



TOWN OF GRAY
GRAY TOWN COUNCIL
AGENDA • MARCH 14, 2023

**Gray Town
Council Workshop**

Town Council Chambers
24 Main Street, Gray, ME 04039
<https://us06web.zoom.us/j/84322837619>
Phone 646-558-8656 / Meeting ID: 843 2283 7619

4:00 PM

CALL to ORDER

Roll Call

WORKSHOP 4:00 PM - 6:00 PM

- Updated Self Storage Ordinance review
- ADU (accessory dwelling unit) changes

** The Town of Gray is an equal opportunity employer and complies with all applicable equal access to public accommodations law. If you are planning to attend a Town Council or Town committee or board meeting and need assistance with a physical disability, please contact the Town Manager's office at least 48 hours in advance of the meeting to have the Town assist you. 657-3339. TTY 657-3931.*

MEMO

Thursday, March 2, 2023

TO: Gray Town Council
Nate Rudy, Town Manager

FROM: Community Development

RE: Updated Zoning Ordinance amendments for self-storage facilities

Introduction

For discussion at the **March 14, 2023 Town Council Workshop**, please find below the proposed revised amendments to the Zoning Ordinance (Chapter 402) regarding self-storage facilities. In addition to allowing new facilities only in the Light Manufacturing Overlay District (LMOD), there are a host of new performance standards in a new section, 402.8.11.

Background

This proposal was originally drafted with input from the Ordinance Advisory Committee and the Town Council. The Town Council held first reading at the Oct. 18, 2022 meeting and the Planning Board hosted a statutory public hearing at their meeting on Nov. 10, 2022 to solicit input.

Several members of the public took part in the public hearings and the council asked staff to consider that input to update the ordinance language before holding a second reading on the proposed changes.

Note: The amendments proposed below were part of the language discussed at the Oct. 18 council meeting and Nov. 10 Planning Board meeting. Strike-throughs and underlines in red represent changes made to reflect input from the Town Council at their Nov. 1, 2022 workshop; Ordinance Advisory Committee at their Dec. 15, 2022 meeting; and from members of the public at the public hearings.

Timeline

The town currently has a moratorium on self-storage developments in effect. The self-storage moratorium was originally adopted at the February 15, 2022 council meeting. It was extended at the May 17, 2022 meeting, with an expiry of Dec. 31, 2022. The council again extended the moratorium by 180 days, by unanimous vote on Nov. 15, 2022. **Expiry is now June 30, 2023.**

To have the ordinance updates effective prior to the expiry of the moratorium, the town is proposing first read of an amended ordinance at the **April 4 council meeting** followed by the statutory public hearing at the Planning Board meeting on **April 13**. Due to our public notice and agenda packet posting requirements, planning staff is requesting Town Council input **no later than March 22**, to allow us to finalize the proposed ordinance language by the deadline of March 27.

Council Input Requested

Planning staff specifically requests Town Council input on the proposed amendments detailed in this memo.

We also request input on whether these changes should include language that allows “outdoor storage” as a stand-alone use. The definition of self-storage facilities (SSF) was updated in March of 2022 to permit multiple buildings and *prohibit* outdoor storage. As currently drafted, outdoor storage is only permitted as an integral part of a SSF and is subject to performance standards as proposed in 402.8.11 G.

The policy decision is whether outdoor storage should be permitted as a stand-alone use, such as a field used for off-season boat or trailer storage. If the Town Council intends to include outdoor storage as a stand-alone use, this would likely necessitate a further extension to the moratorium to allow time for drafting and review of the associated standards. Staff recommends that this question be addressed as an integral part of the new zoning districts to avoid having to extend the moratorium.

Proposed Zoning Ordinance Amendment #1:

Proposed Amendment to the self-storage definition in the Zoning Ordinance, Definitions 402.2.2:

Self-Storage Facility: One or more structures containing separate storage spaces of varying size, leased or rented on an individual basis, ~~inclusive of those that are climate-controlled, -with limited outdoor storage on the same site as the indoor storage structure(s), all subject to the performance standards herein. Self storage facilities made up of multiple buildings are limited to a maximum width of 50 feet and a height of 25 feet for each structure. Outdoor storage is prohibited.~~ All self-storage facilities are subject to performance and design standards. Self-storage shall not include any principal or accessory uses related to medical marijuana cultivation facilities, medical marijuana registered dispensaries, adult use marijuana establishments, marijuana food establishments, marijuana extraction, or the manufacturing of marijuana concentrate or marijuana products as defined herein, unless expressly authorized herein.

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Proposed Zoning Ordinance Amendment #2:

As shown on the attached excerpt from the uses table in the Zoning Ordinance (Table 402.5.3), *remove* Self-Storage Facilities as a conditionally permitted use from the following zoning districts: Business Development-1, Business Development-2, Commercial, and Business Transition-1.

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Proposed Zoning Ordinance Amendment #3:

Also as shown on the attached excerpt from the uses table in the Zoning Ordinance (Table 402.5.3), add Self-Storage Facilities as a conditionally permitted use in the Light Manufacturing Overlay District.

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Per prior Town Council input, staff anticipates subsequent discussions regarding SSF as an integral part of the new zoning, including where it should/should not be permitted.

Proposed Zoning Ordinance Amendment #4:

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Add Design Standards for Self-Storage Facilities -- (Please see attached)

Proposed Zoning Ordinance Amendment #5:

Addition of language to 402.6.5 referencing self-storage ordinance

402.6.5 Non-Conformance with the Requirements of this Zoning Ordinance

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

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

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

3. Restoration or Replacement: This ordinance allows the normal upkeep and maintenance of non-conforming uses and structures; repairs, renovations, or modernizations which do not involve expansion of the non-conforming use or structure; and such other changes in a non-conforming use or structure as Federal, State, or local building and safety codes may require. Any non-conforming use or structure which is hereafter damaged or destroyed by fire or any cause other than the willful act of the owner or his agent, may be restored or reconstructed within one (1) year of the date of said damage or destruction, provided that:

- a. The nonconforming dimensions of any restored or reconstructed structure shall not exceed the non-conforming dimensions of the structure it replaces;
- b. Any non-conforming structure shall not be enlarged except in conformity with this ordinance and the Maine State Subsurface Wastewater Disposal Rules; and
- c. Any non-conforming use shall not be expanded in area.
- d. Nothing in this section shall prevent the repair/replacement of a Self-Storage Facility as established in 402.8.11 entitled "Self-Storage Facility Standards."

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

C. Discontinuance of Non-Conforming Uses

D. Resumption Prohibited: A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not

again be devoted to a non-conforming use, even if the owner has not intended to abandon the use. A non-conforming use of land which is accessory to a non-conforming use of a building shall be discontinued at the same time the non-conforming use of the building is discontinued.

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

F. Expansions & Changes Involving Non-Conforming Uses

1. A Structure Non-Conforming as to Use: A building or structure, non-conforming as to use, shall not be enlarged unless the non-conforming use is terminated or approved by the Planning Board under the Conditional Use criteria of Article 9. A non-conforming use of part of a building or structure shall not be extended throughout other parts of the building or structure unless those parts of the building or structure were manifestly arranged or designed for such use prior to the adoption of this ordinance, or of any amendment making such use non-conforming or is approved by the Planning Board under the Conditional Use criteria of Article 9.

2. Change of Use: A legally existing non-conforming use may be changed to another non conforming use provided that the proposed use is equally or more appropriate to the district than the existing non-conforming use, and the impact on adjacent properties is less adverse than the impact of the former use as determined by the Planning Board under the Conditional Use criteria. The determination of appropriateness shall require written findings on the probable changes in traffic (volume and type), parking, noise, potential for litter, wastes or by-products, fumes, odors, or other nuisances likely to result from such change of use. The Conditional Use criteria in Article 9 of this ordinance shall apply to such requests to establish new non-conforming uses.

3. Use of Land: A non-conforming use of land may not be extended into any part of the remainder of a lot of land.

4. Expansion of a Self-Storage Facility is permitted as specified in 402.8.11 entitled “Self-Storage Facility Standards.”

Proposed Zoning Ordinance Amendment #56:

New Section 402.8.11: Self-storage facility standards:

A. Purpose: The purpose of these standards for Self-Storage is to maximize the use and value of commercial uses for road frontage properties and minimize adverse aesthetic impacts of self-storage facilities on abutting and neighboring properties.

B. Applicability

1. In addition to applicable review standards established in Article 10 (Site Plan Review), all self-storage facilities proposed after the adoption of these standards (March 1, 2023) are

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required to comply with requirements in this section and the associated design standards. This includes any self-storage facility that was previously approved but did not meet the Time Limit on Approval requirements of the zoning ordinance, and is thus considered a new application.

2. Expansion: Any self-storage facility that is proposed to be expanded, ~~or undertakes rebuilding of one or more buildings (greater than 50% of the value of the respective structure/s)~~ after the adoption of these standards shall be required to obtain Planning Board approval and shall be subject to all practically achievable self-storage performance standards and design standards as determined by the Planning Board for the expanded portion of the development and associated infrastructure. No expansion or additional buildings will be permitted within the 300' setback from the edge of a road or right-of-way (ROW), whichever is greater, that is either publicly owned or has a public easement for winter maintenance.

- ~~3.~~ 3. Repairs/Replacement/Rebuilding: The Code Enforcement Officer shall have the authority to issue building permit(s) for the repair, replacement or rebuilding of a one or more building(s) in a Self-Storage Facility, at for the same size, and height and location as the original structure(s). Such repair, replacement or rebuilding shall be subject to all practically achievable self-storage performance standards and design standards, as determined by the Code Enforcement Officer in consultation with the Town Planner. This section shall also apply to those self-storage facilities that meet the time limit provisions of 402.10.17 A for substantial start and are depicted on Planning Board approved plans as of June 9, 2022 but not built as of March 1, 2023.

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4. Existing self-storage facilities that become non-conforming uses due to zoning changes subsequent to the adoption of this ordinance are subject to the provisions of 402.6.5.
5. Notwithstanding Planning Board approval required above, the Code Enforcement Officer shall have the authority to issue building permit(s) for the repair or rebuilding of a building in a Self Storage Facility existing as of the adoption of these standards if a building is unintentionally damaged. This allowance shall not be valid if more than one (1) building in the Self Storage Facility is rebuilt.
6. Any outdoor storage, including if added to an existing facility, must comply with all outdoor storage standards as specified in this section and as required in Article 10.

6. All self-storage facilities as defined in 402.2.2 are subject to the provisions of this ordinance, including but not limited to those that:

- ~~• are climate controlled;~~
- ~~• have units accessed via the interior of the building;~~
- ~~• are not climate controlled;~~
- ~~• have units accessed via the exterior of the building (drive up)~~

C. Minimum Setbacks

1. Any portion of any element of a self-storage facility must be at least three-hundred (300) feet from the edge of a road or right-of-way (ROW), whichever is greater, that is either publicly owned or has a public easement for winter maintenance. No component of a self-storage facility other than one access/driveway may be located within this three-hundred (300) foot setback. All other components of any self-storage facility must respect this minimum three-hundred (300) foot setback specifically including all fill extensions, buildings, outdoor storage areas, drainage ditches, stormwater infrastructure, and perimeter buffer as specified in section "F" ~~below~~ entitled "Perimeter Buffer Requirements."
2. A perimeter buffer of at least seventy-five (75) feet, in accordance with standards specified below in section "F" below entitled "Perimeter Buffer Requirements," is required around the entirety of the facility. Stormwater infrastructure is specifically prohibited from this buffer.
3. Any outdoor storage shall be located at least one-hundred (100) feet from any property line and shall be subject to additional standards as detailed ~~below~~ in this section.
4. Neither the Zoning Board of Appeals nor the Planning Board shall have the authority to reduce any of the minimum setbacks established above in this section "C" entitled "Minimum Setbacks" except for the ~~rear portion of the~~ perimeter buffer as established ~~below~~ in this subsection "F," entitled "Perimeter Buffer Requirements," this section, C-5.
- ~~5. The Planning Board shall have the authority to reduce the depth of the rear portion of the perimeter buffer for parcels that abut property owned by the Maine Turnpike Authority provided that the intent of this ordinance and applicable standards, specifically including but not limited to buffering, are met and maintained.~~

D. Building Requirements

1. One-story self-storage building standards:
 - a. Maximum length: two-hundred (200) feet
 - b. Maximum width: forty (40) feet.
 - c. Maximum height: twenty-five (25) feet.
2. Two-story self-storage building standards:
 - a. Maximum footprint of any one structure: seventy-five hundred (7,500) square feet
 - b. Maximum height: thirty (30) feet
3. Minimum separation between buildings/minimum drive aisle width: twenty-five (25) feet
4. All buildings/structures utilized for self-storage purposes that face the perimeter buffer shall be completely enclosed with permanent sides/siding. In no event shall such buildings/structures have one or more open sides. Seasonal installation and/or removal of temporary sides, such as fabric or similar, shall not be permitted and shall not be considered permanent sides/siding.

5. All buildings/structures shall comply with Town of Gray Design Standards for self-storage facilities (attached). The applicant shall submit scaled color renderings of all proposed buildings/structures as part of the submittal and the planning board will review these as an integral part of their review. The Planning Board shall have the authority to interpret the design standards and require changes consistent with the purpose and intent of the design standards and these performance standards.

~~6. Buildings in existence prior to March 1, 2023, located on the same lot or abutting lot of a self-storage development, are eligible for adaptive reuse as self-storage facilities, subject to the performance standards, design standards and other provisions of this ordinance.~~

6. Buildings existing as of March 1, 2023 shall be eligible for adaptive re-use as a self-storage facility subject to all of the following standards:

- a. The building for adaptive re-use must be located on the same parcel or a directly abutting parcel containing a self-storage facility existing as of March 1, 2023, and
- b. The building for adaptive re-use must be within one-hundred-and-fifty (150) feet, irrespective of any property line, of a building in a self-storage facility existing as of March 1, 2023, as measured from building to building, and
- c. Any building proposed for adaptive re-use shall require Planning Board review and approval. The Planning Board shall have the authority to require non-structural changes to the building in accordance with design standards as practicable, and
- d. Any increases in the volume and/or footprint of a building for adaptive re-use, including overhangs, shall require Planning Board review and approval. Such increases shall conform to design standards, as practicable, and
- e. In no event shall any increase in volume and/or footprint of a building for adaptive re-use purposes be extended to utilize or occupy any additional frontage on a road or right-of-way that is either publicly owned or has a public easement for winter maintenance, other than the portion of frontage occupied by the building that existed as of March 1, 2023, and
- f. Increases in volume and/or footprint of a building for adaptive re-use, including overhangs that extend towards/closer to a road or right-of-way that is either publicly owned or has a public easement for winter maintenance, shall not be allowed unless the entirety of the building, including the increased volume and/or footprint of the building is at least three hundred (300) feet from the edge of the road or right-of-way, whichever is greater.
- ~~g. Subject to Planning Board review and approval, including design guidelines, increases in volume and/or footprint of a building for adaptive re-use that extent further/away from a road or right-of-way, that is either publicly owned or has a public easement for winter maintenance, within the portion of frontage utilized by a building that existed as of March 1, 2023 may be allowed.~~

E. General Standards

1. Review and approval by the Planning Board is required for any new self-storage facility. The Planning Board shall review the proposed development under Site Plan Review, as applicable, and shall ensure that the performance standards in this section are met.
2. The size of the portion of the parcel utilized for the self-storage facility use must be a minimum of eighty thousand (80,000) sq. ft. Any portion of the parcel located less than three-hundred (300) feet setback from the road/ROW as required herein shall not be utilized for determining if this eighty thousand (80,000) sq. ft. minimum parcel size standard is met.
3. The maximum combined footprint of any developed portion of a self-storage facility consisting of buildings, accessways, and outdoor storage shall not exceed three (3) acres/130,680 sq. ft. (approximately a 350' x 350' area). Calculation of this maximum combined footprint developed portion shall include all buildings, outdoor storage areas, all stormwater infrastructure, fill extensions, all vehicular accessways, all non-vegetated areas, and similar such areas that are not in their natural state. This calculation shall not include the perimeter buffer and/or buffer areas complying with standards herein.
4. All standards for the self-storage facility, excluding the perimeter buffer, as detailed below herein, must be met and maintained on a parcel owned in fee by one (1) owner/party/entity. In no event shall the ownership of one or more buildings be transferred to separate parties/entities.
5. In the event that two or more self-storage areas are proposed in the same development, each of which contains a maximum of three (3) acres of a combined developed footprint as required above, each two (2) such areas shall be required to be separated by the seventy-five (75) foot perimeter buffer requirement as detailed in this section.
6. In the event that the developed portion of a self-storage facility in excess of three (3) acres is proposed, the Planning Board shall require appropriately placed buffers within the parcel to separate the developed areas to the maximum extent practically feasible given site conditions. Such site-internal buffers separating two (2) developed self-storage facilities that contain a maximum developed portion of three (3) acres, per above, shall be a minimum depth of fifty (50) feet and shall conform to the perimeter buffer requirements below. As determined by the Planning Board, limited portions of such internal fifty (50)-foot buffers may contain stormwater infrastructure provided that the aesthetic separation between the two areas is maximized.
7. No maintenance and/or repair work of any type shall be allowed on any vehicle and/or equipment that contains any type of fluid that potentially contaminates soil and/or groundwater if leaked. ~~In the event that maintenance and/or repair is proposed, all applicable standards for the additional use(s) must be met and maintained specifically including provisions in Article 6 of this ordinance which addresses lot(s) and use(s).~~ The operator of the facility shall be required to disclose this information to all parties utilizing the self-storage facility.

8. All self-storage facilities shall be gated with security provisions sufficient to ensure access to the site only by patrons, owners, and those persons needing to access for operations and/or maintenance.
9. The entire perimeter, except the gated entry, of all self-storage facilities areas shall have a sufficient fence, as determined by the Planning Board as part of their review, to discourage/prevent access. Fence details shall be shown on planning board submittals. Chain-link fencing is not permissible in areas of the site that are visible from the road.
10. One office area to provide administrative services solely serving the self-storage facility may be permitted provided that the cumulative area devoted to this use does not exceed two hundred (200) square feet. In the event that such space is part of a facility, a minimum of two (2) dedicated parking spaces shall be required that do not block access to any accessway or self-storage unit(s).
11. In addition to applicable lighting requirements established in Article 10, Site Plan Review, all self-storage facilities shall be required to comply with standards in the USA Pattern Lighting Code in the International Dark Sky Association Outdoor Lighting Code Handbook version 1.14.2002 dated December 2000/September 2002 or subsequent update. The Planning Board shall review compliance with such standards, with peer review as necessary at applicant expense, as an integral part of reviewing a proposed facility.
12. In no event shall any repair, replacement or reconstruction of a building in self-storage use utilize or occupy any additional frontage on a road or right-of-way that is either publicly owned or has a public easement for winter maintenance, other than the portion of frontage occupied by the building that existed as of March 1, 2023.

F. Perimeter Buffer Requirements

1. The entirety of the perimeter buffer shall consist of dense, mature, natural vegetation meeting and maintaining standards as established in this section.
2. Any of the following site components shall not be located or considered part of the minimum perimeter buffer: driveways, buildings, parking areas, fencing, vehicular accessways, outdoor storage areas, retaining walls, fill extensions for vehicular accessways and/or buildings, drainage ditches, stormwater infrastructure.
3. Only one vehicular accessway shall be allowed in this perimeter buffer unless the planning board determines that through-traffic is necessary to allow a second accessway. Multiple accessways through the buffer are specifically prohibited. The width of any such accessway through the perimeter buffer shall be limited to the practical functionality necessary as determined by the planning board.
4. In the event that applicable standards for the perimeter buffer are met and maintained via an easement, all applicable perimeter buffer standards shall be included in the description of easement language, as determined by the Code Enforcement Officer with input from the

Planner, that is recorded at the Registry of Deeds prior to the issuance of a building permit for the project. A condition of approval memorializing this requirement shall be part of the Planning Board approval.

5. The full depth of the perimeter buffer shall consist of dense mature natural vegetation as determined by the Planning Board. In order for the Planning Board to determine the specifications for the dense mature natural vegetation, the Board shall require applying the point system standards as the minimum standards for any 25 foot by 50 foot for the first one-hundred (100) feet established for a “Shoreland Buffer Strip” contained in Section 15 of the Gray Shoreland Zoning Ordinance (Chapter 403) entitled “Clearing or Removal of Vegetation for Development Activities other than Timber Harvesting” be met and maintained. In accordance with the purpose of maintaining the perimeter buffer, all standards for the “Shoreland Buffer Strip” in Section 15 of Chapter 403 that allow for the removal of vegetation, pruning of branches on the lower one-third of a tree, clearing of vegetation for development, and existing cleared openings shall not be applicable for this Section 402.8.11, Self-Storage Facility Standards.
6. In the event that existing conditions do not meet ~~this requirement~~ the requirements of F.5 this section at the time the application is before the Planning Board, the Board shall have the authority to require the applicant to plant native species trees (predominantly evergreens) and other appropriate native vegetation to establish a buffer meeting standards established in this section within a reasonable time period as determined by the Planning Board. Ideally, a sufficient buffer should be achieved within five (5) years.
7. In order to ensure that the perimeter buffer meets and maintains standards, the Planning Board shall have the authority for a peer review, at the applicant’s expense, and shall also have the authority to require that the applicant post a sufficient financial performance bond for any necessary replanting per Section 402.10.17 in accordance with professionally accepted practices such as an eighty (80) percent survival rate for a five (5) year period.
8. The Planning Board shall be authorized to require additional buffering and screening, including additional plantings, to maximize the density of the mature natural vegetation, emphasizing the use of evergreen species, for any portion of a proposed self-storage facility located within one or more viewshed(s) from a public road, including roads that have a public easement for winter maintenance. The Planning Board shall have the authority to require the applicant to submit photographs of existing conditions from various vantages and accurate renderings of the anticipated proposed buffer at periodic time intervals, including at maturity.
9. The Planning Board will have the authority to reduce the depth or alter the nature of the vegetated perimeter buffer, as outlined below for the following circumstances:
 - a. Self-storage buildings that do not exceed 20 (twenty) feet in height and existing buildings converted to self-storage use may be permitted to use solid fencing (no chain link) with a reduced depth vegetated buffer, as determined

by the Planning Board, to meet the perimeter buffer requirements.

b. For self-storage buildings located in a Commercial/Industrial zoning district, that do not abut any properties outside of a Commercial/Industrial zoning district, the Planning Board will have the authority to approve a reduced buffer or waive the requirement for buffering to abutting properties.

b-c. The Planning Board shall have the authority to reduce only the depth of those portions of the proposed Self Storage Facility perimeter buffer that directly abut property owned by the Maine Turnpike Authority, provided that the intent of this ordinance and applicable standards, specifically including but not limited to buffering, are met and maintained.

d. In considering whether to approve a perimeter buffer reduction/alteration, the Planning Board should consider the treatment of the area. Within areas that are densely developed when the application for the Self-Storage Facility is submitted, a buffer with dense plantings, fencing, or changes in grade may be a minimum of twenty-five (25) feet in width. A buffer with moderate levels of planting should be thirty (30) to forty (40) feet in width. In suburban and rural settings, the width of the vegetated buffer should be a minimum of twenty-five (25) feet. Areas adjacent to service, loading, or storage areas should be screened by dense planting, berms, fencing, or a combination thereof with a width of a minimum of fifty (50) feet. In no case shall any portion of the perimeter buffer be less than twenty-five (25) feet in width.

e-e. The Planning Board, when considering reductions to the depth of the perimeter buffer, shall have the authority to adjust buffer requirements as herein at different depths for each of the different buffer areas (front, side, rear) as well as different depths along one or more such buffers, taking into account existing conditions, the essential character and proximity of other uses on adjacent properties along the perimeter buffer.

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G. Outdoor Self-Storage Standards

1. If an outdoor storage area is located adjacent to the perimeter of the facility abutting a property line(s), the depth of the perimeter buffer, in accordance with standards specified below in this section, shall be increased from seventy-five (75) to one-hundred (100) feet.
2. All outdoor storage areas that are storing any vehicles and/or equipment that use or contain any type of petroleum-based fluid, or any fluid that potentially contaminates soil if leaked, shall be impervious with pavement or concrete. Stormwater sheet-flow from such areas shall be directed in water-tight drainage piping to oil/water separators in accordance with professionally accepted practices. Stormwater discharge from the separators shall be daylighted to a readily accessible location that allows for the soil adjacent to stormwater daylighting to be tested in the event of leaks from such vehicles and/or equipment.

3. As part of the Planning Board’s review, with input from qualified consultants at applicants’ expense, the Board shall determine an appropriate stormwater maintenance schedule including periodic testing of soil at the stormwater daylight location and/or where the stormwater from the outdoor storage is absorbed into the ground.
4. As part of the final approval of the project, the Planning Board shall impose a condition of approval that requires the owner and/or operator (as appropriate) of the facility to submit an annual report containing information that summarizes the condition of the stormwater measures, testing results, and any corrective measures that have been completed for the previous year to verify that the stormwater from the outdoor storage is not contaminating the soil and/or adversely affecting groundwater in the vicinity of the facility. This report should be due by January 31st of each year.
- ~~5. In accordance with standards established herein, in the event that maintenance and/or repair is proposed, all applicable standards for the additional use(s) must be met and maintained specifically including provisions in Article 6 of this ordinance which addresses lot(s) and use(s). The operator of the facility shall be required to disclose this information to all parties utilizing the self storage facility.~~
5. The maximum cumulative footprint of all area(s) utilized for outdoor self-storage shall not exceed twenty-five (25) percent of the developed portion of the self-storage facility consisting of buildings, accessways, etc. Based on the three (3) acre maximum footprint of the developed portion of the facility specified in “E” ~~above~~ in this section entitled “General Standards,” the maximum size of an outdoor storage area is .75 of an acre/32,670 sq. ft.

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		RRA	LD *	MD	BD-1	BD-2	C	VC *	VCP *	BT-1 *	BT-2 *	WH-1 *	WH-2 *	LMOD
1.	Personal Services				C	C	C	C	C	C				
2.	Planned Unit Development ‡				C	C	C	C	C	C				
3.	Places for Public Assembly, Indoor and Outdoor	C	C		C	C		P	P					
4.	Private Assembly				C	C	C	C	C					
5.	Private Landing Strips for Personal Aircraft ‡	C			C	C								
6.	Public Utilities	C	C	C	C	C	C	C	C	C	C	C	C	
7.	Redemption Center						C			C			P	
8.	Registered Caregiver*				C	C	C	C						
9.	Registered Caregiver Cultivation Area*				C	C	C	C						
10.	Repair Service				P	P	C	P	P		C		C	
11.	Research Facility				C	C		C	C					
12.	Residential Open Space Subdivisions	P	P	P										
13.	Restaurant				P	P	C	P	P	C	C			
14.	Retail Trade				P	P	C	P	P	C	C		C	
15.	School	P	P	P		C	C	C	C	C	C		C	
16.	Self-Storage Facility				€	€	€			€				€
17.	Single-Family Dwelling	P	P	P	P	P	P	P	P	P	P	P	P	
18.	Similar Uses	C	C	C	C	C	C	C	C	C	C	C	C	
19.	Tavern					C	C	C	C					
20.	Trucking Terminal				C	C								
21.	Two-Family Dwelling	P	P	P	P	P	P	P	P	P	P		P	
22.	Warehousing				P	P								P/C
23.	Wholesale Trade				C	C		P	P					
24.														

Town of Gray Design Standards for self-storage facilities

Use- specific performance standards to become: 402.8.11

These design standards apply to all self-storage facilities, as defined in the Town of Gray Land Use Ordinance.

PURPOSE:

The Town has set these standards in response to increased interest in development of self-storage facilities, both within the Town and in surrounding towns. This use has historically seen the installation of multiple long, single-story metal buildings, which can be visually monotonous and unattractive, detracting from the community's desired image. Variations in roofline elements and façade treatments are proposed herein to break up the scale of such buildings and add visual interest.

These standards seek to promote an aesthetically pleasing appearance for self-storage facilities, in the interest of retaining Gray's rural character, and protecting property values within the town and specifically within the districts in which the self-storage use is conditionally permitted.

Photographs and captions included herein are meant to provide visualizations of the intended design effect.

APPLICABILITY:

These standards apply to all developments defined as "self-storage" use per the Gray Zoning Ordinance, presented to town staff, Staff Review Committee or Planning Board as of the effective date of these standards, and are meant to supplement the existing standards of the Gray Zoning Ordinance.

DESIGN ELEMENTS:

The architectural design elements outlined below are options that can be combined to meet the stated purpose of improving the appearance of self-storage facilities, particularly by breaking up long, monotonous facades.

Materials: The Town recognizes that many self-storage facilities are metal buildings with metal roofs. For complementary architectural design elements to such buildings, such as the façade treatments listed below, a traditional Northern New England appearance is preferred, such as brick, clapboard and shingles. Contemporary materials with similar appearance, such as veneers, composites, vinyl and dyed concrete can be used to achieve this end on all or part of metal buildings.

Roofs: Pitched roofs are required, with a minimal pitch of at least 5/12. Buildings with projecting rooflines should be designed to create strong patterns of shade and shadow.

Façade treatments: Blank, unadorned or unscreened walls facing public roads, residential neighborhoods, or the front or side of abutting properties should be avoided. In addition to landscape buffering, façade treatments such as those listed below should be added to provide depth and visual interest on extended walls.

- wall plane projections and recesses,
- roof elevation variations,
- Faux windows, with or without shutters
- Decorative lighting
- Exterior artwork (i.e., building murals)
- canopies
- variations in siding materials and orientations, such as patterns or a combination of vertical and horizontal siding
- wainscoting
- awnings
- decorative dormers



Clockwise from top: Brick façade; pitched roof with appropriate colors and stone wainscoting; decorative canopy; faux windows with stone brick façade; overhang canopy; dormer.

Buffering: The reviewing authority shall have the ability to require buffering and screening of self-storage facility building(s) sufficient to minimize the impact on abutting properties and any publicly maintained road from which the development is visible.

These buffers/screens can include, but are not limited to: plantings, hedges, fencing, berms, walling, and combinations thereof.

New plantings must be tolerant species of sufficient height and blend with existing vegetation, which should also be retained as buffering whenever possible. Long term, plantings must be maintained or replaced to continue to serve as buffers. Fencing should be in colors compatible with the building and with the rural image of the town.

Colors: Building colors should be compatible with surrounding properties, to include earth tones and neutral colors, compatible with traditional New England construction. Roof colors shall be those commonly found on residential buildings, including but not limited to brown, black, gray and green, and shall be of a dark hue.

Lighting: All building and site lighting must be directed downward to minimize light pollution. Lights should be aimed and shielded to avoid any light directed onto the road, sidewalks or abutting properties. Lights should be directed only onto the building or the site. Light fixtures should be considered to highlight design elements as well as illuminate entry points and improve site security.

Solar Panels: Fixed solar panels that are flush-mounted to the roof and/or walls, not more than 8 (eight) inches above the roof plane and/or walls of a self-storage facility building are permitted, provided that they do not significantly change the orientation/appearance of the roofline and the necessary permits are obtained. Panels that are installed at a different orientation than the roof plane, or installed/angled to be more than 8 (eight) inches above the roof plane require Planning Board review and approval with the intent of maximizing compliance with design standards.

ADMINISTRATIVE PROCEDURE:

The Planning Board shall administer these standards as part of the site plan review process for a self-storage development, per Article 10 of the Gray Zoning Ordinance. Appeals of the Planning Board's decisions are to be made according to the provisions of site plan review, 402.10.17.

MEMO

Tuesday, March 8, 2023

TO: Gray Town Council

Nate Rudy, Town Manager

FROM: Planning Staff

RE: Amendments to Zoning and Subdivision ordinances to comply with 30-A 4364-B “Accessory Dwelling Units”

ENCL: 30-A MRSA Section 4364-B; Amended 402.7.9; Amended 401.13.13; Zoning Ordinance use table and parking table

Introduction

As you know, the new housing law, LD2003 “An Act to Implement the Recommendations of the Commission to Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions,” became chaptered law in April 2022. Several elements of the law become effective as of July 1, 2023. As with all municipalities in Maine, this law requires updates to those sections of our Town ordinance that reference housing density, affordable housing, and accessory dwelling units.

At this time, we are presenting the changes related specifically to the section of the law that address accessory dwelling units, **30-A MRSA Section 4364-B**. Compliance requires updates to the following land use regulations in the Town of Gray:

- Zoning Ordinance, Chapter 402, specifically the “Accessory Apartments” section, 402.7.9; as well as the associated zoning use table and updates to the term “accessory apartment” references throughout; and the
- Subdivision Ordinance, Chapter 401, specifically the “Residential Open Space Subdivisions” section, 401.13.13 Section D General Requirements, due to the current standards with regards to accessory apartments within residential open space subdivisions.

Background

Currently, the Town of Gray allows “accessory apartments” only as an attached use to a single-family home that is owner-occupied, and prohibits them in Residential Open Space subdivisions.

The new law requires, among other provisions, that at least one Accessory Dwelling Unit be allowed on any lot where housing is permitted and a single-family dwelling exists. No additional parking can be required, setbacks must remain the same as for other structures, and any ADU in a Shoreland Zoning district must comply with the lot size and frontage requirements therein.

Of particular note for council policy input are the following:

1. Whether to include the provisions of 402.7.9 A2 regarding allowing ADUs in *existing* detached structures
2. Specifying that ADUs can be located in new structures built for other primary purposes.
3. Limiting eligible properties to one ADU

Timeline

Staff is proposing first read of these ordinance changes at the **April 4 council meeting** followed by the statutory public hearing at the Planning Board meeting on **April 13**.

Due to our public notice and agenda packet posting requirements, planning staff is requesting Town Council input **no later than March 22**, to allow us to finalize the proposed ordinance language by the deadline of March 27.

With a second read/final adoption at the April 18 council meeting, the ordinance changes will become effective in May, well in advance of the July 1, 2023 effective date of the law.

It is noteworthy that the draft rulemaking for this new legislation was released in mid-February, with the public comment period open through March 13.

As those rules are finalized, our goal is to get the ADU standards on the books and work on additional ordinance updates to comply with the density and affordable housing aspects of the new law, in consultation with our town land use attorney. We will present these changes to you separately at a later date.

Proposed Zoning Ordinance Amendment #1:

Clerical edit to update all references to “Accessory Apartment” throughout the Zoning Ordinance to “Accessory Dwelling Unit” to comply with the language of ***30-A MRSA Section 4364-B***.

Proposed Zoning Ordinance Amendment #2:

Update the Table of Permitted Uses and Conditional Permitted Uses, 402.5.3 (See attached)

Proposed Zoning Ordinance Amendment #3:

Add a reference in 402.6.9 – Parking Requirements, to reference the exception for ADUs, as per below:

402.6.9 Parking Requirements

All uses of land and development of property shall be provided with parking and loading facilities meeting the standards of Section 402.10.11 B under Site Plan Review. ***In accordance with Title 30-A Section 4364-B “Accessory Dwelling Units,” Subsection 4.C, an Accessory Dwelling Unit (ADU), is not subject to any additional parking requirements, as established in 402.10.11 B in this ordinance, beyond the parking requirements of the single-family dwelling unit of the lot upon which the ADU is located.***

Proposed Zoning Ordinance Amendment #4:

Move the reference to home occupation use within an ADU, currently in 402.7.9 A, to the Home Occupations section, 402.7.2 as per below:

402.7.2 Home Occupations

A. Intent and Purpose

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

C. Home Occupation Requirements:

1. A home occupation shall conform to the following requirements:
2. The home occupation shall be carried on primarily within the principal structure or accessory structures.
3. The home occupation shall be carried on by a member or members of the family residing in the dwelling unit. One employee, who is not part of the family residing in the dwelling unit, shall be permitted. Chapter 402 Gray Zoning Ordinance
4. The home occupation is clearly incidental and secondary to the use of the dwelling unit for residential purposes.
5. There shall be no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building, except such signs as are permitted.
6. There shall be no more than two (2) commercial vehicles kept outside the garage overnight.
7. Objectionable conditions such as noise, vibration, smoke, dust, electrical disturbance, hazardous materials, odors, heat, or glare shall not be generated.
8. Hours of operation shall be reasonable and normal for residential areas.
9. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in the neighborhood.
10. In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicle of each employee and the vehicles of the maximum number of users the home occupation may attract during peak operation hours.
11. No more than fifty (50%) percent of the floor area of a residence and an accessory building shall be used for a home occupation.
12. Retail sales are limited to the sale of products or goods produced, fabricated or substantially altered on the premises as a result of the home occupation. This may include products that are not fabricated on the premises as defined above, but which are customarily incidental to the product created by the home occupation.
13. Retail businesses such as restaurants, new or used car sales, auto repair garages, auto body shops, and auto service stations shall not be considered home occupations.

14. The size and number of signs used in connection with a home occupation shall be determined by the sign ordinance.

15. One Home Occupation use may be conducted, as otherwise allowed under the Ordinance, as an accessory use to either an Accessory Dwelling Unit or an existing single-family dwelling, but not both. Solely for the purposes of this paragraph, In-Home offices are not considered a Home Occupation.

Proposed Zoning Ordinance Amendment #5:

Update the definition of Accessory Apartments, as below:

Definitions 402.2.2

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

Proposed Zoning Ordinance Amendment #6:

Amend 402.10.11 Table 3 regarding parking for ADUs (See attached)

Proposed Zoning Ordinance Amendment #7:

Update 402.7.9 Accessory Apartments. (See attached)

Proposed Subdivision Ordinance Amendment #1: (See attached)

Update 401.13.13 Section D

-End-

TABLE 402.5.3 TABLE OF PERMITTED USES AND CONDITIONAL PERMITTED USES

	RRA	LD *	MD	BD-1	BD-2	C	VC *	VCP *	BT-1 *	BT-2 *	WH-1 *	WH-2 *	LMOD	CSES OD
1 Accessory Dwelling Unit Apartment ‡	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P	P/C		
2 Accessory Uses and Structures	P	P	P	P	P	P	P	P	P	P	P	P		
3 Adult Business*						C								
4 Agritourism Center*	C													
5 Agritourism Facility*	C													
6 Animal Husbandry	P	P		C	C	C				C		C		
7 Auto Body Shop				C	C	C								
8 Auto Repair Garage						C								
9 Auto Service Station				C	C									
1 Bed and Breakfast ‡	C	C	C	P	P	P	P	P	P	C		C		
1 Building Trades Occupations – 1	P	P	P	P	P	P	P	P	P	P	C	P		
1 Campground ‡	C	C												
1 Cemetery	P					C								
1 Church	P	P	P	P	P		C	C		C		C		
1 Commercial Recreation - Indoor or Outdoor	C	C		C	C	C	C	C	C	C		C		
1 Community Living Arrangement	P	P	P	P	P	P	P	P	P	P	P	P		
1 Construction Services				P	P					C		C		
1 Day Care Facility for Five (5) or fewer clients.	P	P	P	P	P	P	P	P	P	P		P		
1 Day Care Facility for Six (6) or more	C	C	C	C	C	C			C	C		C		
2 Drive Through and Drive in Facility					C	C			C	C		C		

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2	Expansion of Nonconforming Uses	C	C	C	C	C	C	C	C	C	C	C	C		
		RRA	LD *	MD	BD-1	BD-2	C	VC *	VCP *	BT-1 *	BT-2 *	WH-1 *	WH-2 *	LMOD	CSES OD
2	Farm Stand ‡	P	P	P	P	P	P	P	P	P	P		P		
2	Farmers' Market ++	P	P	P	P	P	P	P	P	P	P		P		
2	Flea Market, Open Air Market ‡	C	C	C	C		C	P	P						
2	Garage Sale	P	P	P	P	P	P	P	P	P	P	P	P		
2	General Agriculture	P		P	P	P	P				C		C		
2	Headquarters for a Contracting Business	C	C	C	P	P					C		C		
2	Heliport	C	C		C	C									
2	Home Occupation ‡	P	P	P	P	P	P	P	P	P	P	C	P		
3	Hotel and Motel				C	C	C			C					
3	In-Home Offices‡	P	P	P	P	P	P	P	P	P	P	P	P		
3	Kennels	C	C				C						C		
3	Light Manufacturing				P	P								P/C	
3	Manufacturing and Processing				C	C									
3	Mechanical Repair Garages	C			P	P	C								
3	Medium and Large-scale Solar Energy Systems														C
3	Medical Facility	C	C	C		C	C	C	C	C					
3	Mineral Excavation	P	P	P	P	P	P								
3	Mineral Exploration	C			P	P		P	P		P	P	P		
4	Mobile Vendor	P	P	P	P	P	P	P	P	P					
4	Motel (< 11 rooms)	C	C			C									
4	Multi-family Development			C	C	C	C	C	C	C					

4	Municipal Uses	C	C		C	C	C	C	C	C	C		C		
4	Nursing and Convalescent Home	C	C	C	C	C	C			C					
4	Office			C	P	P	P	P	P	C	C		C		

++ Subject to performance standards in Article 7

TABLE 3 – MINIMUM NUMBER OF OFF-STREET PARKING SPACES	
Residential	
Dwelling: Single Family, Duplex	2 per dwelling unit
Multifamily:	
Studio	1.25 per dwelling unit
One Bedroom	1.5 per dwelling unit
Two or More Bedrooms	2 per dwelling unit
Accessory/In Law Dwelling Unit	1 per dwelling unit
Hotel/Motel	1.25 per guest room, plus 10 per 1000 sq. ft. restaurant/lounge, plus 30 per 1000 sq. ft. meeting/banquet room.
Senior Citizen Housing, Independent Living	0.6 per dwelling unit
Senior Citizen Housing, Assisted Living	0.4 per dwelling unit
Boarding Homes for Sheltered Care and Nursing Homes	1 per room
Rooming House:	
Single-Occupancy Unit	1 per dwelling unit
Double-Occupancy Unit	2 per dwelling unit
Employees	1 per employee
Visitors	As needed
Day Care, Facility (any type)	.35 per client of licensed capacity plus staff
Hospital/Medical Center	0.4 per employee, plus 1 per 3 beds, plus 1 per 5 average daily outpatient visits, plus 1 per 4 medical staff, plus 1 per student/faculty/staff
Retail/Service	
Retail Sales (not in shopping center)	3.5 per 1000 sq. ft. of gross floor area (GFA)
Supermarket (Freestanding)	4.5 per 1000 sq. ft. of GFA
Discount Superstore/Clubs	3.5 per 1000 sq. ft. of GFA
Home Improvement Superstore	2.5 per 1000 sq. ft. of GFA
Other Heavy/Hard Goods (Furniture, Appliances, Buildings Materials, etc.)	3.0 per 1000 sq. ft. of GFA
Shopping Centers	4.0 per 1000 sq. ft. of GFA,
Service Business, Personal	
Beauty Shops/Barber Shops	2 per treatment station, but not less than 4.3 per 1000 sq. ft. customer service area.
Coin-Operated Laundry/Dry Cleaning Services	3.5 per 1000 sq. ft. of GFA
Other	3.5 per 1000 sq. ft. of GFA

Fitness Center/Health Club	1 per 3 persons of permitted capacity
Retail Sales, Automobile Sales	2.7 per 1000 sq. ft. of interior sales area GFA, plus 1.5 per 1000 sq. ft. of interior area
Automobile Repair Services, Major or Minor	4 per service bay
Convenience Store	.25 per pump plus 1 per employee plus 4 per 1000 sq. ft.
Food and Beverage	
Restaurant	1 per 3 seats
Office and Business Services	
Business and Professional Office	4.5 per 1000 sq. ft. of GFA
Service Business, Commercial	4 per 1000 sq. ft. of GFA
Medical Office Building	5.5 per 1000 sq. ft. of GFA
Bank	5.5 per 1000 sq. ft. of GFA
Industry, Heavy	2 per 1000 sq. ft. of GFA
Industry, Light	1.5 per 1000 sq. ft.
Warehouse	0.7 per 1000 sq. ft. of GFA
Other Retail, Commercial or Business	4 per 1000 sq. ft. of GFA
Education	
Preschool/Nursery Schools	.35 per student plus 1 per employee
Elementary and Middle Schools	Per parking study specific to institution
High Schools	Per parking study specific to institution
College and University	Per parking study specific to institution
Cultural/Recreational/Entertainment	
Convention Center	0.25 per person of permitted capacity
Library	4.5 per 1000 sq. ft. of GFA
Place of Worship	1 for every 3 seats
Theater	1 for every 3 seats

402.7.9 Accessory ~~Apartments~~ Dwelling Units

A. General Standards:

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

1. For any lot located fully or partially in a Shoreland Zoning district, Accessory Dwelling Units must independently comply with all Shoreland Zoning requirements.

2. Except as established above in this section for lots partially or fully in the Shoreland Zoning District, Accessory Dwelling Units shall be permitted in all zoning districts where ~~housing~~ single-family housing is permitted, on the same lot as a single-family dwelling, constructed only:

- Within an existing single-family dwelling unit on the lot;
 - Attached to, or sharing a wall with, a single-family dwelling unit;
 - As a new structure on a lot for the primary purpose of creating an Accessory Dwelling Unit;
 - Within an existing detached accessory structure on the same lot as a single-family dwelling
-
- Within a new structure built on the same lot as a single-family dwelling

Commented [KM1]: These are direct from the law

Commented [KM2]: This is not currently allowed and is not explicitly required per the law. If we include this, lot owners can add an ADU to an existing detached structure. If not, they would be able to do so only in a new structure. I am checking with Natalie on the legality of disallowing new ADUs in existing buildings.

23. Accessory ~~Apartments~~ Dwelling Units are specifically prohibited in, on, or within any of the following:

- ~~a. any detached accessory structure such as a separate garage;~~
- ~~b. any structure or parcel located in the Shoreland Zone;~~
- ea. any ~~duplex two-family~~ or multi-family dwelling;
- ~~d. any SFD located on a back lot that utilizes a right of way less than fifty (50) feet wide;~~
- ~~e. any individually owned lot in a Cluster/Open Space subdivision that contains less than 75% of the minimum lot size for the zoning district in which the property is located;~~
- ~~f. any lot that contains less than 75% of the minimum lot size for the zoning district in which the property is located, existing non-conforming lots of record;~~
- gb. any lot that contains one or more principal commercial use(s) either on the parcel or in any structure located on such lot; or
- ~~h. any lot than contains less than 20,000 square feet.~~
- c. any lot that does not have a single-family dwelling as its principal use

Commented [KM3]: This would explicitly allow an accessory dwelling unit within a new structure that is built for a different *primary* purpose (such as a storage garage). It is not required to be included per the language of the law. Natalie advised: You can add that, although I would think that the language that says “new structure on a lot for the primary purpose of creating an accessory dwelling unit” would include something that was built as a combined garage/adu.

~~34. Only one (1) accessory apartment~~Accessory Dwelling Unit is allowed per lot, and only on a lot ~~that on which~~ the CEO has determined the primary use to be a ~~SFD~~single-family dwelling.

~~5. 4. Accessory Apartments are permitted uses, on lots which meet the minimum required lot area and street frontage for the zoning district in which the lot is located. For lots in Cluster/Open Space subdivisions with commonly owned area, only the lot that is individually owned may be used for the purposes of this determination; fractional ownership of Open Space or other land may not be counted for this purpose.~~

~~5. Accessory Apartments are conditionally allowed, subject to Planning Board approval, on lawfully existing non-conforming lots of record provided that the lot size is at least 75% of the minimum lot size for the zoning district in which the lot is located. For example, a lot in a zoning district that requires 80,000 square feet for the minimum lot size must contain at least 60,000 sq. ft. For lots in Cluster/Open Space subdivisions with commonly owned area, only the lot that is individually owned shall be used for the purposes of this determination; fractional ownership of Open Space or other land may not be counted for this purpose.~~

~~6. The minimum square footage of finished living area for Accessory Dwelling Units is one-hundred-and-ninety (190) square feet.~~ The maximum square footage of finished living area for Accessory Dwelling Units ~~accessory apartments~~ is six-hundred and sixty (660) square feet. The Zoning Board of Appeals shall not have the authority to increase this maximum finished living area by variance or otherwise.

7. Although an existing single-family dwelling may be expanded or utilized for the purposes of creating an Accessory Dwelling Units~~Accessory Apartment~~, no portion of an Accessory Dwelling Units ~~Accessory Apartment~~ shall be located within minimum lot line setbacks, including non-conforming structures of record.

~~8. In addition to any off-street parking required for the SFD, there must be at least one year-round off-street parking space for use by the Accessory Apartment occupant(s). There must also be sufficient space on the site for vehicular turn-arounds without having to back out onto the street.~~

~~9. One Home Occupation use may be conducted, as otherwise allowed under the Ordinance, as an accessory use to either an Accessory Apartment or an existing SFD, but not both. Solely for the purposes of this paragraph 9, In-Home offices are not considered a Home Occupation.~~

~~10. Accessory Dwelling Units~~ Accessory Apartments must comply with applicable building and fire safety codes, ~~and the State of Maine subsurface wastewater disposal (SSWD) rules.~~

~~11. Accessory Dwelling Units~~ Accessory Apartments must have shared common utilities, such as water, electricity, etc. with the single-family dwelling, except as required by applicable codes.

11. Accessory Dwelling Units must be allowed on a lot regardless of whether the lot conforms to existing current dimensional requirements as established in this ordinance. Any new structure constructed on the lot to be an Accessory Dwelling Unit must meet the current applicable dimensional requirements for a structure.

B. Ownership Standards:

1. Ownership of the existing ~~SFD single-family dwelling~~ and the Accessory Dwelling Unit ~~Accessory Apartment~~ must be held by the same person(s).
2. Either the existing single-family dwelling~~SFD~~ or the Accessory Dwelling Unit ~~Accessory Apartment~~ must be owner-occupied. "Owner-occupied" means that either the existing single-family dwelling~~SFD~~ or the Accessory Dwelling Unit ~~Accessory Apartment~~ must be occupied by a person(s) who has a legal ownership and bears risk of decline in value of the property and who receives any payment from the lease or rental of the property.

C. Aesthetics:

1. Accessory Dwelling Units ~~Accessory Apartments~~ shall retain and respect the existing streetscape, character of the neighborhood, and preserve the single-family dwelling~~SFD~~ appearance, architectural style, and character of the dwelling.
2. Any exterior modifications to the single-family dwelling~~SFD~~ associated with the construction or installation of ~~the an Accessory Dwelling Unit~~ ~~Accessory Apartment~~ must be consistent with architectural style and character of the single-family dwelling~~SFD~~ in terms of exterior materials, roof pitch/form, and window type/spacing.
3. Any exterior alteration of the single-family dwelling~~SFD~~ ~~associated with the construction or installation of an Accessory Dwelling Unit~~ must preserve the formal, front entrance of the building in order to maintain the single-family dwelling~~SFD~~ appearance and architectural style of the building, as determined by the Code Enforcement Officer with input from the Town Planner as appropriate.
4. Exterior stairs more than five (5) feet above final finished grade shall be enclosed and are restricted to the rear and sides of the single-family dwelling~~SFD~~ wherever practicable provided that that they are integrated into and consistent with the architecture of the building.
- ~~5. Accessory Apartments shall have a full common wall with the principal dwelling.~~
56. In the event that the Code Enforcement Officer and the applicant for the Accessory Dwelling Unit ~~Accessory Apartment~~ cannot agree on the aesthetic standards contained in this Section 402.7.9.C, the applicant may appeal to the Planning Board within thirty (30) days of the CEO's written decision.

D. Wastewater Disposal:

1. An Accessory Dwelling Unit ~~Accessory Apartment~~ may be served by one of the following subsurface wastewater disposal (SSWD) systems that maintain standards established in the Maine Subsurface Wastewater Disposal rules:

(a) an existing SSWD system,

(b) an upgraded SSWD system, or

~~(c)~~ a new SSWD system, designed by a licensed site evaluator, all as otherwise allowed by law.

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

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

4. If a new SSWD system is proposed to serve the Accessory Dwelling Unit ~~Accessory Apartment~~, the local plumbing inspector (LPI) shall have the authority to require the design be recorded at the CCRD if it does not need to be installed as may be allowed in the Maine SSWD Rules.

5. The owner of the Accessory Dwelling Unit must provide written verification that the unit is connected to adequate wastewater services prior to receiving a Certificate of Occupancy. Written verification must include the following:

a. If an Accessory Dwelling Unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector, based on sufficient information provided to the LPI by the applicant or their consultant, pursuant to 30-A M.R.S. § 4221. Plans for a subsurface wastewater disposal system must be prepared by a licensed site evaluator in accordance with 10-144 C.M.R. ch. 241, Subsurface Wastewater Disposal Rules; 19-100 Chapter 5 page 10

E. Potable Water Supply Standards

1. The owner of the Accessory Dwelling Unit must provide written verification that the unit is connected to adequate potable water services prior to receiving a Certificate of Occupancy. Written verification must include the following:

a. If an Accessory Dwelling Unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit; and

b. If an Accessory Dwelling Unit is connected to a well, proof of access to potable water, including the standards outlined in 01-672 C.M.R. ch. 10, section 10.25(J), Land Use Districts

and Standards. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

EF. Discontinuance:

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

We are proposing the following changes to the Subdivision Ordinance, Chapter 401, to comply with the provisions of 30-A MRS Section 4364-B "Accessory Dwelling Units.":

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 single-family projects. It is intended to encourage a pattern of residential development which will result in the following attributes:

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

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

B. Dimensional Standards:

1. Table 401.13.13.B.1 entitled "Residential Open Space Subdivision Dimensional Standards Table" is hereby incorporated into this Ordinance (please see appendix __ of this Ordinance).

2. The Planning Board shall have the authority to reduce setbacks to those stated in Table 401.13.13.B.1.

3. Neither the Planning Board nor the Zoning Board of Appeals shall have the authority to further reduce the setbacks for the entirety of a project.

4. The Planning Board's ability to change setbacks within the project as detailed in Table 401.13.13.B.1 shall not be construed as granting variances to relieve hardship, and the action of the Zoning Board of Appeals shall not be required.

5. All other space standards except those specifically allowed in Table 401.13.13.B.1 for the respective district shall apply to the Residential Open Space Subdivision.

6. Notwithstanding Section 401.13.1.B.4 of this Subdivision Ordinance specifying the maximum ratio of lot length to width, the Planning Board shall have the authority to adjust lot

configurations consistent with these standards including the Residential Open Space Dimensional Standards Table (Section 401.13.13.B.1) of this Ordinance.

7. Notwithstanding standards regarding open space, common land, facilities and services established in Section 401.13.16.E of this Ordinance, all open space areas in Residential Open Space Subdivisions shall meet and maintain standards in this Section 401.13.13.

C. Lot Density Calculations and Density Bonuses:

1. In no case shall the maximum number of lots exceed the gross density specified for the respective zoning district established in Table 402.5.4.A of the Zoning Ordinance. In all cases where the number lots permitted equals a decimal number, the number shall be rounded to the nearest whole number.

2. The maximum number of lots shall be calculated by using the Net Residential Density calculations contained in Section 401.13.18 of this Subdivision Ordinance and may be adjusted in accordance with this Section 401.13.13.C.

3. The Planning Board shall approve a density bonus that increases the number of lots if the project meets any one or more of the criteria established in this Section 401.13.13.C of the Subdivision Ordinance. The allowance for increased density may be cumulative up the maximum gross density for the respective Zoning District.

4. As determined by the Planning Board as an integral part of the review of the project, subdivisions that meet one or more of the following shall be eligible for a five percent (5%) increased number of lots for each of the following:

a. Developed trail network in commonly owned open space.

b. Links to trails outside the perimeter of the project.

c. A contiguous area of land larger than five (5) acres that is permanently protected by a recorded easement for agricultural purposes.

d. A contiguous area of land larger than five (5) acres containing mature growth forest that is permanently protected from timber harvesting by a recorded easement.

e. Two (2) or more acres of land, which is not otherwise required to be protected, of valuable wildlife and/or environmentally sensitive areas that is permanently protected from development, other than walking trails.

f. Each 10% of additional deeded common open space, above the minimum required in Table 401.13.13.B.1.

5. As determined by the Planning Board as an integral part of the review of the project, subdivisions that meet one or more of the following shall be eligible for a ten percent (10%) increased number of lots for each of the following:

- a. A recorded easement granting the public rights to utilize trails in the common open space portion of the project.
- b. Each 10% of sustainable affordable single-family housing units permanently protected by recorded deed covenants which establish fixed maximum sale prices regarding the fee transfer of title; each 10% of such permanent affordable single family dwelling housing unit is allowed a 10% density bonus increase.
- c. Providing public water throughout the project for properties not otherwise required to be served by public water, such as properties in the McKin Superfund area.

6. As determined by the Planning Board as an integral part of the review of the subdivision, projects designed, constructed, and memorialized in recorded deed covenants approved by the Planning Board to be occupied by persons at least 55 years of age shall be eligible for a fifteen percent (15%) increased number of lots.

D. General Requirements:

1. Residential Open Space Subdivisions are allowed in the Rural Residential & Agricultural, Lake District, Medium Density, and Well Head-2 Zoning Districts in accordance with applicable standards.

~~2. Only single family dwellings shall be permitted in Residential Open Space Subdivisions. Only one single family dwelling shall be permitted on each individually owned lot. Accessory Apartments are specifically prohibited in Residential Open Space Subdivisions. A note on the face of the final signed recorded plan and/or included in deeds for each individually owned parcel shall memorialize these use limitations.~~

3. Accessory residential uses ~~other than Accessory Apartments~~ that are permitted in the respective Zoning District may be permitted unless specifically disallowed as part of the Planning Board's approval. In such cases, the use parameters shall be memorialized on the face of the final signed recorded plan and a clear note in the deeds for each lot. Accessory Dwelling Units must be permitted, subject to performance standards in the Zoning Ordinance, Chapter 402, entitled "Accessory Dwelling Units."

4. All deeds for individually owned lots in the project as well as the face of the final recorded subdivision plan shall contain the following language; "Lot uses in this Residential Open Space Subdivision are limited to those single-family and Accessory Dwelling Unit residential uses that are permitted in the Zoning Ordinance."

5. Except for standards specifically established in this Section 401.13.13 of this Subdivision Ordinance, Residential Open Space Subdivisions shall meet all other applicable requirements of the Subdivision Ordinance and the Zoning Ordinance.

6. In accordance with Section 401.13.15.C.1 of this Subdivision Ordinance, the Planning Board shall have the right to require that reserve rights-of-way be established and clearly shown on the

face of the recorded plan if adjacent properties may be suitable for future development as determined by the Board. In such cases, lots and building envelopes shall be established and shown on the face of the final signed recorded plan to allow the construction of this future access with respect to applicable setbacks and standards.

7. Open space shall be shown on the subdivision plan, and with appropriate notation on the face of the final signed recorded plan, that it shall not be further divided for any other use.

8. An Open Space Subdivision located on a lot that is in more than one Zoning District shall be subject to all applicable provisions for each respective District.

9. All recreation areas in the project, including trails, and any limitations on their use shall be shown on the face of the final recorded plan. The Planning Board may require that the 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.

10. The Town of Gray will not be responsible for enforcement of the use of any open space or recreational areas including trails.

11. No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development specifically including a Town or State road.

12. In order to achieve maximum efficiency of lot layout, up to two (2) lots accessed by back lot development easements shall be permitted in an Open Space Subdivision.

13. Shore frontage for each lot shall not be reduced below the minimum normally required by the Shoreland Zoning Ordinance.

14. Underground utilities shall be required.

*Excerpt of LD 2003/Chaptered Law 672
regarding Accessory Dwelling Units, MRSA
4364-B:*

§4364-B. Accessory dwelling units

1. Use permitted. Except as provided in Title 12, chapter 423-A, a municipality shall allow an accessory dwelling unit to be located on the same lot as a single-family dwelling unit in any area in which housing is permitted.

2. Restrictions. An accessory dwelling unit may be constructed only:

A. Within an existing dwelling unit on the lot;

B. Attached to or sharing a wall with a single-family dwelling unit; or

C. As a new structure on the lot for the primary purpose of creating an accessory dwelling unit.

This subsection does not restrict the construction or permitting of accessory dwelling units constructed and certified for occupancy prior to July 1, 2023.

3. Zoning requirements. With respect to accessory dwelling units, municipal zoning ordinances must comply with the following conditions:

A. At least one accessory dwelling unit must be allowed on any lot where a single-family dwelling unit is the principal structure; and

B. If more than one accessory dwelling unit has been constructed on a lot as a result of the allowance under this section or section 4364-A, the lot is not eligible for any additional increases in density except as allowed by the municipality.

4. General requirements. With respect to accessory dwelling units, municipalities shall comply with the following conditions.

A. A municipality shall exempt an accessory dwelling unit from any density requirements or calculations related to the area in which the accessory dwelling unit is constructed.

B. For an accessory dwelling unit located within the same structure as a single-family dwelling unit or attached to or sharing a wall with a single-family dwelling unit, the setback requirements and dimensional requirements must be the same as the setback requirements and dimensional requirements of the single-family dwelling unit, except for an accessory dwelling unit permitted in an existing accessory building or secondary building or garage as of July 1, 2023, in which case the requisite setback requirements for such a structure apply. A municipality may establish more permissive dimensional and set back requirements for an accessory dwelling unit.

C. An accessory dwelling unit may not be subject to any additional parking requirements beyond the parking requirements of the single-family dwelling unit on the lot where the accessory dwelling unit is located.

5. Shoreland zoning. An accessory dwelling unit must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 and municipal shoreland zoning ordinances.

6. Size requirements. An accessory dwelling unit must meet a minimum size of 190 square feet. If the Technical Building Codes and Standards Board under Title 10, section 9722 adopts a different minimum size, that standard applies. A municipality may impose a maximum size for an accessory dwelling unit.

7. Water and wastewater. The owner of an accessory dwelling unit must provide written verification to the municipality that the accessory dwelling unit is connected to adequate water and wastewater services before the municipality may certify the accessory dwelling unit for occupancy. Written verification under this subsection must include:

A. If an accessory dwelling unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the accessory dwelling unit and proof of payment for the connection to the sewer system;

B. If an accessory dwelling unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector under section 4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with subsurface wastewater disposal rules adopted under Title 22, section 42;

C. If an accessory dwelling unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the accessory dwelling unit, proof of payment for the connection and the volume and supply of water required for the accessory dwelling unit; and

D. If an accessory dwelling unit is connected to a well, proof of access to potable water. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

8. Municipal implementation. In adopting an ordinance under this section, a municipality may:

- A. Establish an application and permitting process for accessory dwelling units;
- B. Impose fines for violations of building, zoning and utility requirements for accessory dwelling units; and
- C. Establish alternative criteria that are less restrictive than the requirements of subsections 4, 5, 6 and 7 for the approval of an accessory dwelling unit only in circumstances in which the municipality would be able to provide a variance under section 4353, subsection 4, 4-A, 4-B or 4-C.

9. Rate of growth ordinance. A permit issued by a municipality for an accessory dwelling unit does not count as a permit issued toward a municipality's rate of growth ordinance as described in section 4360.

10. Subdivision requirements. This section may not be construed to exempt a subdivider from the requirements for division of a tract or parcel of land in accordance with subchapter 4.

11. Restrictive covenants. This section may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid or enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.

12. Rules. The Department of Economic and Community Development may adopt rules to administer and enforce this section. The department shall consult with the Department of Agriculture, Conservation and Forestry in adopting rules pursuant to this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

13. Implementation. A municipality is not required to implement the requirements of this section until July 1, 2023.

Sec. 7. 30-A MRSA §4364-C is enacted to read:

§4364-C. Municipal role in statewide housing production goals

This section governs the responsibilities and roles of municipalities in achieving the statewide and regional housing production goals set by the Department of Economic and Community Development in Title 5, section 13056, subsection 9.

1. Fair housing and nondiscrimination. A municipality shall ensure that ordinances and regulations are designed to affirmatively further the purposes of the federal Fair Housing Act, 42 United States Code, Chapter 45, as amended, and the Maine Human Rights Act to achieve the statewide or regional housing production goal.

2. Municipalities may regulate short-term rentals. A municipality may establish and enforce regulations regarding short-term rental units in order to achieve the statewide or regional housing production goal. For the purposes of this subsection, "short-term rental unit" means living quarters offered for rental through a transient rental platform as defined by Title 36, section 1752, subsection 20-C.