

2014

Whitefield Maine Selected Ordinances

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Town of Whitefield Barking Dog Ordinance

adopted at
March 16, 1996
Annual Town Meeting

No person or owners having custody of any dog kept within the legal limits of the Town of Whitefield shall allow such dog to unnecessarily annoy or disturb any person by continued or repeated barking or other loud or unusual noises.

Upon written complaint by the person disturbed, signed and sworn to, any constable of the Town of Whitefield or duly qualified law enforcement official may investigate and may give written notice to the owner/keeper of such dog that such annoyance or disturbance must cease. The warning shall be made part of the complaint.

Thereafter, upon continuance of such annoyance or disturbance, such owner shall be guilty of a civil violation and upon conviction thereof shall be punished by a fine of \$25.00 for the first offense. Each additional conviction after the first conviction shall be punished by a fine of \$50.00. All fines so assessed shall be recovered for the use of the Town of Whitefield.

Town of Whitefield Cemetery Ordinance

Article I. In General

Article II. Lot Ownership

Article III. Care of Lots

Article IV. Interments

Article V. Plants, Shrubs and Flowers

Article VI. Monuments

Article I. In General

Section 1. Purpose and intent.

For the mutual protection of lot owners and the cemeteries as a whole, the rules and regulations are in this chapter hereby established for all municipal cemeteries. All lot owners and persons visiting the cemeteries shall abide by such rules and regulations as herein enacted and as hereafter amended, which are intended to assist in maintaining our cemeteries as peaceful and beautiful areas as well as reverent symbols of respect for the dead.

Section 2. Enforcement.

The Selectmen are hereby empowered to enforce the rules and regulations of this chapter and to exclude from the cemeteries any person deliberately violating such rules and regulations. The Selectmen shall have charge of the grounds within Town cemeteries and shall have supervision and control of employees and all persons visiting the cemeteries, whether lot owners or otherwise. The Selectmen have the authority to adopt additional rules for the use and management of the Town's cemeteries.

Section 3. Fees.

The Selectmen shall, from time to time, adopt a list of fees for the Certificates of Ownership of Cemetery Lots, any other use, activity or services provided for the Town Cemeteries. The Selectmen are authorized to create a reserve account to be known as the Cemetery Maintenance Trust Fund, and to deposit cemetery fees received and to use said fund for cemetery maintenance as the Selectmen determine to be in the best interest of the Town.

Article II. Lot Ownership

Section 4. Prospective purchasers to visit cemeteries.

Persons desiring to purchase lots should visit the Town Office and the cemeteries to aid them in making a selection. Special rules relating to such lots will be explained and a copy of this chapter will be made available to prospective purchasers.

Section 5. Details of purchase.

The purchase price must be paid in full at the time of purchase and receipt for such purchase price will be given to the purchaser at that time. A description of lots contained in a Certificate of Ownership shall be in accordance with cemetery lots which are kept on file in the cemetery offices. It shall be the duty of the lot owner to notify the Town Office of any change in address after purchase.

Section 6. Lots not subdivided or sold jointly.

Lots of various sizes are available in the cemeteries and, therefore, no lots will be subdivided. No single lot will be sold to joint purchasers.

Section 7. Purchasers - rights in roads, drives or paths.

No easement or right of interment is granted to any lot owner in any road, drive or path within the cemeteries, but such road, drive or path may be used as a means of access to the cemetery so long as it shall be devoted to such purpose.

Section 8. Rights reserved to cemeteries.

The right to enlarge, reduce, replot or change the boundaries or grading of the cemeteries, or a section or sections thereof, from time to time, including the right to modify or change the location of, or remove or regrade roads, drives, or walks, or any part thereof, is hereby reserved. The right to lay, maintain and operate, or alter or change, pipe lines or gutters for sprinkler systems and drainage purposes is also expressly reserved, as well as is the right to use cemetery property, not sold to lot owners, for cemetery purposes, including interment of the dead, or for anything necessary, incidental, or convenient thereto. The Town reserves to itself and to those lawfully entitled thereto, a perpetual right of ingress and egress over lots for the purpose of passing to and from other lots.

Section 9. Cemeteries not responsible for loss or damage.

All reasonable precautions will be taken to protect lot owners and the property rights of lot owners within the cemeteries from loss or damage, but the cemeteries will not be responsible for loss or damage from causes beyond their reasonable control, and

especially from damage caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief-makers, explosions, unavoidable accidents, invasions, insurrections, riots, or order of any military or civil authority, whether the damage be direct or collateral, other than is hereby provided.

Section 10. Transfer of lots.

Transfer of lots will not be recognized without the issuance to the Transferee a new Certificate of Ownership obtained at the Town Office.

Section 11. Lost or destroyed Certificates of Ownership.

A lost or destroyed Certificate of Ownership will be replaced by a new Certificate upon request upon payment of a fee set by the Selectmen.

Article III. Care of Lots*

*State law reference(s)--Care and maintenance of cemeteries, 13 M.R.S.A. § 1305.

Section 12. Perpetual Care

Perpetual care includes keeping the turf even and in good condition, the grass properly cut, and the trees and shrubs, as duly authorized, trimmed.

Section 13. Nature of care provided by cemeteries without cost.

The general care of the cemeteries is the responsibility of the Town by and through its Selectmen and includes reasonable and practical care of the unsold areas of the cemeteries, such as park and lawn areas, roads, shrubs and trees, which have been established by the cemeteries. In no case shall it mean the maintenance, repair or replacement of any memorial, tomb or mausoleum erected or placed upon a lot, nor the performing of any special or unusual work in the cemeteries.

Section 14. Who may provide care for lots.

No person except a lot owner, his or her heirs and authorized representative, or an employee of the Town, acting under the direction of the Town, is permitted to enter the cemeteries for the purpose of caring for lots without special permission of the Selectmen secured in advance.

Article IV. Interments*

*State law reference(s)--Disposal of bodies, 13 M.R.S.A. § 1032.

Section 15. Funerals in charge of cemeteries.

All funerals entering the cemeteries shall be under the direction of a funeral director or person agreed to by the Town who shall abide by the rules and regulations of the respective cemetery.

Section 16. Previous notices required for interments, etc.

The right is reserved by the Town to insist upon at least twenty-four (24) hours' notice of any interment and at least one (1) week's notice of any disinterment or removal.

Section 17. Interments to be authorized by lot owners.

All notices of interments in lots must be signed by the owner of the lot, or his or her heir or authorized representative. When this is impossible because of absence from the Town, telegraphic permission will be accepted in lieu of signed authorization.

Section 18. Number of interments in single grave.

No interment of two (2) or more bodies shall be made in one (1) grave, except in the case of mother and child, or two (2) infants, buried in one (1) casket. Further variation may be made in the case of cremations within family lots subject to the placing of markers and upon prior approval of the Town.

Section 19. Location within lot to be designated by owner.

When an interment is to be made in a lot, the location of such interment shall be designated by the lot owner, or his or her authorized representative. Should he or she fail or neglect to make such designation, the Town reserves the right to designate the interment location.

Section 20. Outside containers required.

In order to maintain a high standard of care and to eliminate sunken graves caused by the collapse of wooden boxes, all burials must be made in outside containers constructed of natural stone, or of metal, or of reinforced concrete, or approved synthetics. All such containers must be made and installed so as to meet the specifications established by the Town. Outside containers may be procured from any source provided they meet the established specifications.

Article V. Plants, Shrubs and Flowers

Section 21. Responsibility of cemeteries.

The Town will undertake to maintain, to the extent practicable, the planting of trees and shrubs to preserve its landscape features, but will not undertake to maintain individual plantings, or urns of plants, except when so contracted to do so by special arrangement.

Section 22. Plantings; permission may be granted.

No individual beds of shrubbery or flowers shall be permitted on the grounds of the cemeteries, except by special permission of the Town, and request for such permission should be accompanied by a scaled sketch of the proposed planting, showing the location and name of the proposed plantings.

Section 23. Right of cemeteries to remove flowers and plants.

The Town shall have the right to remove all floral designs, flowers, vases, urns, containers, weeds, trees, shrubs, plants, or herbage of any kind from the cemeteries as soon as, in their judgment, they become unsightly, dangerous, detrimental, or diseased, or when they do not conform to the standard maintained in the cemeteries.

Article VI. Monuments, Tombs, Mausoleums and Other Structures*

*State law reference(s)--Mausoleums and vaults, 13 M.R.S.A. § 1341 et seq.

Section 24. One monument per lot permitted; one marker per grave permitted.

The owner of any lot shall have the right to erect thereon any proper stone or monument upon authorization by the Town. Only one (1) monument shall be permitted on a lot which must be located in the center or center rear, unless special permission is granted by the Town for placing it otherwise. Only one (1) individual marker per grave is allowed. A monument and individual headstones are permitted. No tombs or mausoleums are allowed.

DEVELOPMENT ORDINANCE OF THE TOWN OF WHITEFIELD
(AMENDED AT TOWN MEETING BY SECRET BALLOT 3/16/2002)
AMENDED AT TOWN MEETING BY SECRET BALLOT 11/4/2014

Section 1. Purpose

It is declared a necessary public purpose for the preservation of the public health, safety, convenience and general welfare, and prevention of public nuisance; for the protection of property values and insurance of a fiscal base for public services; for the efficiency of public services; for the prevention and control of environmental pollution; for the protection of plant and animal species and wildlife habitat; for the control of building sites, placement of structures and land uses; and for the preservation of the natural beauty of the Town of Whitefield, to regulate all new or expanded commercial, industrial, institutional and residential development in the Town of Whitefield.

Section 2. Authority and Administration

- A. Authority: This Ordinance is adopted pursuant to and consistent with Title 30-A M.R.S.A., Section 3001 et seq., and may be known and cited as the "Development Ordinance of the Town of Whitefield".
- B. Administration: The Planning Board of the Town of Whitefield shall administer this Ordinance. The provisions of the Ordinance shall apply to all of the land area of all developments, as defined, located in the Town of Whitefield.

Section 3. Definitions

As used in this Ordinance, unless the context otherwise indicates, the following words shall have the following meaning:

- A. Active Extraction Area: The pit itself, the actual hole in the ground, including side slopes and adjoining areas with overburden removed, excluding roads, structures, stockpiles, etc., which is being worked to produce minerals and/or that is yet to be reclaimed.
- B. Aquifer: A geologic deposit that yields useful quantities of groundwater to wells and springs. A significant aquifer is one that is defined and mapped by the Maine Geological Survey with a sustained yield of over 10 gallons per minute.
- C. Blasting: Blasting is the use of explosives to break up or otherwise aid in the extraction of rock or other consolidated natural formations.
- D. Commercial Development: Commercial development shall refer to all buildings, or parts thereof, parking lots or any other exterior facilities utilized for, or related to, the buying and/or selling of goods and services.
- E. Groundwater: Groundwater is all of the water found beneath the surface of the ground present in aquifers and recharge areas.

- F. Industrial Development: Industrial development shall refer to buildings, or parts thereof, parking lots, storage areas, gravel or borrow pits, quarries, mines, roads, pipe lines, electrical transmission lines, and any other exterior facilities or equipment, whether mobile or stationary, involved in the manufacture of a product, in the extraction or processing of any materials utilized in the manufacture or construction of a product, or in the transportation or transmission of any such materials or products.
- G. Institutional Development: Institutional development shall refer to such things as schools, municipal and government buildings, waste disposal facilities, nursing homes, hospitals, and customary grounds, playing fields, parking lots and other outdoor facilities attendant thereto, and shall include any public facility involving land, buildings, or structures of any kind.
- H. Mineral Extraction Operation: Any excavation or removal, handling or storage of on-site extracted sand, gravel, borrow, rock, clay, minerals or topsoil to include, but not limited to, sand or gravel pits, clay pits, borrow pits, mines and topsoil mining removal.
- I. Reclamation: The restoration to conditions similar to what existed prior to the mineral extraction operation or that will be compatible with what existed prior to the operation on the area of land affected by mining. It is generally governed by a reclamation plan. This may include, but is not limited to, grading and shaping of the land, the planting of trees, the seeding of grass, legumes or crops for harvest, or the enhancement of wildlife and aquatic resources.
- J. Reclamation Plan: A written document that depicts how the project area will be restored, or altered for the productive use of the land after excavation is complete. Such a plan shall include final grading and re-vegetation plans, of any given phase.
- K. Residential Development: Residential development shall refer to such things as multi-family dwellings (more than one dwelling unit), mobile home parks, campgrounds, subdivisions, and customary grounds, parking lots and other outdoor facilities attendant thereto. The term subdivision shall mean the division of a tract or parcel of land as defined in Title 30, M.R.S.A., Section 4956, and shall include campgrounds and mobile home parks.
- L. Seasonal High Groundwater Level: This is the upper elevation at which the groundwater table normally is located during the season of the year when such levels are at their highest. It generally occurs in the spring and fall but could occur at other times.
- M. Water Table: The upper surface of groundwater, or that level below which the soil is saturated with water.

Section 4. Applicability

- A. This Ordinance shall apply to all new and/or expanded commercial, industrial, institutional, or residential developments in the "Town of Whitefield.
- B. No new and/or expanded development shall commence in the Town of Whitefield unless and until a development application has been reviewed and approved by the

Planning Board.

Section 5. Exemptions

The following developments are exempt from all provisions of this Ordinance.

- A. Construction of detached single family dwelling, other than those which are part of a subdivision, and customary outbuildings for the use of the residents thereof. This includes home businesses if the building is used primarily as a dwelling.
- B. Construction of commercial, industrial, institutional, or residential building additions of less than 320 square feet of floor space.
- C. Construction of barns, stables, and other agricultural related buildings by, and for the private use of, families residing on the property on which the building is to be located.
- D. All non-structural uses of land for agricultural or forestry purposes.
- E. Construction of commercial, industrial, or institutional buildings of less than 320 square feet of total building floor space, and less than 22,000 square feet of land area.
- F. Construction of all commercial, industrial, institutional, or residential developments involving less than 320 square feet of total building floor space, and less than 22,000 square feet of land area.

Section 6. Qualifications

Any building, facility or structure destroyed by fire or other act of God may be replaced so long as replacement is complete or substantially underway within 2 years of the original loss, and the general commercial, industrial, institutional, or residential purposes of the original building, facility or structure are retained.

Section 7. Procedures for Development Review

A. Pre-Application Meeting:

- 1. Prior to submitting an application for development, the developer or his authorized agent should appear informally at a regular or special meeting of the Planning Board to discuss the proposed development.
- 2. The developer shall present to the Planning Board at this time, for informal review and comment, a sketch plan of the proposed development. The sketch plan shall consist of a rough outline of the proposed development, and may be a free hand, penciled sketch of the parcel, showing the proposed layout of buildings, roads and other features which may be of assistance to the Planning Board in making its determinations.

3. The Planning Board may request that the developer arrange for an inspection of the site with the Planning Board, or an individual appointed by the Board Chairman to act as the Board's representative.
4. No binding commitments shall be made between the developer and the Planning Board at this stage. The purpose of the pre-application meeting shall be to understand what is proposed, what is possible, and what is acceptable.

B. Development Application: The development application shall consist of the following items and information unless waived in writing by the Planning Board.

1. A map or maps prepared at a scale of not less than 1 inch to 100 feet, and which shall include:
 - a. Name and address of the applicant or his authorized agent and name, if any, of the proposed development.
 - b. Existing soil conditions.
 - c. Municipal tax maps and lot number, if any, and names of abutting landowners.
 - d. Perimeter survey of the parcel made and certified by a registered land surveyor relating to reference points, showing magnetic north point, graphic scale, corners of parcel and date of survey and total acreage.
 - e. Existing and proposed location and any dimensions of utility lines, sewer lines, water lines easements, drainage ways and public or private rights-of- way.
 - f. Location, ground floor area and elevations of buildings and other structures existing and proposed along with the approximate location of building or other structures on parcels abutting the site.
 - g. Method, location and construction of sanitary waste facilities.
 - h. Location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading and loading facilities, design of ingress and egress of vehicles to and from the site onto public streets or roads, and curb and sidewalk lines.
 - i. Landscape plan showing location, type and approximate size of plantings and location and dimensions of all fencing and screening.
 - j. Topography indicating contours at intervals of not more than 5 feet.

- k. Any other information as deemed necessary by the Planning Board to indicate the physical characteristics of the proposed development.
- 2. A written statement by the applicant that shall consist of:
 - a. A description of the proposed uses of the site and/or buildings. The description must include a description of the siding that the building(s) will have.
 - b. Total floor area and ground coverage of each proposed building, structure, or facility.
 - c. Summary of existing and proposed easements, restrictions and covenants placed on the property.
 - d. Types of solid waste and their methods of disposal.
 - e. Erosion and sedimentation control plan.
 - f. Statement of financial capacity
 - g. List of applicable local, state and Federal ordinances, statutes, law and regulations
 - h. A statement from the Town Road Commissioner or Selectmen that the proposed road or street construction specifications will meet Town approval.
 - i. An estimate of the time period required for completion of the structural phases of the development; and an estimate of longevity of the development, if applicable.
 - j. Any other information as deemed necessary by the Planning Board to describe the proposed development.

C. Procedures:

- 1. The application for development shall be filed with the Planning Board for review accompanied by an appropriate fee made payable to the Town of Whitefield. In the event that the Planning Board determines to hold a public hearing on the proposed development, it shall hold such public hearing within 30 days of having received a complete development application, and shall cause notice of the date, time and place of such hearing to be given to the developer and to be published in a newspaper of general circulation in Whitefield at least 2 times; the date of the first publication shall be at least 7 days prior to the hearing. The decision to hold a public hearing is discretionary, and in making its decision, the Planning Board may consider the size and type of development, the community impact, and whether any requests for such a hearing have been

received. Upon presentation of a petition signed by 15 or more voters of the Town, the Board shall convene a public hearing.

2. The Planning Board shall, within 30 days of a public hearing, or within 60 days of having received a completed application, if no hearing is held, or within such other time limit as may be mutually agreed to, issue an order denying or granting approval of the proposed development, or granting approval on such terms and conditions as it may deem advisable to satisfy the criteria and standards contained in this Ordinance. In all instances, the burden of proof shall be upon the developer. In issuing its decision, the Planning Board shall make findings of fact establishing that the proposed development does or does not meet the provisions of this Ordinance.
3. No changes in an approved plan may be made, and no activities may be undertaken which deviate from an approved plan, unless first approved in writing by the Planning Board.
4. The application fee shall be commensurate with the size and complexity of the proposed development, and shall be figured according to the following fee schedule:
 - a. \$50 per 5-acre, or part thereof, of land.
 - b. \$15 per single family lot in a subdivision
 - c. \$10 per dwelling unit in multi-family dwellings
 - d. \$10 per 1000 square feet floor space in commercial, industrial or institutional buildings.
5. Expert Witnesses and Opinions: For proposals beyond the general scope of Planning Board expertise, the Board reserves the right to obtain expert opinions, advice or testimony during the course of reviewing the application. The Planning Board will use due diligence to obtain and utilize free services from governmental or non-profit sources. Should the Planning Board be unable to obtain and utilize such services, it shall require the applicant to pay for such services, after giving notice to the applicant of the name of the expert, the area of qualification of the expert, and the purpose for which the expert is required, and the approximate cost of the expert. The applicant shall be provided with the opportunity to meet with the Planning Board to arrange a schedule for the payment of the costs. No permit can be issued by the Planning Board until any additional fees incurred by the Planning Board under this section have been remitted to the Town of Whitefield by the applicant.

Section 8. Standards

In order to be approvable, a development application must meet the following requirements:

- A. Preservation and Enhancement of the Landscape: The landscape shall be

preserved in its natural state insofar as practicable, by minimizing tree and soil removal, and retaining existing vegetation where desirable during construction. After construction is completed, landscaping shall be designed and installed that will soften or screen the development from public rights-of-way and abutting properties, will enhance the physical design of the abutting properties, will enhance the physical design of the building(s) or site, and will minimize the encroachment of the proposed use on neighboring land uses.

- B. Relation of Proposed Development of the Environment: A development shall not impair, disturb or displace any rare or endangered form of animal or plant life; nor shall it destroy or impair any animal habitat that could be avoided by modification of the proposed development.
- C. Air Quality: The development shall not detrimentally increase the concentration of any gases, particulate matter, odors or other substrates in the air of Whitefield.
- D. Water Quality and Quantity: The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of 2,000 gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine Drinking Water Program, Division of Environmental Health, MECD, Department of Health and Human Services.

No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity obnoxiousness, toxicity or temperature that may run off, seep, percolate, or wash into surface or groundwater so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant or aquatic life.
- E. Noise Level: The development shall not raise noise levels to the extent that abutting or nearby property owners are excessively inconvenienced or harmed in any way.
- F. Vehicular Access: The proposed site layout shall give consideration to the location, number, and control of access points, and to the adequacy of adjacent street, sight distances, turning lanes and parking areas.
- G. Surface Water Drainage: Adequate provision shall be made for surface drainage so that runoff of surface water from the site will not adversely affect neighboring properties and down stream conditions.
- H. This subsection intentionally left blank.
- I. Utilities: The development shall not impose a burden upon public utilities which

could be avoided by modification in the development.

- J. Advertising Features: The size, location, and lighting of all exterior signs and outdoor advertising shall not detract from the design of the proposed building(s) and structure(s), or from surrounding properties.
- K. Special Features: Exposed storage areas, soil, gravel or rock extraction areas, exposed machinery, service areas, truck loading areas, pipe lines or electrical transmission lines, utility buildings and other structures shall be subject to such setbacks, screen plantings or other screening methods to prevent them from detracting from surrounding properties. Utility buildings and all other structures shall have siding that is residential in appearance including clapboard siding in wood, metal or vinyl, shingles or shakes, board and batten and other sidings commonly found on site-built housing. In all cases, new buildings and building additions shall be set back a minimum of 40 feet from all public or private road right-of-way property lines, and no part of any new building shall be closer than 15 feet to any property line.
- L. Exterior Lighting: All exterior lighting shall be designed to minimize adverse impact on neighboring properties.
- M. Emergency Vehicle Access: Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings, structures and applicable facilities at all times.
- N. Mineral Extraction/Gravel Mining:
 - 1. Mineral extraction operations exceeding one acre in area must comply with the following standards:
 - a. Property lines. No part of any extraction operation shall be permitted within 100 feet of any property line except drainage ways to reduce run-off into or from the extraction area. Natural vegetation shall be left and maintained on the undisturbed land.
 - b. Slopes. No slopes steeper than three (3) feet horizontal to one (1) foot vertical shall be permitted during any mineral extraction operation unless a fence at least five (5) feet high is erected to limit access to such locations.
 - c. Liability insurance. Before commencing removal of any earth materials, the owner or operator of the mineral extraction operation shall provide a Certificate of Insurance to the Town of adequate insurance against liability arising from the proposed extraction operation, and such insurance shall be maintained throughout the period of operation.
 - d. Hours of operation. The hours of operation for any and all activities shall not be earlier than 6:00 AM and not later than 7:00 PM Monday through Saturday. Depending upon the location of the site the hours of

operation may be revised by the Planning Board.

- e. Noise: The applicant shall demonstrate that noise from the operation does not exceed 75 dB at the property line between the hours of 6:00 AM and 7:00 PM Monday through Saturday and 50 dB at the property line at all other times, except for emergency or safety equipment such as back-up beepers.

Sound levels shall be measured at least four feet above ground at the property boundary of the source. Measurements of sound pressure level limits are to be made using the sound equivalent level of one minute (leql) (measured in dB(a) scale).

- f. Dust. Dust generated by activities at the excavation site, including dust associated with traffic to and from the excavation site, must be controlled by sweeping, paving, watering or other best management practices for control of fugitive emissions. Dust control methods may include the application of calcium chloride, providing the manufacturer's labeling guidelines are followed. The Town of Whitefield may not grant a variance from the provisions of this subsection. Visible emissions from a fugitive emission source may not exceed an opacity of 20% for more than 5 minutes in any one-hour period.
- g. Secured vehicles. Loaded vehicles shall be suitably secured to prevent dust and contents from spilling or blowing from the load, and all trucking routes and methods shall be subject to approval by the Road Commissioner. No mud, soil, sand, or other materials shall be allowed to accumulate on a public road from loading or hauling vehicles.
- h. Access roads. All access/egress roads between the mineral extraction operation and public ways shall be treated with suitable materials to reduce dust and mud for a distance of at least 100 feet from such public ways.
- i. Debris, shelters. No equipment debris, junk or other material shall be permitted at mineral extraction site. Any temporary shelters or buildings erected for such operations and equipment used in connection therewith shall be removed following completion of active extraction operations.
- j. Spill containment plan:
 - 1) .Spill prevention, control, and countermeasures plan shall be required for all size projects.
 - 2) Petroleum Products Storage
 - i. If any petroleum products or other materials with potential to contaminate groundwater are to be stored on the site, a Spill Prevention Control, and Countermeasures (SPCC) Plan shall be submitted. A SPCC Plan shall be developed in accordance with DEP regulations, Section 5A of Chapter

- 378 Performance Standards for the Storage of Petroleum Products (CMR 378), and shall be submitted with the application and kept with the permit in the Town's records.
- ii. Any petroleum products, highly flammable or explosive liquids, solids or gasses to be stored on site, shall be located in bulk, above ground, anchored tanks or containers, having a roofed, secondary containment system, adequate to contain 110% of the full contents of such container, for control of spills and leaks, and must be located at least 100 feet from any lot line, or town road and at least 75 feet from any interior road.
 - iii. The use of underground tanks is strictly prohibited.
- 3) Machinery Maintenance
- i. Crankcase oil, hydraulic fluids, and similar products shall not be changed, stored or disposed of within the excavation area, unless specifically covered in the SPCC Plan.
 - ii. Routine maintenance operations, such as refueling or oil changes, may be allowed for fixed equipment such as screeners, crushers and wash facilities provided that a secondary containment system in accordance with the SPCC Plan, adequate to contain 110% of the full contents of said equipment is installed.
- 4) Any discharge or leak of petroleum product over a gallon shall be immediately reported to the Code Enforcement Officer and a report kept with the permit in the Town's records. All discharges or leaks of any size shall be cleaned up promptly according to the spill containment and cleanup provisions of CMR 378, Section 5H.
- 5) A copy of the Spill Prevention Control, and Countermeasures Plan shall be kept available on site at all times.
- 6) The applicant shall demonstrate to the Planning Board's satisfaction the applicant's ability to implement the SPCC plan.
- k. Removal or burial of debris. All debris, brush, stumps, boulders, and similar materials shall be removed or disposed of in an approved location or in the case of inorganic materials, buried and covered with a minimum of two (2) feet of soil. The grinding of stumps and brush for use as erosion control material is appropriate, provided it is stored in a designated area delineated on the site plan until used.
- l. Storm drainage, water courses. All mineral extraction operations shall be internally drained and the extraction footprint shall be operated in such a manner as to safely hold a volume of precipitation equal to that which may be expected from a 25-year, 24-hour storm event for the region based upon the USDA Natural Resources Conservation Service. All water from existing water courses shall leave the site at the original natural drainage points and in a manner such that the amount of drainage at any point is not increased.

- m. Reclamation Plan. The applicant for permit approval for the operation of a mineral extraction operation shall present a reclamation plan for the operation of the activity and the restoration of the land. The operation shall be phased so that the total active extraction area does not exceed 5 acres and the total project area including stockpiles, structures and access roads does not exceed 10 acres. Such plan shall include dates by which the various temporary and permanent conservation practices will be initiated, and must be reviewed and evaluated by the Knox/Lincoln County Soil and Water Conservation District before it will be considered acceptable.
 - n. Disturbed areas. All disturbed areas shall be reseeded and restored to a stable condition adequate to meet the provisions of the "Maine Erosion & Sediment Control Handbook for Construction: Best Management Practices", as amended or revised, published by the Maine Department of Environmental Protection.
 - o. Permanent slopes. All final grades shall be at a slope no greater than three (3) feet horizontal to one (1) foot vertical.
 - p. Topsoil, loam. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
 - q. Hydrogeologic study. The Planning Board may require the additional submission of a hydrogeologic study to determine the effects of the proposed activity on groundwater movement and quality within the general area.
 - r. Groundwater Protection: The proposed extraction must not adversely impact either the quality or quantity of groundwater, pursuant to the standards provided in Title 38, MRSA, Sections 404 and 604, that is available to abutting property owners. Unless previously permitted to excavate to within 2 feet of the seasonal high water table, no excavation or extraction shall occur within 5 feet of the seasonal high water table in areas of significant sand and gravel aquifers as mapped by the Maine Geological Survey. The applicant shall provide documentation of the groundwater table in their application to enable review and monitoring of this provision. Groundwater may not be artificially lowered to allow for mineral extraction.
2. Imposition of conditions. In granting site plan approval for the operation of a mineral extraction operation, the Planning Board may impose other reasonable conditions to safeguard the neighborhood and the municipality. Such conditions may include but shall not be limited to:
- a. Hours. Hours of operation.
 - b. Structures. Type and location of temporary structures including

installation of barriers such as fences to control access.

- c. Routes. Routes of transporting materials.
- d. Streets. Cleaning, repair and resurfacing of streets used in removal activity which have been adversely affected by such activity.
- e. Spill Prevention and Control Countermeasures: A Spill Prevention, Control and Countermeasures Plan (SPCC Plan) shall be required for all operations and shall be developed in accordance with DEP regulations. Said plan shall be submitted to the Planning Board for approval prior to the movement of any mechanized equipment to the site. (See Section 8.N.1.j above).
- f. The Applicant shall obtain a Performance Guarantee Bond, payable to the Town of Whitefield. The amount shall be sufficient to cover the cost of any proposed reclamation, erosion control or other activities as required by the Planning Board. The amount and conditions of the performance guarantee shall be determined with the advice of one or more of the following:
 - i. Civil Engineer,
 - ii. Town Road Commissioner,
 - iii. Town selectman,
 - iv. Town Attorney and/or
 - v. Any other person the Planning Board deems necessary to set a reasonable rate.

O. Rock Crushing, Asphalt Batch Plants and Quarrying

- 1. Rock Crushing: Rock crushing operations are considered as an accessory use to the primary gravel extraction enterprise. As such they must meet all of the standards outlined in Section 8.N of this ordinance. Prior to placement of such a unit within a mineral extraction operation the operator shall apply for an amendment to its existing permit to note the proposed change. The operator must notify all abutters within 1000 feet of any boundary of the property, by certified mail, of the change in operation and the proposed addition of a rock crusher to the operation at the time such amendment request is made to the Town. Information provided in the application shall include data relative to the following:
 - a. Operating hours for the rock crusher, if different from those of gravel extraction.
 - b. Noise levels.
 - c. Active dust mitigation plan. This shall be specific to the rock crusher and in addition to any general dust mitigation measures employed in section 8.N.1.f above.

- d. Modifications to the SPCC Plan to account for the operation of such equipment.
 - e. Changes in internal and external traffic flow generated by the proposed change.
2. Asphalt Batch Plants: Asphalt Batch Plants are NOT considered as an accessory use at a mineral extraction operation. They require a new permit from the Town of Whitefield under this Ordinance. In addition to the general application requirements under this ordinance, the applicant shall provide the following:
- a. Operating hours for the asphalt batch plant, if different from those of gravel extraction.
 - b. Noise levels.
 - c. Active dust mitigation plan. This shall be specific to the asphalt batch plant and in addition to any general dust mitigation measures employed in section 8.N.1.f above.
 - d. Odor control plans.
 - e. An SPCC Plan to account for the operation of such equipment.
 - f. Traffic flow generated by the asphalt batch plant. Where such activities occur within the property boundaries of a permitted mineral extraction operation. All traffic patterns for the entire operation must be shown.
3. Quarries: Quarrying or the mining of rock or other consolidated material by the use of explosives or mechanical means is prohibited.

Section 9. Inspections.

- A. Inspection of Mineral Extraction operations.
- 1. The Code Enforcement Officer (CEO) or other person designated by the Planning Board shall conduct onsite inspections of the operations to ensure compliance with all applicable laws, ordinances and conditions attached to permit approvals.
 - 2. Frequency of inspections shall be at the discretion of the CEO or other inspector designated by the Planning Board but shall, at a minimum, occur every year until the entire site is reclaimed.
 - 3. There shall be an annual inspection fee assessed against all mineral extraction activities that are actively on-going within the town. The fee shall be set by the selectmen.

Section 10. Transferability of Permit

- A. Mineral Extraction Activities: Within thirty (30) days of the date of the transfer, by sale or otherwise, of land upon which a mineral extraction operation is situated, the new owner or owners shall apply to the Planning Board for an amendment to the permit which

application shall provide proof of change in title and ownership, proof of financial capacity of the new owner as provided under Section B(2)(f) of this Ordinance, an updated Certificate of Insurance as required under Section 8(N)(1) of this Ordinance, and proof of sufficient performance guarantees as may be required under Section 8(N)(2)(f).

Section 11 General Provisions

- A. Waiver and Modification of this Ordinance:
 - 1. Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with this Ordinance, or where there are special circumstances of a particular plan, or where the proposed activity is subject to the provisions of another ordinance for the Town of Whitefield where the requirements of that ordinance would essentially duplicate the requirements of this Ordinance, it may waive any provision of this Ordinance provided that such waiver will not have the effect of nullifying the purpose of this Ordinance, the Comprehensive Plan, the Shoreland Zoning Ordinance, or any other ordinance or regulation.
 - 2. In granting any waiver, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived.
- B. Performance Bond: The Planning Board may require the developer to file a Performance Bond, or execute such agreements, conditions, or other terms as shall be deemed necessary and proper by the Board, with the Town of Whitefield.

Section 12. Validity, Effective Date, Conflict of Ordinances

- A. Validity: Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance, and to this end, the provisions of this Ordinance are hereby declared to be severable.
- B. Effective Date: November 4, 2014.
- C. Conflict of Ordinances: This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a higher standard for the promotion and protection of health, welfare or safety, the provisions of this Ordinance shall prevail.

Section 13. Appeal

If the Planning Board shall disapprove an application or grant approval with conditions that are objectionable to any person, affected directly or indirectly, or when it is claimed that the provisions of this Ordinance do not apply, or that the true intent and meaning of this Ordinance have been misconstrued or wrongfully interpreted, any person, affected directly

or indirectly, may appeal in writing from the decision of the Planning Board to the Whitefield Board of Appeals established in accordance with Title 30-A M.R.S.A. Section 2691, as adopted by the Town of Whitefield in a special Town Meeting, June 27, 1974. Said appeal must be made within 30 days of the Planning Board's written decision.

Section 14. Amendments

This Ordinance may be amended by a majority vote in a special or regular Town Meeting of Whitefield.

Section 15. Enforcement

- A. The Planning Board of the Town of Whitefield shall act in all cases of violations of this Ordinance by notifying, in writing, the owner or lessor of the development and the Selectmen of the kind or nature of the violation and the development and the Selectmen of the kind or nature of the violation and the correction of same if possible. Said notification shall be deemed to have been made when sent to the owner or lessor by certified or registered mail.
- B. The Selectmen are charged with the prosecution for all violations of the provisions of this Ordinance. In cases where such notices referred to in Paragraph 15A, above, are not promptly complied with after receipt of said notices, the Selectmen shall make such complaints to the courts as, in their judgment, are proper, or may institute such actions or proceedings at law or in equity as are proper to restrain, correct, remove, or punish such violations.
- C. Any person or corporation who shall violate any of the provisions of this Ordinance or fail to comply with any of the requirements thereof shall, upon conviction, be punished by a fine of not less than \$25 nor more than \$100, and each day on which such violations shall continue shall constitute a separate offense.
- D. The CEO shall also investigate all complaints of alleged violations of this ordinance. Findings of that investigation shall be presented to the Planning Board, in writing, and shall detail the nature of the initial complaint, all activities conducted to ascertain the validity of the complaint and findings of that investigation.

Town of Whitefield, Maine

Whitefield Volunteer Fire and Rescue Department Ordinance

1. Title.

This ordinance shall be known as the Town of Whitefield Fire and Rescue Department Ordinance.

2. Authority

This ordinance is enacted pursuant to the State of Maine Constitution, Article VII(1), Title 30-A M.R.S.A., Sections 3001 et. seq and 3151 et. seq.

3. Establishment and Purpose

- 3.1 There is hereby established the Whitefield Fire and Rescue Department.
- 3.2 The further purpose of this ordinance is to organize the Department, to define the powers and duties of the chief, deputy chief, officers and firefighters of the Department, to provide them with the maximum legal protection available and to best protect the health, safety, property and welfare of the residents of the Town of Whitefield.

4. Definitions

For the purposes of this ordinance, the following terms shall be defined as follows.

- 4.1 “Department” means the Whitefield Fire and Rescue Department established pursuant to this ordinance.
- 4.2 “Deputy Chief” means the person duly appointed pursuant to this ordinance who is second in command of the Department and who assumes the duties and responsibilities of the Fire Chief during his/her absence.
- 4.3 “Fire Chief” means the person duly appointed pursuant to this ordinance who serves as the head of the Department.
- 4.4 “Junior Firefighter” means a person between the ages of 16 and 18 years who, with the consent of his or her guardian and with the approval of the Fire Chief, participates in Department activities. Junior firefighters must be under the direct supervision of the Fire Chief or a designated officer and act according to the provisions of Title 26 M.R.S.A., Section 772.
- 4.4 “Municipal Firefighter” means an individual active member, whether full-time, part-time or on-call, of Department who aids in the extinguishment of fires or provides

emergency medical care, or an individual who receives compensation from the municipality for performing these duties and is at least 18 years of age. For the purposes of this ordinance, municipal firefighter includes members of the Department serving as emergency medical responders.

- 4.5 “Officer” means any person who has command authority over a portion of Department operations as designated by the Fire Chief. Officers include a Deputy Fire Chief, a Director and Assistant Director of Emergency Medical Services, Assistant Chiefs and Fire Captains.
- 4.6 “Selectboard” means the duly elected Board of Selectmen for the Town of Whitefield, Maine.
- 4.7 “Town” means the Town of Whitefield, Maine.

5. Department Composition and Duties

The Department shall be comprised of one Fire Chief and one Deputy Chief appointed by the Selectboard, and other officers, municipal firefighters and junior firefighters.

- 5.1 The Fire Chief shall have the duties and responsibilities established in Title 30-A M.R.S.A., Section 3153, and shall be directly responsible to the Selectboard for the effective administration of the Department.
 - 5.1.1 Rules and Standard Operating Guidelines prepared by the Fire Chief shall be reviewed and approved by the Selectboard before becoming effective.
 - 5.1.2 The Fire Chief shall keep informed as to the latest practices in the field and, with the approval of the Selectboard, shall implement such new practices as appear to be of benefit to the Department and to the public.
 - 5.1.3 The Fire Chief shall submit annual reports of the activities of the Department and additional reports when requested by the Selectboard.
 - 5.1.4 The Fire Chief shall have the power to delegate to members of the Department such duties and responsibilities as he/she deems advisable, together with the proportionate authority for their fulfillment, but in no case may over-all responsibly or accountably be delegated.
 - 5.1.5 The Fire Chief shall be responsible for the proper custody and care of all Town property and equipment used in or by the Department.
 - 5.1.6 The Fire Chief may issue fire permits as Fire Warden in accordance with Maine Department of Conservation rules.

- 5.2 Officers and municipal firefighters shall have the duties and responsibilities set forth in Title 30-M.R.S.A., Section 3154. In the absence of the Fire Chief or Deputy Chief, officers shall assume authority in accordance with a chain of command in job descriptions prepared by the Fire Chief and approved by the Selectboard. All members of the Department shall meet the safety and training requirements of Title 26 M.R.S.A., sections 2101 – 2108.

6. Privileges and Immunity

Members of the Fire and Rescue Department shall enjoy the privileges and immunities provided by the Maine Tort Claims Act when performing their duties as firefighters for the Town.

7. Administrative Procedures

- 7.1 The Selectboard shall appoint a Fire Chief and Deputy Chief for a term of not more than three years each. Candidates for these positions shall be active members of the Department having a demonstrated knowledge of applicable state and federal laws, rules and regulations pertaining to operation of the Department. Candidates shall also possess experience in command of fire, emergency or related services, administrative experience and willingness to attend training to remain informed with current requirements and technology applicable to the Department.

Members of the Department may provide to the Selectboard nominations of qualified persons for these positions. The Selectboard may fill the positions from the nominations or with persons identified on its own initiative.

- 7.2 The Selectboard may remove the Fire Chief or Deputy Chief from office for just cause after notice and hearing.
- 7.3 Subject to approval by the Selectboard, the Fire Chief shall maintain current job descriptions for all officers and municipal firefighters.
- 7.4 The Fire Chief may appoint and remove officers, municipal firefighters and junior fire fighters as he/she deems appropriate and necessary to best carry out the purpose of this ordinance and within the budgetary limitations created by funds appropriated by the Town.
- 7.5 The Fire Chief, officers and municipal firefighters shall receive stipends as established in the municipal budget.
- 7.6 The Fire Chief shall prepare, maintain and observe Standard Operating Guidelines that are generally consistent with the National Fire Protection Association Standard 1720, *Organization and Deployment of Fire Suppression Operations, Emergency Medical Operations and Special Operations to the Public by Volunteer Fire Departments*.

- 7.7 The Fire Chief shall establish and maintain a system of records and reports that is sufficient to demonstrate the operation, activities and control of the Department. This is to include but is not limited to records of all calls responded to, incident investigations, inspections, personnel attending incidents and training sessions, apparatus and equipment maintenance, expenditures and other related information. The Fire Chief shall also maintain rosters of all Department members including contact information and information on training received.

8. Assets and Funds

- 8.1 All apparatus, equipment, supplies and other goods purchased with funds appropriated for the Department shall be considered property of the Town.
- 8.2 The Fire Chief is responsible for obtaining goods and services necessary for the proper operation of the Department within the limitations of appropriations made for that purpose by the municipal budget. All funds appropriated for the Department shall be treated as municipal funds and no expenditures may be made unless approved by the Selectboard on a properly subscribed disbursement warrant.
- 8.3 The Selectboard may enter into contracts, leases or other agreements with other municipalities or private parties for the use of buildings, apparatus, equipment and services to augment or support the Department on terms and conditions the Selectboard determines to be in the best interest of the Town.
- 8.4 The Department is authorized to apply for and receive grants, provided such applications are approved by the Selectboard. Additionally, the Department may receive gifts of money and equipment.

9. Mutual Aid

Pursuant to Title 30-A M.R.S.A., Section 3156, the Selectboard, in consultation with the Fire Chief, may enter into mutual aid agreements with other municipalities for fire fighting or other emergency services.

10. Severability and Suppression

- 10.1 The invalidation of any part of this ordinance shall not affect any other portion herein.
- 10.2 Adoption of this ordinance supercedes and replaces any and all related ordinances or warrant articles previously enacted.

11. Effective Date

This ordinance was enacted by the voters of the Town of Whitefield on _____ and is effective on _____.

Town of Whitefield

Manufactured Housing Ordinance

Purpose: The purposes of this Ordinance are to establish minimum standards for the placement of manufactured housing in the Town of Whitefield, and to require that manufactured housing be compatible with site built homes, and to provide opportunities for the location of affordable and safe housing in the community.

Applicability: This Ordinance shall apply to all the land area within the Town of Whitefield and it shall apply to all manufactured housing to be located in or moved from one part of the community to another.

Prohibitions:

No person, firm or corporation or other legal entity shall locate or move from one lot or parcel of land to another, an older mobile home, trailer or manufactured home which fails to meet the requirements of this Ordinance.

The following standards shall govern the location and placement of all manufactured housing in the Town of Whitefield.

Placement on Individual Lots: Manufactured housing units and appurtenances shall meet the following standards in order to be placed on any conforming residential lot (see definitions) in the Town of Whitefield.

- A. The unit as installed on the site shall have the minimum horizontal dimension of fourteen feet in width.
- B. The unit shall contain at least seven hundred fifty square feet of living space.
- C. The unit complies with the construction standards of the U.S Department of Housing and Urban Development and the standards of the State of Maine Manufactured Housing Board.
- D. The unit has siding that is residential in appearance including clapboard siding in wood, metal or vinyl, shingles or shakes, board and batten, or other sidings commonly found on site-built housing.
- E. The unit is placed on a permanent foundation, which shall consist of either a poured concrete or block frost wall or a poured concrete pad or a gravel pad meeting the above mentioned State of Maine Manufactured Housing Board standards.
- F. The unit shall have properly attached and residential appearing skirting, or a full poured concrete or block basement.

Definitions

Conforming Residential Lot: A lot or parcel of land that may be legally built upon in accordance with all applicable land use laws and regulations enforced by the Town of Whitefield.

Dwelling: A room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking, eating, and sanitary facilities. The term shall include newer mobile homes and modular homes but shall not include older mobile homes or recreational vehicles.

Manufactured Housing: A structure unit or units designed for occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on a independent chassis, to a building site. The term includes any type of building which is constructed at any

manufacturing facility and then transported to any building site where it is utilized for housing and may be purchased or sold by a dealer in the interim. For purposes of this Ordinance, three types of manufactured housing are included. They are newer mobile homes, older mobile homes, and modular homes.

Mobile Home - Newer: A manufactured housing unit constructed after June, 15 1976, which the manufacturer certifies is constructed in compliance with the State of Maine Manufactured Housing Act and regulations, and with the United States Department of Housing and Urban development standards, meaning structures, transportable in one or more sections, which, in traveling mode, are fourteen body feet or more in width and are seven hundred fifty or more square feet, and which are built on permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein; except that the term shall include any structure that meets all the requirements of this paragraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974.

Mobile Home - Older: A manufactured housing unit which does not meet the definition of a newer mobile home or modular home or which was constructed prior to June 15, 1976.

Modular Home- A manufactured housing unit which the manufacturer certifies are constructed in compliance with the State of Maine' s Manufactured Housing Act and regulations, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning or electrical systems contained therein.

Nonconforming structures: Older mobile homes and trailers and manufactured homes which fail to meet the standards of this ordinance, which were lawfully established prior to the effective date of this ordinance, shall be considered nonconforming structures and may continue and may be maintained, repaired, improved, and expanded. No nonconforming structure may be moved to another lot or parcel in the Town of Whitefield. Nonconforming structures may not be replaced by another nonconforming structure. Nonconforming structures shall only be replaced by a manufactured home that meets the requirements of this ordinance.

Enforcement

Administration: It shall be the responsibility of the Planning Board and the Codes Enforcement Officer to administer the provisions of this ordinance. If the administering officers find that any provision of this ordinance is being violated, they shall notify in writing the person(s) or legal entity responsible for such violation, indicating the nature of the violation and a description of the action(s) necessary to correct said violation(s).

Continuing noncompliance of Town enforced ordinances shall result in enforcement actions by the CEO, Planning Board, or other municipal officers, including, but not limited to Board Orders, CEO Orders, and fines as indicated below. These orders may include discontinuance of illegal use of land, buildings, structures, and abatement of nuisance conditions. Copies of any enforcement actions shall be submitted to the Selectmen and be maintained as a permanent record.

Fines: Any person who continues to violate any provisions of this ordinance after receiving notice of such violation shall be guilty of a misdemeanor subject to a fine of not less than \$25 and not more than \$100 a day until such violation is addressed.

Amendments: This ordinance may be amended by a majority vote of the Town of Whitefield.

Validity and Severability: Should any -section or provision of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this ordinance.

Appeals to Board of Appeals

A: Variance Appeals:

The Board of Appeals may, upon written application of the affected landowner or his legal representative, grant a variance from the strict application of the Ordinance when the strict application of the terms of this ordinance would result in undue hardship "to the applicant. T term "undue hardship" shall mean:

- 1) that the land in question cannot yield a reasonable return unless the variance is granted;
- 2) that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- 3} that the granting of a variance will not alter the essential character of the locality;
- 4) that the hardship is not the result of action taken by the applicant or a prior owner.

B: Administrative Appeals:

The Board of Appeals may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Municipal Officers in the administration of this ordinance. Such hearing(s) shall be held in accordance with State laws. Following such hearing(s), the Board of Appeals may reverse the decision of the above mentioned Officers only upon a finding that the decision is clearly contrary to specific provisions of this ordinance.

C: Appeal to Superior Court:

An appeal may be taken within thirty days after any decision is rendered by the Board of Appeals, by any party, to Superior Court in accordance with State law.

MINIMUM LOT SIZE ORDINANCE OF THE TOWN OF WHITEFIELD
* AMENED BY AUSTRALIAN BALLOT TOv1N MEETING 3/17/90

Section 1. Purpose

It is declared a necessary public purpose for the preservation of the Public Health, Safety, and Welfare, and prevention of public nuisance, to regulate minimum lot size upon which all new dwellings are erected or placed in the Town of Whitefield ."

Section 2. Authority and Administration

- A. Authority: This Ordinance is adopted pursuant to and consistent with Title 30 M.R.S.A., Section 1917, and may be known and cited as the "Minimum Lot Size Ordinance of the Town of Whitefield".
- B. Administration: The Planning Board of the Town of Whitefield shall administer this Ordinance.

Section 3. Applicability

This Ordinance shall apply to all seasonal or permanent houses, mobile homes, modular homes, and all other dwellings erected or placed on land within the Town of Whitefield. The setback requirements of this Ordinance shall apply to any new physical structures or additions to existing structures.

Section 4. Specifications

- A. The minimum lot size for all new dwellings shall be 1 1/2 acres per dwelling, and shall be of such dimensions as to accommodate within the boundaries a square measuring no less than 140 by 140 feet.
- B. All new physical structures or additions to existing structures shall be set back a minimum of 70 feet from the center of the traveled way portion of any highway within the Town of Whitefield.
- C. No part of any new physical structure or additions to existing structures shall be closer than 15 feet to any property line *except as noted in "D" below.
- * D. No part of any new commercial or industrial structure shall be less than 50 feet to any property line.
- * E. After March 17, 1990, all newly created lots shall have' a minimum of 200 feet of frontage on a public or private road. Where a cul-de-sac has been created, the minimum frontage requirement may be waived by the Planning Board if the side of the lot most perpendicular to the cul-de-sac is at least 200 feet in length.

Section 5. Qualifications

"

- A. Any lot conveyed by registered deed to the present owner(s) prior to enactment of this Ordinance (March 1976, amended March 1984), which is of smaller size or dimensions than specified in section 4, above, may be utilized as a building by the present owner(s).
- B. Any dwelling destroyed by fire or other act of God and which is on a lot of smaller size or dimensions than specified in Section # 4, above, may be replaced by any type of dwelling so long as replacement is complete and substantially underway within 2 years of the date of the original loss, and the new dwelling is located no closer to property lines than was the original.

Section 6. Waiver and Modifications of this Ordinance

- A. Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with this Ordinance. or where there are special circumstances of a particular building lot location, it may waive any provision of this Ordinance, provided that such waiver will not have the effect of nullify the purpose of the Ordinance, the Comprehensive Plan, the Shoreland Zoning Ordinance, or any other Ordinances or regulations.
- B. In granting any waiver, the Planning Board shall require such conditions as will, in its judgments, secure substantially the objectives of the requirements so waived.

Section 7. Validity, Effective Date, Conflict of Ordinances

- A. Validity: Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance, and to this end, the provisions of this Ordinance are hereby declared to be severable.
- B. Effective Date; March 20, 1976; Amended March 17, 1984
- C. Conflict of Ordinances: This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit or provision of law, where this ordinance imposes a higher standard for the promotion and protection of health, safety, or welfare, the provisions of this Ordinance will prevail.

Section 8. Appeal

If the Planning Board shall disapprove a request for waiver of any provision of this Ordinance or grant approval of such request with conditions that are objectionable to any person, affected directly or indirectly, or when it is claimed that the provisions of this Ordinance do not apply, or that the true intent and meaning, of this Ordinance have been misconstrued or wrongfully interpreted, any person, affected directly or indirectly, may appeal in writing from the decision of the Planning Board to the Whitefield Board of Appeals established in accordance with .Title 30, M.R.S.A., Section 2411. Said appeal must be made within 30 days of the Planning Board's written decision.

Section 9. Amendments

This Ordinance may be amended by a majority vote in a special or regular Town Meeting of Whitefield.

Section 10. Enforcement

- A. The Planning Board shall act in all cases of violations of this Ordinance by notifying, in writing, the owner or lessor of the lot and the Selectmen of the kind of nature of the violation and the correction of same if possible. Said notification shall be deemed to have been made when sent to the owner or lessee by certified mail.
- B. The Selectmen are charged with the prosecution for violations of the provisions of this Ordinance. In cases where such notices referred to in Paragraph 10A, above, are not promptly complied with after receipt of said notices, the Selectmen shall make complaints to the courts as, in their judgment, are proper, or may institute such actions or proceedings at law or in equity as are proper to restrain, correct, remove, or punish such violations.
- C. Any person or Corporation who shall violate any of the provisions of this Ordinance or fail to comply with any of the requirements thereof shall, upon conviction, be punished by a fine of not less that \$25.00 and not more than \$100.00 and each day on which such violation shall continue shall constitute a separate offense.

Town of Whitefield
Notice to Build Ordinance
Adopted March 17, 2012

I. Purpose. This Ordinance establishes procedures to ensure all structures are in compliance with relevant land use requirements enforced by the Town of Whitefield. It also is to ensure that all new or expanded structures are properly identified and assessed in a timely and equitable manner.

II. Applicability. This Ordinance applies to the construction, substantial modification or additions to structures in the Town of Whitefield.

This Ordinance does not apply to repairs, renovations or maintenance of existing structures, provided such work is not a substantial modification or does not increase the footprint or usable area of the structure. It also does not include temporary or mobile items, landscaping, subsurface wastewater disposal (septic) systems, and residential public utility services.

III. Authority. This Ordinance is adopted according to the provisions of Title 30-A, sections 3001 et. Seq. of Maine law.

IV. Definitions. For the purposes of this Ordinance, the following terms shall have the indicated meanings.

1. Addition. A modification to an existing structure that increases the footprint or usable area of that structure, including but not limited to porches, decks, garages, additional or expanded stories, attached sheds, and entryways.

2. Structure. Anything having a footprint of 50 square feet or more built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. This includes the placement of a pre-manufactured, mobile or modular or similar buildings on a parcel of land.

3. Substantial modification. Any repair, reconstruction, replacement or improvement of an existing structure where the value of which exceeds 50% of the assessed value of the structure before the modification is started.

4. Town. The Town of Whitefield, Maine.

V. Notice Required. No person shall construct, substantially modify or create an addition to a structure without first having received from the Town approval of a Notice to Build for such activity. **All work must be done in accordance with an approved Notice to Build and in compliance with applicable laws and ordinances.**

VI. Notices to Build.

1. Notices to Build must be submitted using forms approved by the Select Board in consultation with the Planning Board. For projects involving specific ordinances over which it has jurisdiction, the Planning Board may require additional forms or materials to ensure compliance with those ordinances. Forms should be fully completed and if a particular item does not apply for a specific project, "N/A" should be indicated on the form.
2. Notices to Build must be signed by the owner of the land or by another person having a written letter of authorization signed by the landowner. The notices must certify that the information that they contain is accurate and complete.

VII. Decisions on Notices to Build.

1. The Planning Board shall review and act upon Notices to Build for projects over which it has jurisdiction pursuant to specific ordinances. All other Notices to Build will be reviewed and acted upon by the Town's Code Enforcement Officer.
2. Incomplete or unclear Notices to Build shall be returned for additional information or clarification. The Code Enforcement Officer shall act upon complete Notices to Build within 14 days of a complete notice being filed with the Town. The Planning Board shall review Notices to Build at its next regularly scheduled meeting and will act upon them in accordance with the requirements of the ordinance(s) involved. An applicant may agree to extension of these processing times.
3. The Code Enforcement Officer or the Planning Board shall approve Notices to Build only when they conclude the proposed project will comply with applicable laws and ordinances administered by the Town.
4. The person having filed a Notice to Build will be notified in writing as soon as a decision has been made. In the event a notice is denied, the reason(s) necessitating the denial will be provided.

VIII. Standard Conditions. The following standard conditions apply to all Notices to Build approved by the Town.

1. The project must be constructed as described in the Notice to Build as approved by the Town. Persons proposing to make any changes must contact the Code Enforcement Officer and receive written concurrence or, if he or she determines, file an amended Notice to Build.
2. The project must be at least 15% complete within one year of the Notice to Build having been approved. If the work does not reach such a point within this time a new Notice to Build must be filed with the Town.

3. Approval of a Notice to Build does not replace or supersede any State law or rule or any Town ordinance and persons must complete their projects in compliance with those requirements.
- IX. Compliance. The Code Enforcement Officer shall investigate alleged violations of this Ordinance and provide his or her findings to the Select Board. When a violation is found, the Code Enforcement Officer shall send a Notice of Violation to the landowner and any other parties determined to have contributed to the violation. If the Notice of Violation does not result in timely and satisfactory compliance, the Select Board may institute appropriate legal actions or may enter into settlements to resolve the violation. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who is responsible for a violation of this Ordinance shall be subject to fines and liable for court costs and reasonable attorney fees incurred by the Town, as provided by 30-A MRSA, Section 4452.
- X. Appeals. Any person aggrieved by a decision of the Code Enforcement Officer or the Planning Board with regard to a Notice to Build may, within 30 days of the written decision, file a written appeal with the Board of Appeals. The appeal shall include a concise statement of the relief requested and why it should be granted. The Appeals Board shall, on an appellate basis, within 35 days hold a hearing to determine if an error was made in a decision or determination or by inaction. Any action to enforce this ordinance cannot be appealed and no waivers or variances may be considered. Upon finding an action by the Planning Board or Code Enforcement Officer was clearly contrary to this Ordinance, the Appeals Board may order to grant or modify a Notice to Build accordingly. The Appeals Board shall render a decision within 35 days of its hearing. Persons aggrieved by a decision of the Appeals Board may, within 45 days of the date of the decision, appeal to the Superior Court.
- XI. Severability. If any part of this Ordinance is found to be invalid by the Courts, such decision does not invalidate any other part of this Ordinance.
- XII. Supersession. This Ordinance repeals and replaces warrant article number 27, adopted at the March 17, 1984 regular Town Meeting.
- XIII. Effective Date. This Ordinance was enacted by the voters of Whitefield on March 17, 2012.

Town of Whitefield
Septage & Residuals Ordinance
Effective: March 17, 2001

I. Authority & Applicability:

- A. This Ordinance is adopted pursuant to 30-A MRSA sections 3001 and Section 4452 and 38 MRSA sections 1305 and 1310-U.
- B. The provisions of the Ordinance shall govern all land and structures within the Town of Whitefield.
- C. In Accordance with 38 MRSA 131 O-U, the Whitefield Planning Board shall file a copy of this Ordinance with the Maine Department of Environmental Protection (DEP) within 30 days of the Effective Date.

II. Findings and Purpose:

- A. Findings: The Town finds that septage and residuals may, if properly treated, tested, stored and applied, provide a safe and beneficial soil amendment for the Town's Agricultural and Forest lands. However, if improperly handled, utilization of septage and residuals poses a threat to public health, welfare, and the environment. While the State has adequate scientific capacity to regulate land spreading of residuals and septage, it has limited resources for incorporating meaningful public input into its review process and closely monitoring spreading operations across the state. Hence, while accepting the State's role in reviewing material safety standards, the authority for additional local review and oversight is essential to ensuring adequate protection of public health, welfare and the environment. Through this Ordinance, the Town will develop a working relationship with the Maine Department of Environmental Protection, and the people that are utilizing septage or residuals in Whitefield, in order to prevent impacts to public health, welfare, or the environment. The Town focuses the efforts of this Ordinance in preventing impacts, rather than documenting impacts once they have occurred.
- B. Purpose: The purpose of this Ordinance is to protect the health, safety, and welfare of Whitefield residents; and to protect the Town's natural resources, including surface and groundwater, while minimizing restrictions on the use of the Town's agricultural and forest lands. The Ordinance provides opportunity for local review, monitoring, and Enforcement of utilization activities.

III. Validity, Severability, Conflict with Other Ordinances, Amendments, and Effective Date:

- A. Severability: Should any provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other provision of this Ordinance.
- B. Conflict: Whenever the requirements of this Ordinance are inconsistent with the requirements of any other ordinance or law, the more restrictive requirements shall apply.

- C. Amendments: This Ordinance may be amended by a majority vote in a special or regular Town Meeting of Whitefield.
- D. Effective Date: This Ordinance takes effect upon its enactment by the Town.

IV. Applicability, Exemptions and Prohibitions

- A. Applicability: This Ordinance applies to utilization, land application, storage, processing, or other handling of residuals (including sewage sludge) or septage within the Town of Whitefield.

Note: Agricultural Wastes that are returned to the land as fertilizers are not regulated by DEP as solid wastes, are not included in the definition of "residual" and therefore are not subject to the requirements of this Ordinance. The Department of Agriculture regulates use of fertilizer under the Nutrient Management Law.

- B. Exemptions. The following activities and facilities are exempt from the requirements of this Ordinance:
 - 1. The storage, utilization and other handling of wood wastes and type 1A residuals, when done in accordance with the requirements of the Department of Environmental Protection's solid waste management rules.
 - 2. The utilization of composted residuals from a composting toilet that meets the Department of Human Services standards.
 - 3. Utilization of septage on a homeowners own land, when utilized in accordance with the provisions of 06-096 CMR Chapter 420, section 2.0(2).
- C. Prohibitions. The following activities and facilities are prohibited in the Town of Whitefield.
 - 1. After the effective date of this Ordinance, no person shall engage in, or expand any utilization activity, without first obtaining a permit, or permit amendment, for such activity.
 - 2. Septage Non-Utilization sites are prohibited in the Town of Whitefield.
Note: A septage Non-Utilization site is a disposal site where the septage is not screened or treated for pathogens before being land applied.
 - 3. No person shall utilize, store, or process septage or residuals within the Town of Whitefield's shore land zone.
 - 4. No person shall utilize, store, or process septage or residuals within 500' of a residential well in existence at the time a new license application is found to be complete for processing by the Board.
 - 5. No person shall utilize, store, or process septage or residuals above a mapped significant Sand and Gravel aquifer.

V. Continuance of Existing Uses

- A. Any land spreading and storage of septage or residuals that has been licensed by the Maine Department of Environmental Protection prior to the adoption of this Ordinance may continue, subject to the following requirements:

The residual generator, or septage site operator, shall file for a license amendment and obtain Planning Board approval before expanding the capacity or enlarging any existing activity or facility.

The residual generator, or septage site operator, shall file for a new license within one year of the effective date of this Ordinance, or cease the activity in accordance with the Maine Department of Environmental Protection's closure requirements.

VI. Definitions

The definitions in this Ordinance are those set forth in the Maine Department of Environmental Protection (DEP) rules Chapter 400, *et. Seq.*, *The Solid Waste Management Rules*, and Chapter 420, *Sept age Management*. In addition, the following terms shall have the following meanings

- A. Expansion and/or Enlargement means an increase in the size or capacity of an operation including construction, new spreading areas, increase in the size of the operation or spreading area, change in the material being spread, or a reduction in the buffer area or setbacks for the *site*.
- B. Minor Revision means any change in activity that does not include an expansion and/or enlargement.

VII. Permit Requirements

- A. No person shall operate any of the activities subject to this Ordinance without first obtaining a permit from the planning Board. No landowners shall allow activities subject to this Ordinance on his/her property unless the Board has approved the activity.
- B. Applications shall be made on forms approved of by the planning Board, and include a non-refundable application fee, as follows:
1. The application fee for a new license is \$300 per site.
 2. The application fee for a renewal license is \$150 per site.
 3. The application fee for a permit modification is \$100 per site.
 4. In addition to the application fee, the fee for operating the site shall be \$10/ licensed, spreadable acre per year.
 5. In addition to the application fee, the fee for operating a processing site shall be \$50/ licensed waste-handling acre per year.
- C. Expiration.
1. New permits shall be issued for a period of 2 years.

2. Licensees must file renewal applications with the Town prior to the expiration date of the permit. If operators fail to submit an application for renewal in time, they must cease operations until a new permit has been issued.
 3. Renewal permits shall be issued for a period of up to 5 years. The Board will determine the length of time after considering the compliance history of the applicant.
- D. Permit Modifications: The applicant shall receive approval from the Planning Board for any proposed expansion, enlargement, or significant process change of any regulated activity before undertaking the change. The Board shall process permit modifications according to the procedures for a new permit.
- E. Submission Requirements. Applications for regulated activities must include the following
1. The appropriate permit fee
 2. The complete application submitted to the Department of Environmental Protection for the proposed activity, and the final Department's decision regarding the application.
 3. Construction drawings for any buildings and/or structures proposed for the activity.
 4. A list of the names and addresses of all property owners of record within one thousand feet (1000') of the parcel upon which the activity will take place.
 5. A scaled map(s) of the proposed site that clearly indicates: property lines, abutters, owners of property within 1,000' of the parcel upon which the site is located, setbacks and the feature that requires the setback, buffers and feature that requires the buffer, storage areas, the proximity of any significant sand and gravel aquifers, and if applicable, unspreadable areas.
 6. A management plan to protect ground and surface waters.
 7. Other information may be required by the Board to determine that the applicable licensing criteria of the Department of Environmental Protection and this Ordinance will be met. This may include background water tests of existing wells, hydrogeologic data. Testing shall only be required when there is evidence of a circumstance in the vicinity of a site that was not adequately addressed by the DEP in its review.
 8. A report from the Code Enforcement Officer indicating that the proposed site was inspected for compliance with the provisions of this Ordinance.
 9. Representative baseline soil test results for nutrients and sewage sludge metals from one or more fields where septage or residuals will be utilized.

10. Renewal and amendment applications must also include all data and reporting information submitted to DEP since the last license application was submitted to the Board and a description of any proposed changes to the permit.

VIII. Application Review Procedure.

- A. The application review procedure outlined below shall be followed for all new, renewal and amendment applications:
 1. The applicant shall obtain a copy of this Ordinance and an application form from the Planning Board
 2. The applicant shall schedule a site inspection with the Code Enforcement Officer (CEO). The CEO shall complete an inspection report and submit a copy to the applicant to include with the application.
 3. The applicant shall submit a complete and truthful application to the Planning Board and request that the Chair place the proposal on the Planning Board's agenda for consideration.
 4. The Planning Board shall review the application for completeness at a regularly scheduled meeting.
 5. Upon a finding of completeness, the Board shall schedule a hearing on the proposal within 31 days. The Board shall cause notice of the date, time and place of the hearing to be given to the applicant. The Board shall approve the language of the notice to be given by the applicant to the newspaper and property owners near the site.
 6. The applicant shall cause notice of the date, time and place of the hearing to be published in a newspaper of general circulation in Whitefield at least 2 times; the date of the first publication shall be at least 7 days prior to the hearing. The applicant shall also send this notice to all property owners of record within one thousand feet (1,000') of the parcel upon which the proposed site is located, by certified mail. Failure of any party to receive a notice shall not invalidate the hearing, provided that the applicant can show proof that the letters were mailed.
 7. At the hearing, the Board shall hear testimony from the applicant, area property owners, and other interested parties. The Code Enforcement Officer shall attend the hearing and provide information to the Board concerning the site inspection.
 8. Within 31 days of the hearing, the Planning Board shall begin a substantive review the proposed application for compliance with this Ordinance. The Board may schedule a site visit during this time period.
 9. Within 62 days of the hearing, the Board shall review and decide upon the application based upon the following review standards:
 - a) The proposed project has been approved by the DEP.

- b) The application is complete.
 - c) The applicant has complied with all hearing notification requirements.
 - d) The proposed activity conforms to all the applicable provisions of this Ordinance and applicable state law.
 - e) For a renewal permit, the applicant demonstrates that they are and have operated in substantial compliance with this Ordinance and with Department of Environmental Protection laws.
- 10. The planning Board may decide to approve the application, or approve the application with conditions in order to bring the proposal into compliance with this Ordinance, or deny the application.
 - 11. The planning Board shall issue a written decision and shall indicate the reasons for its decision by a finding of fact. The written decision shall be provided to the applicant and DEP within 30 days of the decision date.

IX. Appeals

Within 45 days of the written decision by the Board, an aggrieved party may appeal any final action by the Planning Board to the Board of Appeals. An aggrieved party may appeal the decision of the Board of Appeals to Superior Court Pursuant to Rule 80B of the Maine Rules of Civil Procedure within 45 days of the Appeals Board final decision.

X. Performance Standards

A. Notification Standards

- 1. The licensee shall notify the Code Enforcement Officer and Town office at least two (2) business days prior to any sludge, residuals or septage land spreading activity. The licensee may provide up to a 30-day schedule of anticipated spreading activities.

Note: Notification may be made by phone, fax, letter, voicemail message or any other mutually agreed upon method.

- 2. The licensee shall submit all test reports, annual reports and any other data required as per the Department of Environmental Protection license to the Planning Board. The Planning Board shall file this information with the original permit.
- 3. The licensee shall notify the Planning Board of any change or modification in the activity and, if any, request that the original permit be amended. Failure to notify the Planning Board of any alteration in the original permit shall constitute a violation of this Ordinance.

4. The licensee shall notify the Planning Board when it is permanently ceasing operation at the location. A temporary lapse in activity does not constitute a closing of the activity.

B. Inspection

1. The Code Enforcement Officer shall inspect the site during or within forty-eight (48) hours after spreading has occurred at least twice per spreading season. The Code Enforcement Officer shall maintain a record of each inspection.
2. The Code Enforcement Officer shall inspect the site for compliance with this Ordinance and shall notify the licensee, the Planning Board and the Department of Environmental Protection in writing of any violation along with the steps necessary to remedy the situation.
3. The Code Enforcement Officer shall respond to legitimate complaints concerning any activity regulated by this Ordinance and determine if there are any violations. A copy of all written complaints shall be provided to the licensee.
4. The licensee shall allow the Code Enforcement Officer, Selectmen, Health Officer, and Board to inspect the activity during reasonable business hours.

C. General Standards

1. All activities shall be performed in accordance with this Ordinance and applicable Department of Environmental Protection license and laws.
2. The licensee shall only spread septage or residuals between April 15 and November 15, inclusive, of each year.
3. The licensee shall not spread on frozen, snow covered or water saturated ground.
4. Landspreading of septage, residuals, and effluent from "dewatering facilities shall not exceed the agronomic need for nitrogen for the crops being grown
5. Whenever residuals or septage are planned to be tilled into or spread on the soil, this activity shall occur within 30-days of delivery of the material to the site. Field stacking of residuals- shall not be permitted for more than 30-days unless the material is in a permanent storage facility.
6. All activities shall conform to the setback and buffer requirements established by the Department of Environmental Protection.

D. Warnings and Public Access Restrictions

1. Public access shall be restricted at septage utilization sites in accordance with the Septage Management Rules of the Department of Environmental Protection, Chapter 420. At those sites where the Planning Board has

authorized a permit for the spreading of residuals, the licensee shall cause to be posted legible, visible, warning signs at all vehicles access points that potentially dangerous substances are or about to be spread in the permitted area.

2. Whenever the licensee abandons the site for the spreading or storage of sludge, septage or other residuals, a plan must be submitted within 60 days to the Planning Board for the removal of all appurtenances incidental to the spreading or storage of the residuals in order to restore the area as nearly as possible to its natural state. Failure to submit such a plan and to implement its agreed upon contents shall constitute a public nuisance.

XI. Soil Testing and Deed Restrictions

- A. Soil Testing. The applicant agrees to comply with and pay for testing of one or more fields where septage or residuals will be utilized. The applicant shall test the fields for nutrients and sewage sludge metals. The applicant shall conduct baseline testing, and testing after each year that septage or another residual is spread on the field.
- B. Deed Restriction. Within 30 days of a valid test result showing pollutants in site soil that are attributable to the spreading activity which exceed the standards in 06-096 CMR Chapter 419, Table 419.5 column B, the licensee shall cause to be filed with the Lincoln County Registry of Deeds the permit issued by the Planning Board, the license issued by the Department of Environmental Protection, and the analytical results of soil for the subject land.

XII. Monitoring and Enforcement

- A. The Code Enforcement Officer shall inspect permitted storage and/or spreading operations no less than once each year to monitor compliance with this Ordinance and Department of Environmental Protection permit requirements.
- B. If the Code Enforcement Officer finds any aspect of the operation to be outside of the permit conditions, the Code Enforcement Officer shall report such find to the Department of Environmental Protection. The Code Enforcement Officer shall monitor Department of Environmental Protection's response to the suspected violation and inform the Planning Board of all activity at its next meeting. It is the intent of this Ordinance to authorize the Town to take action if necessary, but not to duplicate or replace the authority and responsibility of the State to enforce its regulations.
- C. In the event that the Department of Environmental Protection is slow or unresponsive to the Town's complaint and the Code Enforcement Officer believes that the public health and safety is at risk, the Code Enforcement Officer shall notify the Planning Board and Health Officer, The Health Officer may temporarily suspend the permit, causing all storage and/or spreading to cease immediately. The Health Officer shall serve a written stop work order to the licensee both on site and by phone to the contact person on the application. The Health Officer shall also notify the Department of Environmental Protection, Planning Board, and Board of Selectmen of his/her action, causing the Chairman of the Board of Selectmen, if

necessary, to schedule an emergency Selectmen meeting within 7 days of the stop work order.

- D. The Board of Selectmen shall hold a hearing with the licensee within 7 days to consider the status of the permit. The permit holder shall be given an opportunity to respond to the allegations of non-compliance. The Board of Selectmen, based upon the evidence presented relevant to permit compliance, may without limitations, restore, modify, suspend or revoke the permit. The Town may pursue civil prosecution of any permit violations.
- E. By January 1 of each year, the Code Enforcement Officer shall file a report with the Planning Board with the results of all inspections of activities relating to this Ordinance in the Town of Whitefield for the previous calendar year. The report shall be sufficient for the Planning Board to determine whether the operations are in compliance with this Ordinance and Department of Environmental Protection license conditions.
- F. If at any time, as a result of any testing conducted by the Department of Environmental Protection, the Planning Board, Code Enforcement Officer or the licensee, pollutants attributable to spreading activities are found in quantities which may threaten environmental safety or human or animal health, the Planning Board may require additional testing at the licensee's expense and may modify the conditions of any permit. The licensee shall be granted an opportunity to present his/her point of view to the Planning Board before such action is taken. The licensee will be responsible for the cost of investigation and remediation if found to be the cause of the contamination.
- G. Regardless of any action taken by the State, the municipal officers or their authorized designee may exercise their authority under Title 30-A MRSA Section 4452.
- H. The Planning Board shall maintain a record of all inspections and complaints, notices of violation, resolutions of any violations and enforcement actions.
- I. In addition to and/or when the above action does not result in the correction or abatement of the violation or nuisance condition, the Board of Selectmen, are hereby authorized to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of the Ordinance and/or permit in the name of the municipality. The Board of Selectmen is hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and/or permit and recovering fines without Court action. Such agreement shall not allow a violation to continue unless there is clear and convincing evidence that the violation will result in a greater threat or hazard to public health and safety or will result in substantially greater environmental damage.
- J. Any person, including a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of the Ordinance or permit, shall be penalized in accordance with 30-A MRSA section 4452.

XIII . Waiver and Modifications of this Ordinance

- A. Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with this Ordinance, or where there are special circumstances of a particular site or utilization activity, the Board may waive any provisions of this Ordinance, provided that such waiver will not have the effect of nullifying the purpose of the Ordinance, the Comprehensive Plan, or any other Whitefield Ordinances or regulations.
- B. In granting any waiver, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements that are waived.

Shoreland Zoning Rules

Activities in the shoreland zone in Whitefield is regulated by rules of the State of Maine, Department of Environmental Protection. The Town does administer the rules.

A copy of the rule as is relevant to Whitefield is available for viewing at the Town Office. The rule is dated August 7, 1994.

For a general information only a more recent copy of the shoreland zoning rule is available online as the URL below. However, please be aware this version of the rule has been further amended and the August 7, 1994 version is still applicable to activities in Whitefield.

<http://www.maine.gov/sos/cec/rules/06/096/096c1000.doc>

Subdivision Ordinance of the Town of Whitefield

<u>Section</u>	<u>Title</u>	<u>Page</u>
1	Purpose	1
2	Authority and Administration	2
3	Definitions	2
3.1	Complete Application	2
3.2	Comprehensive Plan or Policy Statement	2
3.3	Contiguous Lots	2
3.4	Driveway	2
3.5	Dwelling Unit	2
3.6	Final Plan	2
3.7	High Intensity Soil Survey	2
3.8	100 Year Flood	3
3.9	Normal High Water Mark of Inland Waters	3
3.10	Person	3
3.11	Planning Board	3
3.12	Preliminary Subdivision Plan	3
3.13	Recording Plan	3
3.14	Re-subdivision	3
3.15	Road (including Collector Road, Industrial or Commercial Road, Minor Road, and Private Right of Way)	3
3.16	Subdivision	4
3.17	Subdivision, Major	4
3.18	Subdivision, Minor	4
3.19	Tract, or Parcel, of Land	4
4	Administrative Procedure	4
4.1	Purpose	4
4.2	Agenda	4
5	Pre-application Conference	4
5.1	Procedure	4
5.2	Submission	4
5.3	Contour Interval on On-Site Inspection	5
5.4	Rights not Vested	5
6	Minor Subdivision	5
6.1	General	5
6.2	Procedure	5
6.3	Submissions	6
7	Preliminary Plan for Major Subdivision	8
7.1	Procedure	8
7.2	Submissions	10

8	Final Plan for Major Subdivision	13
8.1	Procedure	13
8.2	Submissions	14
8.3	Final Approval and Filing	16
9	Revision to Approved Plans	18
9.1	Procedure	18
9.2	Submissions	18
9.3	Scope of Review	18
10	Enforcement	18
10.1	Inspection of Required Improvements	18
10.2	Violations and Enforcement	19
11	General Requirements	20
11.1	Buffer Strip	20
11.2	Basement Drainage	20
11.3	Conformance with other Laws, Regulations	20
11.4	Construction Prohibited	20
11.5	Ditches, Catch Basins	21
11.6	Easements	21
11.7	Lots and Density	21
11.8	Land Not Suitable for Development	21
11.9	Open Space Provision	21
11.10	Performance Guarantees	22
11.11	Sewage Disposal	23
11.12	Road Design Standards	23
11.13	Road Construction Standards	25
12	Waivers	28
13	Validity, Effective Date, Conflict of Ordinances, Filing	28
14	Appeals	28
15	Amendments	28

SUBDIVISION ORDINANCE OF THE TOWN OF WHITEFIELD

Section 1. Purpose

The purpose of this ordinance is to assure the comfort, convenience, safety, health and welfare of the people of the Town of Whitefield, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Whitefield, Maine, the Planning Board shall consider the following criteria and before granting approval shall make findings of fact that the provisions of this ordinance have been met and that the proposed subdivision will meet the guidelines of Title 30, M.R.S.A. Section 4956, subsection 3. The subdivision:

- 1.1 Shall not result in undue water or air pollution. In making this determination, the Board shall at least consider the elevation of the land above sea level and its relation to the flood plains; the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents;
- 1.2 Has sufficient water available for the reasonably foreseeable needs of the subdivision;
- 1.3 Shall not cause an unreasonable burden on an existing water supply, if one is to be utilized;
- 1.4 Shall not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- 1.5 Shall not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
- 1.6 Shall provide for adequate solid and sewage waste disposal;
- 1.7 Shall not cause an unreasonable burden on the provision of municipal services, including schools, maintenance of roads, solid waste disposal, etc.
- 1.8 Shall not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline; and
- 1.9 Is in conformance with this duly adopted subdivision ordinance, and the Town's Comprehensive Plan.
- 1.10 The subdivider has adequate financial and technical capacity to meet the above stated standards.
- 1.11 Whenever situated in whole or in part, within 250 feet of any pond, lake, river or tidal waters, shall not adversely affect the quality of the body of water or unreasonably affect the shoreline of that body of water.
- 1.12 Shall not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

- 1.13 All principal structures within a subdivision in a flood-prone area shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood.

Section 2. Authority and Administration

- 2.1 Authority: This Ordinance is adopted pursuant to and consistent ,with Title 30, M.R.S.A., Section 2151-A and Title 30, M.R.S.A., Section 4956, and shall be known and cited as the "Subdivision Ordinance of the Town of Whitefield".
- 2.2 Administration: The Planning Board of the Town of Whitefield shall administer this Ordinance. The provisions of this Ordinance shall apply to all of the land area of all proposed subdivisions, as defined, located in the Town of Whitefield.

Section 3. Definitions

In general, words and terms used in this ordinance shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined as follows.

- 3.1 Complete Application: An application shall be considered complete upon submission of the required fee and all information required by this ordinance for a Final Plan, or by a vote of the Board to waive the submission of required information. The Board shall issue a receipt to the applicant upon its determination that an application is complete.
- 3.2 Comprehensive Plan or Policy Statement: Any part or element of the overall plan or policy for development of Whitefield as defined in Title 30 M.R.S.A., Section 4961.
- 3.3 Contiguous Lots: Lots which adjoin at any line or point, or are separated at any point by a body of water less than 15 feet wide.
- 3.4 Driveway: A vehicular access-way serving two dwelling units or less.
- 3.5 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, sleeping, bathing and sanitary facilities; includes single family houses, and the units in a duplex, apartment house, multifamily dwellings, and residential condominiums.
- 3.6 Final Plan: The final drawings, on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, shall be recorded at the Registry of Deeds.
- 3.7 High Intensity Soil Survey: A map prepared by a Certified 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 seasonal high water table or

bedrock at that point. Single soil test pits and their evaluation for suitability for subsurface wastewater disposal systems shall not be considered to constitute high intensity soil surveys.

- 3.8 100 Year Flood: The highest level of flood that, on the average, is likely to occur once every 100 years (that has a one percent chance of occurring in any year).
- 3.9 Normal High Water Mark of Inland Waters: That line on the shores or banks on non-tidal waters which is apparent because of the different character of the contiguous soil or the vegetation due to the prolonged action of the water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial. By way of illustration, aquatic vegetation includes but is not limited to the following plants and plant groups: water lily, pond lily, pickerelweed, cattail, wild rice, sedges, rushes, and marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups: upland grasses, aster, lady slipper, wintergreen, partridge berry, sarsaparillas, pines, cedars, oaks, ashes, alders, elms and maples. In places where the shore or bank is of such character that the high water mark cannot be easily determined (rockslides, ledges, rapidly eroding or slumping banks), the normal high water mark shall be estimated from places where it can be determined by the above method.
- 3.10. Person: Includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.
- 3.11. Planning Board: The Planning Board of the Town of Whitefield. The Planning Board is also referred to in this ordinance as "Board"
- 3.12. Preliminary Subdivision Plan: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Board for its consideration.
- 3.13. Recording Plan: A copy of the Final Plan which is recorded at the Registry of Deeds and may be a series of plans if necessary to convey all required information in a manner that is easily readable.
- 3.14. Re-subdivision: The division of an existing subdivision or any change in the plan for an approved subdivision which affects the lot lines, including land transactions by the subdivider not indicated on the approved plan.
- 3.15. Road: Public and private ways such as alleys, avenues, boulevards, highways, streets, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way.

Road Classification:

Collector Road: A road servicing at least 20 lots or dwelling units, or roads which serve as feeders to arterial roads, and collectors of traffic from minor roads.

Industrial or Commercial Road: Roads servicing industrial or commercial uses.

Minor Road: A road servicing less than 20 lots or dwelling units.

Private Right of Way: A vehicular access way serving no more than eight dwelling units, which is not intended to be dedicated as a public way.

- 3.16. Subdivision: A subdivision shall mean the division of a tract or parcel of land as defined in Title 30, M.R.S.A., Section 4956.
- 3.17. Subdivision, Major: Any subdivision containing more than five lots or dwelling units, or any subdivision containing a proposed road.
- 3.18. Subdivision, Minor: Any subdivision containing five lots or dwelling units or less, and in which no road is proposed to be constructed.
- 3.19. Tract, or Parcel, of Land: All contiguous land in the same ownership, whether or not the tract is separated at any point by: an intermittent or non-navigable stream, or a private road established by the abutting land owners.

Section 4. Administrative Procedure

Purpose. The purpose of this section and Sections 5 through 8 is to establish an orderly, equitable and expeditious procedure for reviewing proposed subdivisions.

Agenda. In order to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda at least one week in advance of a regularly scheduled meeting by contacting the Chairperson. Applicants who attend a meeting and who are not on the Board's agenda may be heard only after all agenda items have been completed, and then only if a majority of the Board so votes.

Section 5. Pre-application Conference

- 5.1 Procedure.
 - A. Applicant presentation and submission of sketch plans.
 - B. Question and answer period. Board makes specific suggestions to be incorporated by the applicant into subsequent submissions.
 - C. Scheduling of on-site inspection.
- 5.2 Submission. The Pre-application Sketch Plan shall show, in simple sketch form, the proposed layout of roads, lots, buildings and other features in relation to existing conditions. The Sketch Plan, which may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It is recommended that the Sketch Plan be superimposed on or accompanied by a copy of the Tax Map(s) on which the land is located. The Sketch Plan shall be accompanied by 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.

- 5.3 Contour Interval and On-Site Inspection. Within 30 days, the Board shall determine and inform the applicant of the required contour interval on the Preliminary Plan in the case of a major subdivision, or Final Plan in the case of a Minor Subdivision, and hold an on-site inspection of the property. The applicant shall place "flagging" at the center line of any proposed roads, and at the approximate intersections of the road center lines and lot corners, prior to the on-site inspection.
- 5.4 Rights not Vested. The submittal or review of the pre-application sketch plan 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.

Section 6. Minor Subdivisions

- 6.1 General. The Board may require, where it deems it necessary for the protection of public health, safety, and welfare, that a Minor Subdivision comply with all or any of the submission requirements for a Major Subdivision.
- 6.2 Procedure.
 - A. Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a Final Plan at least seven days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Final Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.
 - B. All applications for Final Plan approval for Minor Subdivision shall be accompanied by an application fee of \$15.00 per lot or dwelling unit payable by check to Whitefield. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification.
 - C. Upon receipt of an application for Final Plan approval of a minor subdivision, the Board shall issue a dated receipt to the subdivider and shall notify in writing all owners of abutting property that an application for subdivision approval has been submitted.
 - D. Within 30 days of receipt of a Final Plan application form and fee, the Board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application.
 - E. The subdivider, or the duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.

- F. Upon determination that a complete application has been submitted for review, the Board shall determine whether to hold a public hearing on the Final Plan application.
- G. If the Board decides to hold a public hearing, it shall hold the hearing within 30 days of receipt of a complete application, and shall publish notice of the date, time and place of the hearing in a newspaper of general circulation in Whitefield at least two times, the date of the first publication to be at least seven days prior to the hearing.
- H. Within 30 days of a public hearing, or within 60 days of receipt of 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 subdivider, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

6.3 Submissions.

- A. The subdivision plan for a Minor Subdivision shall consist of two reproducible, stable based transparent originals, one to be recorded at the Registry of Deeds, the other to be filed at the Municipal Office and three copies of one or more maps or drawings 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. Space shall be provided for endorsement by the Board. A copy of the plan and all accompanying information shall be mailed to each Board member no less than seven days prior to the meeting.
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- B. The application for approval of a Minor Subdivision shall include the following information:
 - 1. Proposed name of the subdivision, or identifying title, and the name of the municipality in which is located, plus the Tax Map and Lot numbers.
 - 2. Verification of right, title or interest in the property.
 - 3. A field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a person duly licensed by the State to perform such work. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument to be set or found at each lot corner.
 - 4. A copy of the deed from which the survey was based. A copy of all deed restrictions, easements, rights-of-way or other encumbrances currently affecting the property.

5. A copy of any deed restrictions intended to cover all or part of the lots in the subdivision.
6. An indication of the type of sewage disposal to be used in the subdivision.
 - a. When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses prepared by a person duly licensed by the State to perform such work shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
7. Indication of the type of water supply system(s) to be used in the subdivision.
8. The location and size of existing and proposed sewage disposal systems, water supply systems, culverts, and drainage ways on or adjacent to the property to be subdivided.
9. The date the Plan was prepared, north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan, and the names of adjoining property owners.
10. A copy of the portion of the Lincoln County Soil Survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submittal of a high intensity soil survey or a report by a Registered Soil Scientist or Registered Professional Engineer experienced in geotechnics, indicating the suitability of soil conditions for those uses.
11. The number of acres within the proposed subdivision, location of property lines, existing buildings, water courses, vegetative cover type, and other essential existing physical features.
12. Contour lines at the interval specified by the Board, showing elevations in relation to Mean Sea Level.
13. 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 shall be delineated on the plan.

Section 7. Preliminary Plan for Major Subdivision

7.1. Procedure

- A. Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a Preliminary Plan at least seven days prior to a scheduled meeting of the Board. Failure to do so 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. All applications for Preliminary Plan approval for a Major Subdivision shall be accompanied by an application fee of \$15 per lot or dwelling unit, payable by check to the Town of Whitefield. In addition, the applicant shall pay a fee of \$25 per lot or dwelling unit to be deposited in a special account designated for that subdivision application, to be used by the Planning Board for hiring independent consulting services to review the application. If the balance in this special account is drawn down by 75%, the Board shall notify the applicant and require that an additional \$10 per lot or dwelling unit be deposited by the applicant. The Board shall continue to notify the applicant and require an additional \$10 per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any balance in the account remaining after a decision on the final plan application by the Board shall be returned to the applicant.
- C. The subdivider, or the duly authorized representative, shall attend the meeting of the Board to discuss the Preliminary Plan.
- D. Upon receipt of an application for Preliminary Plan approval of a major subdivision, the Board shall issue a dated receipt to the subdivider and shall notify in writing all owners of abutting property that an application for subdivision approval has been submitted.
- E. Within 30 days of receipt of a Preliminary Plan application form and fee, the Board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application.
- F. Upon determination that a complete application has been submitted for review, the Board shall determine whether to hold a public hearing on the Preliminary Plan application. If the Board decides to hold a public hearing, it shall hold the hearing within 30 days of receipt of a complete application, and shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the Town of Whitefield at least two times, the date of the first publication to be at least seven days prior to the hearing.
- G. The Board shall, within 30 days of a public hearing, or within 60 days of receipt of 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 subdivider, make findings of fact on the application, and approve, approve with conditions, or deny the Preliminary Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

H. The Board shall notify the Road Commissioner, School Superintendent, Board of Selectmen, and Fire Chief of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi-family, commercial or industrial buildings. The Board shall request that these officials comment upon the adequacy of the Town's existing facilities to service the proposed subdivision. In addition, the Board shall request the following specific information:

1. From the Fire Chief:

- a. Ability to provide adequate fire protection to this project using existing equipment and personnel;
- b. Identifying equipment and capability improvements needed to provide adequate fire protection to this project, including estimated cost of such enhancements;
- c. Percent of present capacity at which the fire company is operating and an estimate of when 100% capacity will be reached;
- d. Adequacy of road access to the project for emergency vehicles;
- e. Availability of fire fighting water resources in the project vicinity; and
- f. Effect of the project on town insurance ratings based on present fire company capabilities.

2. From the School Superintendent:

- a. Expected additional student loading due to the project;
- b. Ability to absorb anticipated additional student loading and provide necessary busing of subdivision students with existing assets;
- c. Additional assets needed to provide above services and associated costs;
- d. Present percent capacity at which school facilities are operating and projected 100% capacity attainment date; and
- e. Adequacy of road access for school buses.

I. 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 which 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 in the Board's opinion may be waived without jeopardy to the public health, safety, and general welfare; and
 3. The amount of all performance guarantees which it will require as prerequisite to the approval of the Final Plan;
- J. 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 of the Board upon fulfillment of the requirements of this ordinance and the conditions of preliminary approval, if any. Prior to the approval of the Final Plan, the Board may require additional changes as a result of the further study of the subdivision as a result of new information received.

7.2. Submissions

- A. Location Map. The Preliminary Plan shall be accompanied by a Location Map 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 subdivision in the proximity of the proposed subdivision.
 2. Locations and names of existing and proposed roads.
 3. 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.
- B. Preliminary Plan. The Preliminary Plan shall be submitted in three copies of one or more maps or drawings which 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. The Board may allow plans for subdivisions containing more than 100 acres to be drawn at a scale of not more than 200 feet to the inch provided all necessary detail can easily be read. A copy of the preliminary plan and all accompanying information shall be mailed to each Board member no less than seven days prior to the meeting. The following information shall either be shown on the Preliminary Plan or accompany the application for preliminary approval:
1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Tax Map and Lot Numbers.
 2. Verification of right, title or interest in the property.

3. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a person duly licensed by the State to perform such work. The corners of the tract shall be located on the ground and marked by monuments.
4. A copy of the deed from which the survey was based. A copy of all covenants or deed restrictions, easements, rights-of- way, or other encumbrances currently affecting the property.
5. A copy of any covenants or deed restrictions intended to cover all or part of the lots in the subdivision.
6. Contour lines at the interval specified by the Planning Board, showing elevations in relation to Mean Sea Level.
7. The number of acres within the proposed subdivision, location of property lines, existing buildings, water courses, vegetative cover type, and other essential existing physical features.
8. Indication of the type of sewage disposal to be used in the subdivision.
 - a. When sewage disposal is to be accomplished by subsurface sewage disposal systems, test pit analyses shall be provided that are prepared by a person duly licensed by the State to perform such work. A map showing the location of all test pits dug on the site shall be submitted.
9. Indication of the type of water supply system(s) to be used in the subdivision.
10. The date the Plan was prepared, true and magnetic north point, graphic map scale, names and addresses of the, record owner, subdivider, and individual or company who prepared the plan.
11. The names and addresses of owners of record of adjacent property, including any property directly across an existing public road from the subdivision.
12. The location and size of existing and proposed sewage disposal systems, water supply systems, culverts, and drainage ways on or adjacent to the property to be subdivided.
13. The location, names and widths of existing and proposed roads, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
14. The proposed lot lines with approximate dimensions and lot areas.

15. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
16. The location of any open space to be preserved and a description of proposed improvements and its management.
17. A copy of that portion of the Lincoln County Soil Survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submittal of a high intensity soil survey or a report by a Registered Soil Scientist or Registered Professional Engineer experienced in geotechnics, indicating the suitability of soil conditions for those uses.
18. 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 shall be delineated on the plan.
19. A hydrogeologic assessment, prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when 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.
20. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours.
21. For subdivisions involving 40 or more parking spaces or projected to generate more than 400 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 road giving access to the site and neighboring roads which may be affected, and recommended improvements to maintain the desired level of service on the affected roads. Trip generation rates used shall be the mean value reported in Table 3 of Development and Application of Trip Generation Rates, Kellerco, Inc., published by the Federal Highway Administration, January, 1985.
22. A list of construction items with cost estimates that will be completed by the developer prior to the sale of lots. A separate list of construction and maintenance items, with both capital and annual operating cost estimates that must be financed by the municipality, or quasi-municipal districts. These lists shall include but not be limited to:

Schools, including busing

Road maintenance and snow removal

Police and fire protection
Solid waste disposal
Storm water drainage

23. The developer shall provide an estimate of the net increase in taxable assessed valuation at the completion of the construction of the subdivision.

Section 8. Final Plan for Major Subdivision

8.1. Procedure

- A. The subdivider shall, within six months after the approval of the Preliminary Plan, file with the Board an application for approval of the Final Plan at least seven days prior to a scheduled meeting of the Board. If the application for the Final Plan is not submitted within six months after Preliminary Plan approval, the Board may refuse without prejudice to act on the Final Plan and require resubmission of the Preliminary Plan. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any recommendations made by the Board.
- B. All applications for Final Plan approval for Major Subdivision shall be accompanied by an application fee of \$20 per lot or dwelling unit payable by check to the Town of Whitefield.
- C. Prior to submittal of the Final Plan application, the following approvals shall be obtained in writing, where appropriate:
 - 1. Maine Department of Environmental Protection, under the Site Location of Development Act, Alteration of Coastal Wetlands Act, Great Ponds Act, Fresh Water Wetlands Act, Alteration of Streams and Rivers Act, or if a Wastewater Discharge License is needed.
 - 2. Maine Department of Human Services, if the subdivider proposes to provide a central water supply system.
 - 3. Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system(s) is to be utilized.
- D. The subdivider, or duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.
- E. Upon receipt of an application for Final Plan approval of a major subdivision, the Board shall issue a dated receipt to the subdivider and shall notify in writing all owners of abutting property that an application for subdivision approval has been submitted.
- F. Within 30 days of receipt of a Final Plan application form and fee, the Board shall notify the applicant in writing whether or not the application is

complete, and what, if any, additional submissions are required for a complete application.

- G. Upon determination that a complete application has been submitted for review, the Board shall determine whether to hold a public hearing on the Final Plan application.
- H. A public hearing may be held by the Board within 30 days after the issuance of a receipt for the submittal of a complete application. This hearing shall be advertised in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days before the hearing and the notice of the hearing shall be posted in at least three prominent places at least seven days prior to the hearing.
- I. When a subdivision is located within 500 feet of a municipal boundary, and a public hearing is to be held, the Board shall notify the Clerk and the Planning Board of the adjacent municipality involved, at least ten days prior to the hearing.
- J. Before the Board grants approval of the Final Plan, the subdivider shall meet the performance guarantee requirements contained in Section 11.10.
- K. If the subdivision is located in more than one municipality, the Board may have a joint meeting with the Planning Board of the adjacent municipality to discuss the Plan.
- L. The Board shall within 30 days from the public hearing or within 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 subdivider make findings of fact on the application, and conclusions relative to the standards contained in Title 30, M.R.S.A. 4956 and in this ordinance. If the Board finds that all standards of the Statute and this ordinance have been met, they shall approve the Final Plan. If the Board finds that any of the standards of the Statute or 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 a denial or any conditions shall be stated in the records of the Board.

8.2. Submissions.

The Final Plan shall consist of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivision 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. Space shall be reserved on the plan for endorsement by the Board. Two reproducible, stable based transparent originals, one to be recorded at the Registry of Deeds, the other to be filed at the Municipal Offices, and three copies of the plan shall be submitted. The subdivider may instead submit one reproducible stable based transparent original of the Final Plan and one Recording Plan with three copies of the Final Plan. In addition, one copy of the Final Plan, reduced to a size of 8 1/2 by 11 inches or 11 by 17 inches, and all

accompanying information shall be mailed to each Board member no less than seven days prior to the meeting.

The application for approval of the Final Plan shall include the following information:

- A. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Tax Map and Lot numbers.
- B. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a person duly licensed by the State to perform such work. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.
- C. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses and other essential existing physical features.
- D. Indication of the type of sewage disposal to be used in the subdivision.
- E. Indication of the type of water supply system(s) to be used in the subdivision.
- F. The date the Plan was prepared, magnetic and true north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan.
- G. The location and size of existing and proposed sewage disposal systems, water supply system, culverts, and drainage ways on or adjacent to the property to be subdivided.
- H. The location, names, and widths of existing and proposed roads, highways, easements, building lines, 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 road line, lot line, and boundary line to be readily determined and reproduced upon the ground. These lines shall be tied to reference points previously established. The length of all straight lines, the deflection angles radii, length of curves and central angles of curves, tangent distances and long chord bearing for each road shall be included.
- I. A soil erosion and sedimentation control plan, prepared in accordance with the standards contained in the latest revised edition of the Environmental Quality Handbook published by the U.S. Soil Conservation Service or a comparable set of standards found to be acceptable by the Board.
- J. A plan for the disposal of surface drainage waters prepared by a Registered Professional Engineer, in accordance with the latest revised edition of Technical Release 55, Urban Hydrology for Small Watersheds, published

by the U.S. Soil Conservation Service or a comparable set of standards found to be acceptable by the Board.

- K. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers of cession to the municipality of all public 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 maintained shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer of cession shall be included.
- L. A list of construction items with cost estimates that will be completed by the developer prior to the sale of lots. A separate list of construction and maintenance items, with both capital and annual operating cost estimates, that must be financed by the municipality, or quasi-municipal districts. These lists shall include but not be limited to:
 - Schools, including busing
 - Road maintenance and snow removal
 - Police and fire protection
 - Solid waste disposal
 - Storm water drainage
- M. The developer shall provide an estimate of the net increase in taxable assessed valuation at the completion of the construction of the subdivision.
- N. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood evaluation shall be delineated on the plan.

8.3 Final Approval and Filing.

- A. No plan shall be approved by the Board as long as the subdivider is in violation of any provisions of this Ordinance on a previously approved Plan or where no plan was ever filed or approved.
- B. Upon findings of fact and determination that all standards in Title 30, M.R.S.A. 4956 and this ordinance 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 Selectmen. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within 90 days of the date upon which the plan is approved and signed by the Board shall become null and void.
- C. At the time it grants Final Plan approval, the Board may permit the subdivision to be developed in phases subject to any conditions the Board

deems necessary in order to insure 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.

- D. 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 the revised Final Plan is first submitted and the Board approves any modifications, except in accordance with Section 9. The Board shall make findings that the revised plan meets the standards of Title 30, M.R.S.A. 4956, and this ordinance. 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.
- E. The approval by the Board of a subdivision plan shall not be deemed or constitute or be evidence of any acceptance by the municipality of any road, 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 Municipal Officers covering future deed and title, dedication, and provision for the cost or grading, development, equipment, and maintenance of any such dedicated area.
- F. Failure to commence substantial construction of the subdivision within five years of the date of approval and signing of the Plan shall render the Plan null and void. In the case of a phased subdivision, failure to commence substantial construction of any phase within five years of the anticipated date of commencement as indicated by the developer at the time of approval shall render the approval of such phases null and void. Upon determining that a subdivision IS approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

Section 9. Revisions to Approved Plans

- 9.1. Procedure. An applicant for a revision to a previously approved plan shall, at least seven 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.

9.2. Submissions. The applicant shall submit a copy of the approved plan, as well as three 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 this ordinance.

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.

Section 10. Enforcement

10.1. Inspection of Required Improvements

A. At least five days prior to commencing each major phase of construction of required improvements, the subdivider or builder shall:

1. Notify the Code Enforcement Officer in writing of the time of the commencement of construction of such improvements, so that the Municipal Officers can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.

2. Deposit with the Municipal Officers a check for the amount of 2 % of the estimated costs of the required improvements to pay for the costs of inspection.

B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, such a report shall be in writing to the Municipal Officers, Planning Board, and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the municipality's rights.

C. If at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Town. For major modifications, such as relocation of rights-of- way, property boundaries, and changes of grade by more than 1 %, etc., the subdivider shall obtain permission to modify the plans from the Board.

D. At the close of each construction season the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By

December 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 to do the job they were designed for. The report shall also include a discussion and recommendations of any problems which were encountered.

- E. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a Registered Land Surveyor, stating that all documentation shown on the plan has been installed.
- F. Upon completion of road construction and prior to a vote by the Municipal Officers to submit a proposed town way to a town meeting, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed town way meets or exceeds the design and construction requirements of this ordinance. 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.
- G. The subdivider, builder or home owners association shall be required to maintain all improvements and provide for snow removal on roads until acceptance of the improvements by the municipality.

10.2. Violations and Enforcement.

- A. 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 this ordinance.
- B. No person, firm, corporation or other legal entity shall 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. No person, firm, corporation or other legal entity shall convey, offer or agree to convey any land in an approved subdivision which is not shown on the Final Plan as a separate lot.
- D. Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by this ordinance shall be punished by a fine of not less than \$100, and not more than \$5,000 for each such conveyance, offering or agreement. The Municipality shall institute proceedings to enjoin the violation of this section, and may collect attorney's fees and court costs if it is the prevailing party.
- E. No public utility, 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.

- F. 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 Final Plan approved as provided in this ordinance and recorded in the Registry of Deeds.
- G. No lot in a subdivision shall be sold, leased or otherwise conveyed before the road upon which the lot fronts is completed in accordance with this ordinance up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the road upon which the unit is accessed is completed in accordance with this ordinance.

Section 11. General Requirements

In reviewing applications for a subdivision, the Board shall consider the following general 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.

- 11.1 Buffer Strip: The Planning Board shall require a buffer strip when the proposed subdivision will be located adjacent to a use where separation is desirable.
- 11.2 Basement Drainage: If lots are being created to accommodate structures with basements, the subdivider shall show that the basement can be drained by gravity to the ground surface, or storm sewers, if they are required to be installed.
- 11.3 Conformance with other Laws, Regulations: The proposed subdivision shall be in conformance with all pertinent local, state, and federal ordinances, statutes, laws and regulations and Whitefield's Comprehensive Plan. If the proposed subdivision meets the definition of subdivision as defined in the Site Location Act, Title 38, M.R.S.A., Section 482, the subdivider must secure the approval of the Board of Environmental Protection prior to approval, approval with conditions, or denial, of the Final Plan by the Planning Board. The Planning Board may deny approval of the subdivision even though the Board of Environmental Protection has granted an approval under the provisions of the Site Location Act.
- 11.4 Construction Prohibited: No utility installations, no ditching, grading, or construction of roads, no grading of land or lots, and no construction of buildings shall be done on any part of the subdivision until a Final Plot Plan of the subdivision has been prepared, submitted, reviewed, approved, and endorsed as provided by this Ordinance, nor until an attested copy of the Final Plot Plan so approved and endorsed has been recorded by the subdivider in the Registry of Deeds.
- 11.5 Ditches, Catch Basins: The Planning Board may require the installation of ditches, catch basins, piping systems, and other appurtenance for the conveyance, control, or disposal of surface waters. Adequate drainage shall be provided so as to reduce the danger of flooding and erosion.
- 11.6 Easements: The Planning Board may require easements for sewerage, drainage, or other utilities.

11.7 Lots and Density:

- A. The lot size, width, depth, shape and orientation and the minimum setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated, and shall conform to any local Ordinances, standards, and regulations.
- B. If a lot on one side of a stream, tidal water, road or other similar barrier fails to meet the minimum requirements for lot size, it shall not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.

11.8 Land Not Suitable for Development: The Planning Board shall not approve for buildings or dwellings such portions of any proposed subdivision that are within the 100-year frequency flood plain, unless all principal structures are constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation, or on land which must be filled or drained or on land created by diverting a perennial stream. In no instance shall the Board approve any part of a subdivision located on filled or drained Great Ponds.

11.9 Open Space Provisions:

- A. The Planning Board shall require that a proposed subdivision design include a landscape plan that will show the existing trees (10" dia. or more) to be preserved, the replacement of trees and vegetation, graded contours, streams, and the preservation of scenic, historic, or environmentally desirable areas. The road and lot layout shall be adapted to the topography. Extensive grading and filling shall be avoided as much as possible.
- B. Where the proposed subdivision abuts a lake, pond, river or perennial stream, the Planning Board may require, where feasible and appropriate, that the subdivider reserve an area of land abutting the waterbody or water course as an open space and/or recreational area for use by property owners in the subdivision. The instruments of conveyance (deeds) from the subdivider to the property owners in the subdivision shall provide for an access right of way to this reserved land. The cost of maintenance and development of the reserved land shall be borne by the property owners of the subdivision.
 - 1. The manner of providing for the cost of development and/or maintenance of the reserved open space shall be included in the instrument of conveyance to each property owner of the subdivision.
- C. If the proposed subdivision contains any identified historical or archaeological sites, or any areas identified by the Maine Critical Areas Program as rare and irreplaceable natural areas, these areas shall be suitably protected by appropriate covenants and management plans.

11.10. Performance Guarantees:

- A. The Planning Board shall require that the subdivider file with the Board before final approval of the Final Plot Plan a performance guarantee in an amount sufficient to defray all expenses of the proposed public improvements. This may be tendered in the form of a certified check payable to the Town of Whitefield, a savings account or certificate of deposit naming the Town as owner, an irrevocable letter of credit from a financial institution, or a performance bond running to the Town and issued by a surety company acceptable to the Town. The conditions and amount of such performance guarantees shall be determined by the Planning Board with the advice of the various municipal officers concerned. The amount shall be at least equal to the total cost of furnishing, installing, connecting, and completing all of the road grading, paving, storm drainage, landscaping, screening, and utilities or other improvements specified on the Final Plan within two years of the date of the performance guarantee.
- B. The Planning Board may recommend a maximum extension of 12 months to the guaranteed performance period when the subdivider can demonstrate, to the satisfaction of the Board and the municipal officers, good cause for such extension. Such recommendation shall be referred to the Selectmen for official action.
- C. Before a subdivider may be released from any obligation requiring his guarantee of performance, the Planning Board shall require certification from the various municipal officers to the effect that all improvements have been satisfactorily completed in accordance with all applicable Town ordinances - regulations and standards and with the terms and conditions of Planning Board approval.
- D. The Planning Board may, at its discretion, waive the requirements of a performance guarantee and recommend execution of such agreements, conditions, or other terms as shall be deemed necessary and proper by the Board. Such agreement, if executed with the town, shall be endorsed in writing on the Final Plan and shall provide that the Planning Board may approve the Final Plan or any part thereof, on the condition that no lot in the subdivision shall be sold and no permit shall be issued for construction of any building on any lot on any road in the subdivision until it shall have been certified in the manner set forth in paragraph 3 above that all improvements have been made within 2 years of the date of executing such conditional agreement.

11.11. Sewage Disposal

The developer shall submit evidence of soil suitability for subsurface sewage disposal prepared by a person duly licensed by the State to perform such work in full compliance with the requirements of the State or Maine Subsurface Wastewater Disposal Rules. In addition, on lots in which the limiting factor has been identified as being within 24 inches 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 so as not to be built upon.

11.12. Road Design Standards

- A. These design standards shall be met by all roads within subdivisions, and shall control the roadway, shoulders and culverts.
- B. Roads shall be designed to discourage through traffic on minor roads within a residential subdivision.
- C. Reserve strips controlling access to roads shall be prohibited except where their control is definitely placed with the municipality.
- D. Where a subdivision borders an existing narrow road (not meeting the width requirements of the standards of roads in this ordinance), or when the Comprehensive Plan indicates plan for realignments or widening of a road that would require use of some of the land in the subdivisions, the plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) Purposes". Land reserved for such purposes shall not be included in computing lot area or setback requirements of the Town. When such widening or realignment is indicated on the Official Map, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the Town or State.
- E. Any subdivision expected to generate average daily traffic of 200 trips per day or more, shall have at least two road connections with existing public roads, roads shown on an Official Map, or roads on an approved subdivision plan for which performance guarantees have been filed and accepted. Any road with an average daily traffic of 200 trips per day or more, shall have at least two road connections leading to existing public roads, roads shown on an Official Map, or roads on an approved subdivision plan for which performance guarantees have been filed and accepted.
- F. The following design standards apply according to road classification.

	<u>COLLECTOR</u> ¹	<u>MINOR</u> ¹	<u>PRIVATE</u> ¹	<u>IND. &</u> ¹ <u>COMM.</u>
Minimum Right-of-Way Width	60'	50'	50'	60'
Minimum Roadway Width	24'	20'	18'	30'
Minimum Grade	1%	1%	1%	1%
Maximum Grade	6%	8%	8%	5%
Minimum Center Line Radius	175'	110'	110'	230'
Minimum Tangent between Reverse Curves	100'	50'	50'	100'

Roadway Crown	¼ / ft	⅜ / ft	¾ / ft	¼ / ft
Minimum Angle of Road Intersections	90	75	75	90
Maximum Grade Within 75 Feet of Intersection	2%	2%	2%	2%
Minimum Curb Radii at Intersections	25'	20'	15'	30' ³
Minimum Right of Way Radii at Intersections	10'	10'	10'	15'
Minimum Width of Shoulders	3'	3'	3'	4'

- G. The center line of the roadway shall be the center line of the right- of-way.
- H. Dead End Roads. In addition to the design standards above, dead-end roads shall be constructed to provide a cul-de-sac turn- around with the following minimum requirements for radii: Property line: 65 feet; outer edge of pavement 56 feet. The Board may require the reservation of a 20 foot easement in line with the road to provide continuation of pedestrian traffic or utilities to the next road. The Board may also require the reservation of a 50 foot easement in line with the road to provide continuation of the road where future subdivision is possible. Private roads may provide a permanent "T" turnaround in lieu of a cul-de-sac. It shall be a minimum of 25 feet in length by 15 feet in width. The right-of-way dimensions shall be 50 feet in length by 30 feet in width.
- I. Grades, Intersections, and Sight Distances.
- Grades of all roads shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade\standards above.

1 See Section 3 for the definition as used in this ordinance.

2 Road intersection angles shall be as close to 90 degree as feasible, but no less than the listed angle.

3 Shall be based on turning radii of expected commercial vehicles, but no less than 30 feet.

- All changes in grade shall be connected by vertical curves in order to provide the following minimum stopping sight distances based on the road design speed.

Design Speed (mph)	<u>20</u>	<u>25</u>	<u>30</u>	<u>35</u>
Stopping Sight Distance (ft.)	125	150	200	250

Stopping sight distance shall be calculated with a height of eye at 3.5 feet and the height of object of 0.5 feet.

- Where new street intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below. Sight distances shall be measured from the

driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curbline or edge of shoulder, with the height of the eye 3 1/2 feet, to the top of an object 4 1/2 feet above the pavement.

Posted Speed Limit (mph)	<u>25</u>	<u>30</u>	<u>35</u>	<u>40</u>	<u>45</u>	<u>50</u>	<u>55</u>
Sight Distance (ft.)	250	300	350	400	450	500	550

Where necessary, corner lots shall be cleared of all growth and sign obstructions, including ground excavation, to achieve the required visibility.

4. Cross (four-cornered) road intersections shall be avoided insofar as possible, except as shown on the Comprehensive Plan or at other important traffic intersections. A minimum distance of 200 feet shall be maintained between center lines of side roads.

11.13. Road Construction Standards

A. Minimum thickness of material after compaction.

<u>Road Materials</u>	<u>Collector</u>	<u>Minimum Requirements</u>		<u>Comm/Indust.</u>
		<u>Minor</u>	<u>Private</u>	
Aggregate Sub-Base Course (Max. Size Stone 6")	18"	18"	16"	18"
Aggregate Base Course	3"	3"	3"	3"
Hot Bituminous Pavement				
Total Thickness	3"	3"	OPTIONAL	4"
Surface Course	1 1/4"	1 1/4"		1 1/2"
Base Course	1 3/4"	1 3/4"		2 1/2"

B. Preparation

1. 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 foot intervals.
2. Before grading is started, the right -of-way shall be cleared of all stumps, roots, brush, and other objectionable material to within ten feet of the outside edge of the shoulders on both sides. All ledge, large boulders, and tree stumps shall be removed from the right-of-way.
3. All organic materials shall be removed to a depth of two feet below the subgrade of the roadway. Boulders shall also be removed to a depth of two feet below the subgrade of the roadway. On soils which have been identified by the Road Commissioner as not suitable for roadways, the subsoil shall be removed from the road site to a depth

of two feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base below. As an alternative, the Board may require the use of an engineering fabric (geotextile) which meets the appropriate MDOT specifications (which were 620 and 722 for Stabilization Geotextile on March 1, 1989).

4. Except in a ledge cut, side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, loamed, limed, fertilized, and seeded according to the specifications of an erosion and sedimentation control plan prepared by the developer.
5. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the end of the right-of-way prior to paving.

C. Base and Pavement

1. Base

- a. The Aggregate Sub-base Course shall be sand or gravel of 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 following grading requirements:

Aggregate Sub-base Type "D"

<u>Sieve</u> <u>Destination</u>	<u>Percentage by Weight</u> <u>Passing Square Mesh Sieves</u>
¼ inch	25-70%
No. 40	0-30%
No. 200	0-5%

Aggregate for the Sub-base shall contain no particles *of* rock which will not pass the six inch square mesh sieve.

- b. The Aggregate Base Course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay in other deleterious substances. The gradation of the part that passes a three inch square mesh sieve shall meet the following grading requirements:

Aggregate Base Course

<u>Sieve</u> <u>Destination</u>	<u>Percentage by Weight</u> <u>Passing Square Mesh Sieves</u>
------------------------------------	--

½ inch	45-70%
¼ inch	30-55%
No. 40	0-20%
No. 200	0-5%

Aggregate for the base shall contain no particles of rock which will not pass the three inch square mesh sieve.

2. Pavement Joints. Where pavement joints an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.
3. Pavements.
 - a. Minimum standards for the base layer of pavement shall be the Maine Department of Transportation's specifications for plant mix grade 8 with a typical liquid asphalt content between 5.2 % and 6.0% by weight.
 - b. Maximum standards for the surface layer of payment shall meet the Maine Department of Transportation's specifications for plant mix grade C with a typical liquid asphalt content between 6.0% and 7.0% by weight.
 - c. Placement of hot bituminous pavements shall meet the Maine Department of Transportation's specifications for Construction Requirements in Section 401.
4. Culverts
 - a. Culverts shall be a minimum of 18 inches in diameter and shall be of a material acceptable to the Planning Board.

Section 12. Waivers:

- 12.1 Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with any provision of this Ordinance, or where there are special circumstances of a particular plan, it may waive any provision provided that such waiver will not have the effect of nullifying the purpose of this Ordinance, the Comprehensive Plan, the Shoreland Zoning Ordinance, or any other ordinance or regulation.
- 12.2 In granting any waiver, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the provisions so waived.

Section 13. Validity, Effective Date, Conflict of Ordinances, Filing:

- 13.1 Validity: Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance, and to this end, the provisions of this Ordinance are hereby declared to be severable.
- 13.2 Effective Date: The effective date of this Ordinance, as amended, is March 18, 1989.
- 13.3 Conflict of Ordinances: This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other ordinance, rule, regulation, by-law, permit, or provision of law. Where this Ordinance imposes a higher standard for the promotion and protection of public health, safety, and welfare, the provisions of this Ordinance shall prevail.
- 13.4 Filing: A certified copy of this Ordinance shall be filed with the Register of Deeds, according to the requirements of State law.

Section 14. Appeals

If the Planning Board shall disapprove an application for a subdivision or grant approval with conditions that are objectionable to any person, affected directly or indirectly, or when it is claimed that the provisions of this Ordinance do not apply, or that the true intent and meaning of this Ordinance have been misconstrued or wrongfully interpreted, any person, affected directly or indirectly, may appeal in writing from the decision of the Planning Board to the Whitefield Board of Appeals established in accordance with Title 30, M.R.S.A., Section 2411, as adopted by the Town of Whitefield in Special Town Meeting, June 27, 1974. Said appeal must be made within 30 days of the Planning Board's written decision.

Section 15. Amendments

This Ordinance may be amended by a majority vote in a special or regular Town Meeting of Whitefield.

Wireless Communications Facilities Ordinance

1.1 Title and Effective Date

This Ordinance shall be known and cited as the "Wireless Communications Facility Ordinance" of Whitefield, Maine (hereinafter "the Ordinance"). This Ordinance becomes effective as of March 20, 2004.

1.2 Authority

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section I of the Maine Constitution, the provisions of Title 30-A M.R.S. A. Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, Title 30-A M.R.S.A. Section 4312 et seq.

1.3 Purpose

The purpose of this Ordinance is to provide a process and to set standards for the construction, Expansion and Modification of wireless communications facilities (WCF), to protect the historical, scenic and visual character of the Town of Whitefield, to comply with federal laws and regulations regarding wireless communications facilities and to provide for Reasonable Access.

1.4 Applicability

This Ordinance applies to all construction, expansion, modification, maintenance, and operation of wireless communications facilities except:

- A. Emergency WCF - Temporary wireless communications facilities for emergency communication by public officials.
- B. Maintenance or repair - Maintenance or repair of a WCF and related equipment provided that there is no change in the height or any other dimension of the facility.
- C. Temporary wireless communications facility - Temporary WCF, in operation for a maximum period of seven (7) days.
- D. Antenna as Accessory Uses - An antenna, other than parabolic dish antenna greater than five (5) feet in diameter, that receives only and is accessory to a permitted use, that is, related to such use but clearly incidental and subordinate.

1.5 Approval Authority

No person or agency shall construct or expand a WCF without approval of the Code Enforcement Officer (CEO) or the Planning Board as follows:

- A. Approval by the CEO is required for:
 - 1. A WCF no greater than 65 feet in height used for licensed amateur ("Ham") radio, which is not additionally licensed or used for any commercial purpose, other than by the licensed amateur radio operator, but only if there is no other WCF on the parcel on which the WCF is to be located.

2. Collocation on an existing Monopole WCF or other existing WCF, and which does not increase the height of the Support Structure.
3. A Disguised WCF no greater than 35 feet in height.
4. A Hidden WCF.

The CEO may, at his discretion, elect to have the Planning Board rather than the CEO, review any such application for a WCF for approval.

B. Approval by the Planning Board is required for any other WCF permitted under this Ordinance.

1.6 Technical Assistance

The CEO or Planning Board may obtain services of professional engineers and other consultants to review and inspect the applicant's proposal or any portion thereof. Such services are permitted to include but are not limited to engineering and technical review, planning review, environmental assessment review, soils review, mechanical and structural engineering review, and the investigation of possible alternative WCFs described in the lists of preferences herein. Such costs shall be borne by the applicant.

1.7 Definitions of Prohibited WCFs and Definitions and Priorities of Permissible WCFs

A. Prohibited WCFs

New WCFs with either guy wires or latticed towers are prohibited.

B. Monopole WCFs ,

Ground Mounted WCFs greater than 85 feet in height are deemed to be Monopole WCFs, for the purposes of this ordinance.

C. Other WCFs

Disguised WCFs, roof mounted WCFs, structure mounted WCFs, ground mounted WCFs, micro cell WCFs, Mast WCFs, Whip antenna WCFs and other short and small WCFs are permitted in any area of the Town of Whitefield. Hidden WCFs are permitted in any area of the Town of Whitefield.

D. Priority List for WCFs

New WCF must be constructed or located according to the following list of preference or priority, listed from most preferred to least preferred:

1. Hidden WCFs.
2. Collocation on an existing Support Structure.
3. Disguised WCFs.
4. Location on existing structures, including but not limited to buildings, water towers, utility poles and towers, light poles or light stanchions, provided that such installation preserves the character and integrity of those structures.

5. Ground Mounted WCFs.
6. Location on a new Monopole WCF.

1.8 Approval Process

In accordance with Section 1.5 above, the CEO or Planning Board shall review applications for WCFs..

A. Pre-Application Conference

Applicants seeking approval of either the CEO or the Planning Board under this ordinance shall meet with the Planning Board prior to filing an application according to this ordinance.

The Planning Board shall explain the ordinance provisions as well as application forms and fees required under this ordinance.

1. The developer shall present to the Planning Board at this time, for informal review and comment, a sketch plan of the proposed development. The sketch plan shall consist of a rough outline of the proposed development, and may be a free hand, penciled sketch of the parcel, showing the proposed layout of buildings, roads and other features which may be of assistance to the Planning Board in making its determinations.
2. The Planning Board may request that the developer arrange for an inspection of the site with the Planning Board, or an individual appointed by the Board Chairman to act as the Board's representative.
3. No binding commitments shall be made between the developer and the Planning Board at this stage. The purpose of the pre-application meeting shall be to understand what is proposed, what is possible, and what is acceptable.

B. Permit Application

1. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the Planning Board.
2. All applications shall be signed by the owner or owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property then that person shall submit a letter of authorization from the owner or lessee.
3. All application shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.

C. Application Procedures

1. The application shall be filed with the Planning Board or CEO as appropriate for review accompanied by an appropriate application fee made payable to the Town of Whitefield. In the event the Planning Board determines to hold a public hearing on an application, it shall hold such public hearing within 30 days of having received a complete development application, and shall cause notice of the date, time and place of such hearing to be given to the developer and to be published in a newspaper of general circulation in Whitefield at least 2 times; the date of the first publication shall be a least 7 days prior to the hearing. The decision to hold

a public hearing is discretionary, and in making its decision, the Planning Board may consider the size and type of development, the community impact, and whether any requests for such a hearing have been received. Upon presentation of a petition signed by 15 or more voters of the Town, the Board shall convene a public hearing.

2. The Planning Board shall, within 30 days of a public hearing, or within 60 days of having received a completed application, if no hearing is held, or within such other time limit as may be mutually agreed to, issue an order denying or granting approval of the application, or granting approval on such terms and conditions as it may deem advisable to satisfy the criteria and standards contained in this Ordinance. In all instances, the burden of proof shall be upon the developer. In issuing its decision, the Planning Board shall make findings of fact establishing that the proposed WCF does or does not meet the provisions of this Ordinance.
3. No changes in an approved plan may be made, and no activities may be undertaken which deviate from an approved plan, unless first approved in writing by the Planning Board.

D. Public Notice

For WCFs requiring approval of the Planning Board, the applicant shall provide to the Planning Board a list of names and mailing addresses, based on the Town of Whitefield's tax record, of all land owners of property within 2500 feet of the property on which a WCF is proposed. Such notice shall be mailed 14 days prior to the Public Hearing.

When a Monopole WCF is proposed, a sign giving notice of the application shall be posted on a public way at or near the proposed site, and must contain the words "Tower Proposed" in large enough format to be readable from a motor vehicle driving by at 35 mph. The CEO shall review and approve the sign design and location before it is posted, the sign must contain the same information required in the public notice required for site plan applications, and the sign must be in place at least 21 days and before any balloon or crane visual testing, giving the date and time for such testing, and any alternate date for such testing.

E. Fees

Fees associated with permits and reviews required under this Ordinance shall be in accordance with the fee schedule as adopted by the Board of Selectmen. In addition to the application fee, the applicant shall reimburse the Town at the costs of professional engineers and other consultants hired by the Town to review and inspect the applicant's proposal when the Town is unable to do so with its existing staffing resources. Such services include but are not limited to engineering and technical review, legal review, planning review, environmental review, soils review, and mechanical and structural engineering review. In the event that a project requires professional services beyond that which is included in the base fee, the applicant shall reimburse the Town at cost rate for those professional services. The Town is permitted to require that the applicant deposit an amount with the Town to cover anticipated costs of retaining services or consultants. The Town shall return to the applicant any unused funds within thirty (30) days of the decision by the CEO or Planning Board on an application.

F. Submissions

Persons seeking approval of the CEO or of the Planning Board under this

Ordinance shall submit an application which shall include all of the information and materials required by the Development Ordinance of the Town of Whitefield, and in addition the following:

1. *Qualification as an Applicant and Statement of Compliance with FCC Regulation.*
A copy of the FCC license for the facility, or license to operate within an assigned geographic area including the Town of Whitefield, and a signed statement from the owner or operator of the facility attesting that the facility complies with and will comply with FCC regulations. So long as such a licensee joins the application as a co-applicant, another party may seek the approval described herein.
2. *Identification of Existing Facilities* - A USGS 7.5 minute topographical map showing the location of all WCFs within a three (3) mile radius of the proposed facility.
3. *Visual impacts of the proposed facility:*
 - a. Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level;
 - b. Computer generated photographic simulations of the proposed facility at full capacity, showing the facility from all public rights of way and from representative nearby properties from which the facility will be visible. Each photograph must be labeled with the line of sight, elevation, and the date taken imprinted on the photograph. The photographs must show the color of the facility and the method of screening, if any screening is required.
4. A written description of the need for the particular facility in the particular location. It should also describe reasonably anticipated Expansion of the proposed facilities on the proposed site and related facilities in the region, and on reasonably anticipated changes of technology and their effect on Expansions of the proposed facility. This submission requirement does not require disclosure of confidential business information, but failure to cite reasonably anticipated expansions in this application will be a matter of public record that can be an issue to be considered in later applications for Expansion.
5. Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed facility, the evidence for which shall comprise one or more of the following:
 - a. Evidence that no existing facilities are located within the area targeted to be served by a proposed WCF which meet the applicant's engineering requirements;
 - b. Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements;
 - c. Evidence that existing facilities do not have sufficient structural

strength to support applicant's proposed antenna and related equipment, specifically:

- (1) Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment;
 - (2) The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna; and
 - (3) Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.
 - d. For WCFs existing prior to the effective date of this Ordinance, the fees, costs, or contractual provisions required by the owner in order to share or modify an existing facility are considered to be unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable. This evidence shall also be satisfactory for a Support Structure built after the passage of the Ordinance.
 - e. Evidence that the applicant has made diligent good faith efforts to negotiate collocation on an existing facility, building, or structure. and has been denied access.
 - f. Evidence that the applicant has analyzed the feasibility of using repeaters or micro cells in conjunction with existing or proposed WCFs to provide coverage to the intended service area.
6. A signed, acknowledged statement to be recorded in the Lincoln County Registry of Deeds stating that the owner of the WCF and his or her successors and assigns agree to:
- a. Respond in a timely and comprehensive manner to a request for information from a potential collocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - b. Negotiate in good faith for shared use of the WCF by third parties, including those that can reasonably be deemed commercial competitors;
 - c. Allow shared use of the WCF if an applicant agrees in writing to pay reasonable charges for collocation;
 - d. Require no more than a reasonable charge for shared use, based on regional rates and generally accepted accounting principles.

This charge is permitted to include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs site design, construction, financing, return on equity, depreciation, and all of the costs of adapting the Support Structure or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.

G. Waiver of Submission Requirements

1. The applicant is permitted to apply for a waiver of any of the listed submission requirements for the application in lieu of fulfilling the listed submission requirement. The applicant shall bring the application for permit before the CEO or the Planning Board, as required for the particular application, with an attached application for waiver of every submission requirement not complete. The CEO or the Planning Board, appropriate to the application, is permitted to waive any of the submission requirements only if the CEO or Planning Board finds in writing, that due to special circumstances of the application, the specific information for which waiver is requested is not required to determine compliance with the standards of this Ordinance. If any request for waiver is rejected, the application shall be immediately rejected as incomplete and the application for permit shall not be further considered. The applicant shall be permitted to resubmit the application when all submission requirements are fulfilled.
2. It is expected that an application for a WCF serving a Ham Radio may include a number of requests for waiver. While such waiver requests may well be granted, the CEO or Planning Board in such cases shall, at a minimum, require evidence concerning the structure integrity and strength of the WCF in all weather conditions (e.g., heavy winds and ice loading), and the visual impact of the WCF.

H. Permit Conditions and Limitations

Construction of a WCF shall commence within one (1) year from the date of the Town's approval, with the opportunity for a six-month extension at the discretion of the CEO. If construction is not begun within one year, or within the six-month extension when granted by the CEO, the permit shall become null and void.

After approval by the CEO or Planning Board and prior to receiving a building permit, the applicant shall post a performance guarantee with the Town prior to obtaining a permit, such guarantee to include an Irrevocable Letter of Credit Of a bond satisfactory in form to the Town's counsel or funds delivered to the Town of Whitefield to be held in escrow equal to one hundred twenty-five (125) percent of the cost of removing the WCF.

1.9 Standards of Review

To obtain approval from the CEO or the Planning Board, an application must comply with the standards in this section, and the CEO or Planning Board shall make written findings with respect to each of these standards.

A. Qualification of Applicant and Right to Build

The application shall be complete and the notification of abutters as required by

this notice shall have occurred before the Planning Board reviews the application. The applicant shall meet the requirements to apply for construction, Expansion or Modification of a WCF in accordance with this Ordinance. The applicant shall demonstrate the right, title, or interest in the property on which the construction is proposed. The applicant shall demonstrate compliance with all relevant FCC regulations.

B. Priority for WCF Location

New WCFs must be located according to the priorities in Section 1.7 above. The applicant shall demonstrate that a facility of a higher priority cannot reasonably accommodate the applicant's proposed facility-

C. Placement on Municipal Property

If an applicant proposes to locate a new WCF on municipal property or on a public right away, the applicant must show the following:

1. The proposed location complies with applicable municipal policies and ordinances.
2. The proposed facility will not interfere with the intended purpose of the property or right of way.
3. The applicant has adequate liability insurance.
4. The applicant has a lease agreement with the Town that has been approved by the Board of Selectmen and that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interest of the property.

D. Design for Collocation

A new WCF and related equipment must be designed and constructed to accommodate collocation of additional WCFs or providers when technically feasible and when not in conflict with the height limitations set forth in this Ordinance.

E. Height

A WCF shall comply with following requirements specific to the type of facility:

1. Height, Monopole WCF Overlay Districts - Where the Town establishes Monopole WCF Overlay Districts (as designated in the Town zoning map), a Monopole WCF shall not exceed one hundred twenty (120) feet in height.
2. *Height of Hidden WCF* - The WCF shall not be constrained by height limitations except to the extent that Town zoning ordinances restrict the height of the structure in which the facility is concealed or hidden.
3. *Height, Ground-Mounted Facilities* - In areas other than the Monopole WCF Overlay District, a ground mounted WCF shall not project higher than twenty (20) feet above the average height of buildings within three hundred (300) feet of the proposed facility or if there are no buildings within three hundred (300) feet, such facilities shall not project higher than twenty (20) feet above the average tree canopy height, measured from ground level.

The height of the ground-mounted facility, having neither buildings nor tree canopy within three hundred (300) feet, shall not exceed the height limit of the zoning district within which the facility is located. If there are no buildings or trees within three hundred (300) feet of the proposed site of the facility, all ground mounted WCFs shall be surrounded by a buffer of tree growth, as required by this Ordinance, sufficiently dense to screen views of the base of the facility from abutting properties and all public roads and ways.

4. *Height, Side-and Roof-Mounted Facilities* - Side- and roof-mounted WCFs shall not project more than the lesser of ten (10) feet above the height of an existing building or ten (10) feet above the height limit of the zoning district within which the facility is located and does not result in Unreasonable Adverse Visual Impact.
5. *Height, Existing Utility Structures* - Expansions located on any of the following existing structures shall be exempt from the height restrictions of this ordinance provided that there no more than a ten (10) foot increase in height of the existing structure as a result of the installation of the WCF: electric transmission and distribution towers, telephone poles and similar existing utility structures, and water towers.
6. *Height. Disguised Structures* - The foregoing height limits notwithstanding, WCFs that are constructed as disguised structures, such as flagpoles or steeples, shall not exceed the height that is permitted or reasonably attributable to such structures not as disguised WCFs for the zoning district in which the facility is to be located.

F. **Setbacks**

The setback shall be the separation of the corresponding border of the footprint of the base area of the WCF, as defined by the required fencing, from the property lines, buildings, or other feature from which the setback is defined. It shall not refer to the center point of the WCF.

1. A new Monopole WCF must be set back from any road at least one hundred and fifty (150) feet.
2. All WCFs shall be located a minimum of sixty-five (65) feet from any residential structure located on any abutting property at the time the structure is initially constructed, unless the affected abutting property owner waives this requirement, and Monopole WCFs shall be located five hundred (500) feet from any residence located on any abutting property at the time the structure is initially constructed, unless the affected abutting property owner waives this requirement. This requirement shall not be waived with respect to the Fall Zone of any Monopole WCF. Any waiver shall be specifically noted on the plan and permit, and shall be recorded in the Lincoln County Registry of Deeds and indexed under the name(s) of the owners of the affected abutting property.
3. WCF is permitted to be located on a property on which another principal or accessory use is located, subject to concurrence of all parties that have an interest in the parcel at the time the structure is initially constructed. There

shall be no minimum setback requirements from other structures located on the same property as the WCF.

4. The following exceptions apply:

- (a) The Planning Board is permitted to reduce the required setback for a WCF to be constructed on public property or on public right of ways provided that there is a showing by the applicant that the facility is designed to collapse in a manner that will not harm other property.
- (b) An antenna attached to a WCF shall be exempt from the setback requirement if it extends no more than three (3) feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon an abutting property.

G. Visual Impact

A WCF that fully meets the definition of Hidden WCF shall not be subject to the requirements of this section except to the extent that the existing structure in which the WCF is concealed is required to meet the standards of the Development Ordinance of the Town of Whitefield.

- 1. *Visual impact by certain larger WCFs* - New Monopole WCFs and new Ground Mounted WCFs, including its related equipment and required fence, must be substantially screened from view from abutting properties. The screening must be evergreen trees when such screening is to be newly planted in construction of the WCF. All such WCFs shall maintain a buffer, except for an access road, beginning at a minimum of one hundred (100) feet from the fence at the base of the WCF and extending toward the WCF, on all sides of the parcel on which the WCF is located. The Planning Board is permitted to accept buffer obtained by including areas outside of the property boundaries if secured by an easement recorded for the deed of that property, requiring maintenance of the buffer. The Planning Board is permitted to reduce the buffer adjacent to 1-95 to no less than a distance equal to one hundred (100) percent of the total height of the WCF, consistent with the goal that a buffer shall consist of mature trees having a height at least as high as the required fencing and having a density sufficient to substantially screen the base of the WCF from observation when viewed from a distance greater than 100 feet from the fence at the base of the WCF. When the WCF is placed in an area that is wooded prior to construction of the WCF, existing plants and natural landforms on the site shall also be preserved to the maximum extent practicable.

The Planning Board is permitted to require additional plantings in the buffer area, particularly when the construction area is not of the character of a wooded buffer, to Enhance the quality and effectiveness of the buffer area as a visual screen, including requiring the planting of trees that will achieve effective screening within three (3) years after construction.

Inside the buffer area, existing plants and natural land forms on the site shall be preserved to the maximum extent practicable while achieving the safe construction of the Support Structure, accessory structures, and required fencing.

Monopole WCFs and new WCFs to be placed (e.g., collocated) on existing Monopole or other Support Structures shall be designed to minimize their visual, perceived bulk or mass, including, but not limited to, avoiding the use of any platform, if possible, and minimizing the distance the antenna array extends out from the Support Structure, which distance may not exceed 10 feet without explicit approval of the Planning Board. The Planning Board is permitted to require the applicant to present evidence of compliance with this requirement to minimize bulk.

2. *Visual impact by Certain Smaller WCFs* - A new WCFs which is of the types roof-mounted, structure-mounted, mast, whip or micro cell, including its related equipment, must be camouflaged from view from abutting properties, to the maximum extent practicable, including but not limited to: use of compatible building materials and colors, screening, landscaping and placement within trees. When a WCF is mounted on an existing structure, every effort shall be made to conceal the facility within or behind architectural features to limit its visibility from public ways, including but not limited to the stepping back of the WCF from the front facade in order to limit their impact on the structure's silhouette and the blending with the existing Structure's architecture by painting or by shielding with material which is consistent with the design features and materials of the building.
3. *Disguised WCFs* - A disguised WCF, made to appear as an unrelated object such as a tree, church steeple, or flagpole, shall be sufficiently realistic in size and proportion to adjacent features as to be reasonably perceived as the intended image. The disguise must encompass the entirety of the WCF including its base facilities or, alternatively, such base facilities are permitted to be isolated from the disguised support structure, for example by underground cable connections to a separate building not closely associated with the Support Structure. For the purposes of determining compliance with zoning requirements, the disguised device shall be treated as the object as which it is intended to be recognized. For example, a WCF disguised as a flagpole shall comply with all requirements that would be applicable to a flagpole that is not a disguised WCF if proposed for construction in that location.
4. *Lighting* - A new WCF must be illuminated only as necessary to comply with FAA or other applicable state and federal requirements.
5. *Color and Materials* - A new WCF must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues, or metals having dull, non-reflecting finishes shall be used. For disguised WCF, the colors and materials shall be typical of the object simulated by the disguise.

- H. **Fencing**
A WCF must be fenced to discourage trespass on the facility and climbing on the structure by trespassers, except as further provided below for cases of use of disguised construction. A fence of not less than eight (8) feet in height from the finished grade shall be constructed around a WCF. The fence shall include barbed wire around the top. Access through the fence shall be through a locked gate. The fence shall not be located in the required buffer area. In the absence of a buffer, the fence shall be screened from view through use of appropriate landscaping and planting. A disguised WCF shall provide for security of the supporting Structure and its separate base equipment facilities against trespass and damage in a manner appropriate to the object simulated by the disguise, but shall not be required to have fencing if fencing is not typically associated with the disguised object. If a disguised WCF does have fencing, such fencing being compatible with the object simulated by the disguise, the WCF and fencing shall have a buffer as described. Security for a hidden WCF or WCF serving a Ham radio shall be provided in a reasonable manner, but need not be fencing. This fencing requirement may be waived or modified by the Planning Board or CEO in the course of their review and approval of WCFs, except in the case of a Monopole WCF.
- I. **Structural Standards**
A new WCF must comply with all applicable standards of the American National Standards Institute, including ANSI EIA/TIA Standard 222 entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures," current revisions or versions as of the time of the application for the WCF.
- J. **Certifications from Applicant**
Agreement by the applicant to provide the CEO with a signed statement stating whether the WCF complies with all FCC regulations, including radio frequency emission regulations, at these times: (i) within six (6) months after the construction of a new WCF; (ii) annually after construction is complete, within 30 days after the anniversary date of the commencement of operation and (iii) after each Expansion of an existing WCF. If upon review of the statement the CEO finds that WCF does not comply with FCC regulations, the CEO, after the applicant has been given a reasonable time based on the nature of the problem to comply with the federal regulations, is permitted to revoke or modify the permit. If the permit is revoked, then the WCF shall be removed in accordance with Section 1.12 Abandonment.
- K. **Interference with Other Signals**
Certification by the applicant that the operation of the proposed facility will not interfere with other adjacent or neighboring transmission or reception functions, including but not limited to other WCFs and reception of television and radio broadcasts. If on review the CEO finds that there is significant interference, the CEO is permitted to revoke or modify the permit. The applicant shall be given a reasonable time, based on the nature of the problem, but at least 2 days and no more than 30 days, to comply with the federal license requirements or other federal standards. Providing devices designed to effectively eliminate the interference, to another party with whose signal there is interference, may be an acceptable resolution. If the permit is revoked, then the facility shall be removed in accordance with Section 1.12 Abandonment.

- 1.10 **Amendment to an Approved Application**
All substantive changes (e.g., changes to the appearance, nature, size, shape, color, bulk of a WCF) to a previously approved or pre-approved application must be resubmitted to the Planning Board, or in the case of a WCF which CEO may approve, the CEO.
- 1.11 **Abandonment**
- A. A WCF that is inactive for a period of twelve (12) consecutive months shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing and order removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned.
 - B. If the owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. All above ground structures, equipment, foundation, utilities and access roads or driveways specifically constructed to service a WCF shall be removed, and the land returned to a condition as near to the original pre-construction condition as possible. If the facility is not removed within this time period, the Town is permitted to remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including removal of roads and re-establishment of vegetation.
 - C. If a surety has been given to the Town for removal of the WCF, the owner of the WCF is permitted to apply to the Board of Selectmen for release of the surety when the WCF and related equipment are removed to the satisfaction of the Planning Board.
- 1.12 **Appeals**
Any person aggrieved by a decision of the CEO or the Planning Board under this Ordinance is permitted to appeal the decision to the Board of Appeals. Written notice of appeal must be filed with the Board of Appeals within thirty (30) days of the decision. The notice of appeal shall clearly state the reasons for the appeal.
- 1.13 **Administration and Enforcement**
The procedure and substance for the administration and enforcement of this Ordinance shall be provided.
- 1.14 **Penalties**
Any person who owns or controls any building or property that violates this Ordinance shall be fined in accordance with Title 30-A M.R. S. A. §4452. Each day such violation continues after notification by the CEO shall constitute a separate offense.
- 1.15 **Conflict and Severability**
- A. Conflicts with Other Ordinances – Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation, or statute, the more restrictive provision shall apply.

- B. Severability - The invalidity of any part of this Ordinance shall not invalidate any other part of this Ordinance.

1.16 Definitions

The terms used in this ordinance shall have the meanings here listed. Definitions for the listed terms from other sources shall not take precedence over the definitions here listed for the interpretation and implementation of this Ordinance. Applications and correspondence relating to applications shall use terminology consistent with these listed definitions.

Active Operation - The continuous transmitting or receiving of radio frequency signals.

Antenna - Any system of poles, panels, and rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

Antenna Height - the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is an antenna. Measure of Support Structure height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the facility site. If the Support Structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating antenna height.

Antenna, Parabolic - (also known as a satellite dish antenna) - An antenna that is bowl-shaped, designed for the reception and/or transmission of radio frequency communication signals in a specific directional pattern.

Antenna, Whip - An antenna characterized by its "whip" shape and size, and its ability (an "omni directional antenna") to transmit and/or receive signals in a three hundred sixty (360) degree pattern.

Average Tree Canopy Height - The average height of all trees greater than twenty (20) feet in height

located within three hundred (300) feet of the footprint of the facility as determined by the required fencing in Section 1.9.B.8, provided that all such trees shall remain in place subsequent to construction and provided that the number of such trees within three hundred (300) feet of the fence shall exceed fifty (50) trees, and provided that the distribution of such trees shall satisfy the requirements for a buffer of tree growth as required in Section 1.9.B.7, Visual Impact.

Collocation - The use of a support structure or an alternative support structure by more than one wireless communication provider.

Disguised WCF - a WCF made and designed to appear to be an object recognized as other than a WCF.

Expansion - The addition of antennas or other devices to an existing structure.

FAA - The Federal Aviation Administration, or its lawful successor.

Fall Zone - The area on the ground within a radius from the base of a WCF equal to the total height of the WCF. The Fall Zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

FCC - The Federal Communications Commission, or its lawful successor.

Functionally Equivalent Services - Functionally Equivalent Services are Cellular, Personal Communication Services (PCS), Enhanced Special Mobile Radio, Specialized Mobile Radio and Paging. The Communications Act of 1996 requires local government treat these five services equally.

Ground Mounted WCF - A WCF which is mounted on the ground, and which is mast or similar structure and not a lattice tower or guy tower, and is less than 85 feet in height.

Height - The vertical measurement from a point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the building or structure. The highest point shall exclude farm building components, flagpoles,

chimneys, ventilators, skylights, domes, water towers, bell towers, church spires, processing towers, tanks, bulkheads, or other building accessory features usually erected at a height greater than the main roofs of buildings.

Hidden WCF - A WCF fully hidden from view. A WCF is hidden when it is contained within an existing structure unrelated to a WCF, such as a building, wall or roof.

Line of Sight - The direct view of the object from a point or location. To avoid confusion, the applicant to describe issues of coverage should not use the phrase "line of sight".

Micro Cell WCF - A low power radio service WCF used to provide increased capacity in high call demand areas or to improve coverage in areas of weak coverage.

Modification - The changing of any portion of a WCF from its description in a previously approved permit, including but not limited to changes in design.

Monopole WCF - A WCF with a monopole Support Structure.

Reasonable Access - The opportunity for a licensed carrier to provide one or more Functionally Equivalent Services to the extent that all or most of the Town of Whitefield may be reasonably served.

Repeater - A small receiver/relay transmitter of not more than twenty (20) watts output designed to provide service to areas that are not able to receive adequate coverage from the primary sending and receiving site in a wireless communications network.

Support Structure - Any built structure, including guy wires and anchors if used, to which antennas and associated hardware are mounted. Support structures include but are not limited to:

1. Lattice tower - A support structure that consists of a network of crossed metal braces, forming a tower, which is usually triangular or square in cross section, not normally requiring guy wires and anchors.

2. Guy tower - A support structure such as a pole or narrow metal framework that is held erect by use of guy wires and anchors.

3. Monopole - A support structure that consists of a single pole sunk into the ground and/or anchored to a concrete pad or other foundation.

4. Mast - A type of mount that is thinner and shorter than a monopole.

5. Existing nonresidential structure - An existing structure, having an original principal use other than a WCF, to which wireless facility components may be attached under certain conditions.

Unreasonable Adverse Visual Impact - End results of a proposed project that: (1) would be excessively out-of-character with existing buildings, structures, and features; or (2) would significantly diminish the scenic value in an Historic, District or Historic Building.

Wireless Communications Facility (or Facility) (WCF) - Any structure, antenna, tower, or other device which provides voice, data, radio, or television transmission, personal wireless service, Commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio and enhanced special mobile radio communications, common carrier wireless exchange access services, common carrier wireless exchange phone services and personal communications service or pager services. The definition of WCF includes personal wireless service facilities as that term may be defined in Title 47, United States Code, Section 332 (c)(7)(C), as it may be amended now or in the future.