

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, MECDC, 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 (leq) (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.