations of such driveways are subject to review and approval by the Public Works Director.

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 usable common park area 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) or similarly qualified environmental professional 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.

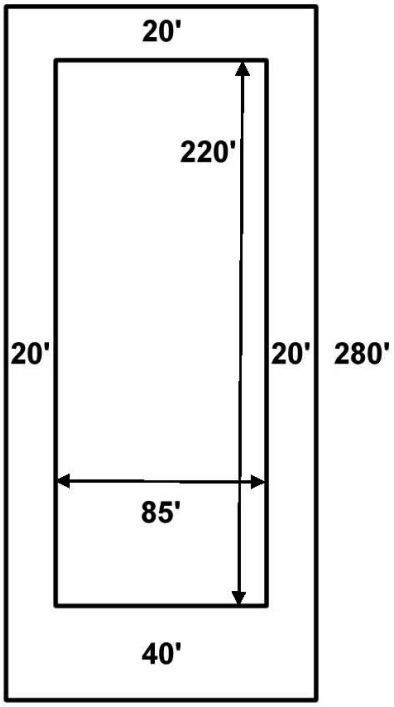
Table 401.13.13.B.1
Residential Open Space Subdivision Dimensional Standards Table

Line #		RRA	LD	MD	WH-2
1	Zoning District Standard: frontage/Min. lot size/min.area per DU	200' front 80K/40K	200' front 80K/80K	150' front 40K/40K-20K	200' front 175K/175K
2	Min. Orig. parcel size eligible for ROS SD	10 acre	10 acre	10 acre	20 acre
3	Max. density: # indiv. Lots/Orig. parcel size (SF)	1/80K	1/80K	1/40K	1/175K
4	Minimum total OS to Orig. parcel (percentage)	35	40	30	40
5	Minimum useable OS to Orig. parcel (percentage)	20	25	15	25
6	Minimum contiguous usable OS area (SF)-ready access, adj. to road	60K	80K	50K	80K
7	Minimum Individually Owned lot size (SF)	35K	40K	30K	50K
8	Min. buildable land area each Individually Owned lot (SF)	30K	35K	25K	40K
9	Max. Impervious cover/lot coverage (buildings) for indiv. lot	25%/15%	20%/15%	25%/15%	20%/15%
10	Min. Indiv. Owned street frontage/width (feet)	125	125	100	150
11	Min. Indiv. Owned lot front setback (feet)	40	50	35	50
12	Min. Indiv. Owned lot rear setback (feet)	20	20	15	20
13	Min. Indiv. Owned lot side setback (feet)	20	20	15	20
14	Building envelope @ min. frontage/setbacks (feet); width x depth	85 x 220	85 x 250	70 x 250	110 x 260
	Min. setback buffers to perimeter of SD Standards:				
15	To Town or State Road (feet)	75	100	75	100
16	To all other roads (feet)	60	75	60	75
17	Abutting Side property line (feet)	30	40	30	40
18	Abutting Rear property line (feet)	30	40	30	40

Residential Open Space Subdivisions—Building Envelopes at Min. Requirements

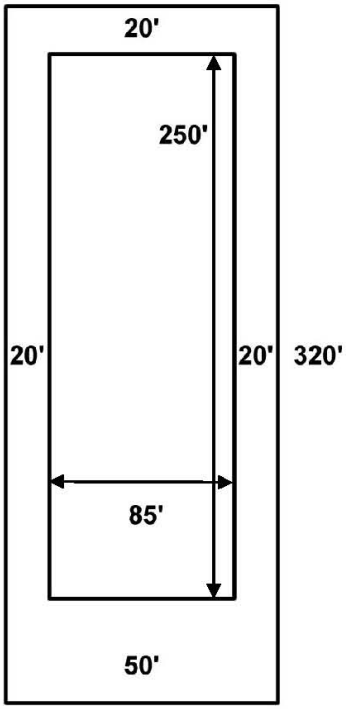
Rural Residential & Agriculture (RRA)

125’ x 180’
85’ x 220’



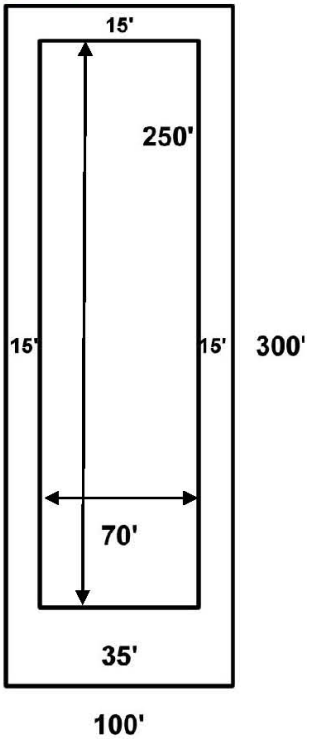
Lake District (LD)

125’ x 320’
85’ x 250’



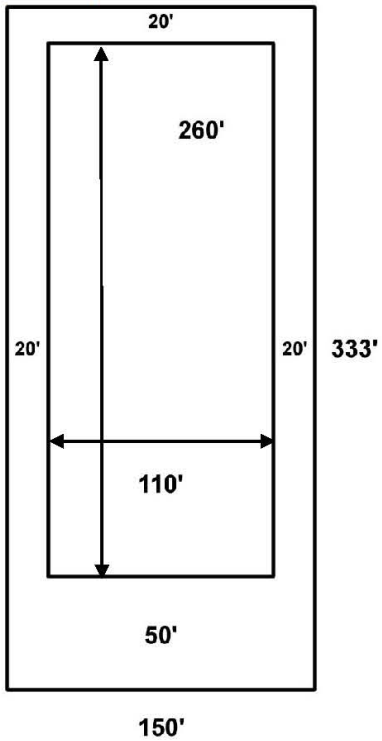
Medium Density (MD)

100’ x 300’
70’ x 250’



Well Head 2 (WH-2)

150’ x 333’
110’ x 260’



ARTICLE 14 - APPEALS

401.14.1 – APPEALS TO SUPERIOR COURT

Any party may take an appeal within thirty (30) days of the vote on the original decision, to Superior Court from any order, relief or denial in accordance with Maine Rules of Civil Procedure, Article 80B. This time period may be extended by the court upon motion for good cause shown. The hearing before the Superior Court must be without a jury.

401.14.2 – PLANNING BOARD RECONSIDERATION

The Planning Board may reconsider any decision reached under this section at its next regular meeting following issuance of that decision. The Board may conduct additional hearings and receive additional evidence and testimony as provided in this subsection.