



BUILDING AND DEVELOPMENT ORDINANCE OF THE TOWN OF WHITEFIELD

APPROVED AT TOWN MEETING June 5, 2021¹
AMENDED, MARCH 19, 2022

ARTICLE 1: Purpose

This Ordinance is declared a necessary public purpose for the following reasons:

1. The preservation of the public health, safety, convenience and general welfare, and prevention of public nuisance;
2. The protection of property values and insurance of a fiscal base for public services;
3. The efficiency of public services;
4. The prevention and control of environmental pollution;
5. The protection of plant and animal species and wildlife habitat;
6. The preservation of the natural beauty of the Town of Whitefield;
7. The regulation of all new or expanded commercial, industrial, institutional and residential development in the Town of Whitefield, including minimum lot size and setbacks; and,
8. The timely identification and assessment of all new or expanded structures.

ARTICLE 2: Authority and Administration

1. Authority: This Ordinance is adopted pursuant to and consistent with Title 30-A M.R.S., Section 3001 et seq., and may be known and cited as the "Building and Development (B & D) Ordinance of the Town of Whitefield".
2. Administration: The Planning Board of the Town of Whitefield (hereafter the Board) shall administer this Ordinance. The provisions of the Ordinance shall apply to all of the land area of all developments located in the Town of Whitefield. The Board shall review and act upon Notices to Build and Development Permit applications for projects over which it has jurisdiction. The Code Enforcement Officer (hereafter CEO) shall act upon all other Notices to Build.

ARTICLE 3: Applicability

This Ordinance shall apply to the construction of all new and/or expanded residential, commercial, industrial or institutional structures and developments, and to any changes in use of any existing structure whether or not there are any changes to the structure itself within the Town of Whitefield.

No new and/or expanded development or construction or change in use shall commence in the Town of Whitefield unless and until a Notice to Build form has been submitted to, reviewed and approved by the CEO. If the CEO determines that a Development Permit is needed, he shall so instruct the applicant. In this case no development can occur until a development application has been submitted to, reviewed and approved by the Planning Board.

¹ This ordinance replaces the Town of Whitefield's Development Ordinance as amended on March 16, 2002 and November 4, 2014; the Minimum Lot Size Ordinance approved March 20, 1976 and amended on March 7, 1984 and March 17, 1990; and the Notice To Build Ordinance approved March 17, 2012.

ARTICLE 4: Exemptions

The following developments are exempt from all provisions except minimum lot size and setback requirements of this Ordinance:

1. 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. Exempt projects shall include, but not be limited to, temporary or mobile items, landscaping, subsurface wastewater disposal (septic) systems, and residential public utility services.
2. Construction of outbuildings for single family residences that are less than 50 square feet in area.
3. All non-structural uses of land for agricultural or forestry purposes.

The following developments are exempt from all provisions except they require that a Notice to Build must be filed and the minimum lot size and setback requirements of this Ordinance must be followed:

1. Construction of barns, stables, and other agricultural related buildings for the private use of families residing on the property on which the building is to be located.
2. Construction of all commercial, industrial, or institutional development in which both of the following conditions apply: 1) the structural footprint is less than 320 square feet of total floor space and 2) the associated disturbed area (i.e., parking area, driveways, walkways, etc.) is less than 22,000 square feet of land area.

ARTICLE 5: 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 residential, commercial, industrial or institutional purposes of the original building, facility or structure are retained and the work does not increase the extent of any non-conformity of the original structure with this Ordinance.

Non-conforming vacant lots of record which are part of a land subdivision approved by the Whitefield Planning Board, recorded in the Lincoln County Registry of Deeds before March 17, 1979 and not located in a Shoreland area, may be built upon provided that dimensional requirements governing the placement of structures are met and that all other requirements of the Ordinance and State law are met. Any other Non-conforming vacant lot of record as of March 17, 1979 may be built upon provided that such lot is separate ownership and not contiguous with any other vacant lot in the same ownership and that all provisions of this Ordinance except the lot size, lot width or lot frontage can be met.

ARTICLE 6: Notices to Build

1. Notices to Build must be submitted using forms developed by the Planning Board in consultation with the Select Board. The forms should be fully completed. If any section on the form does not apply, the applicant shall indicate on the form that it does not apply including the reason(s) for that determination. If the project requires a full development permit, an additional form will be required.
2. Notices to Build must be signed by the owner of the land or by another person having a notarized written letter of authorization signed by the landowner. The notices must certify that the information that they contain is accurate and complete.

ARTICLE 7: Classification of Projects

Project Classes: As a part of its initial review, the Board shall classify each project into one of three classifications: Minimal Impact Development, Minor Development and Major Development.

1. Minimal Impact Development: Shall consist of single family residence dwelling, residential outbuildings; driveways for single family residences, new or expanded construction of less than 300 square feet of gross nonresidential floor area; and/or projects involving the installation of less than 300 square feet of impervious surfaces. All minimal impact developments require a Notice to Build Form.
2. Minor Development: Shall include those projects involving:
 - a. The construction, enlargement or expansion of at least 300 square feet, but less than 2500 square feet, of gross non-residential floor area and/or
 - b. Those projects involving the installation of at least 300 square feet but less than 2500 square feet of impervious surfaces.
 - c. Minor Developments will require a development permit from the Board.
 - d. The conversion of existing buildings or structures from residential to non-residential use as outlined in the provisions of this ordinance.
3. Major Developments: Shall include those projects involving:
 - a. The construction, enlargement or expansion of 2500 or more square feet of gross non-residential floor area, and/or
 - b. The construction, enlargement or expansion of 2500 or more square feet of impervious surfaces, or
 - c. Mineral extraction operations exceeding 1 acre in area, or
 - d. Projects involving the establishment of a campground, golf course, communications tower, major power line, solar and wind farms, or other commercial project not classified as a Minimal Impact or Minor Development.
 - e. Major Developments require a permit from the Board and will likely involve a public hearing unless the Board determines that such hearing is unnecessary.

ARTICLE 8: Procedures for Development Review

SECTION 1: Minimal Impact Development:

Minimal impact developments involve the construction of new or expanded structures and require the submission of a Notice to Build for review and acceptance by the CEO.

- A. The CEO shall make an initial review of all Notices to Build. If he/she finds that the proposed development requires a development permit, he/she shall forward the Notice to Build to the Board and notify the applicant of that fact. If he/she is unsure, he/she shall consult with the Board.
- B. The CEO will return incomplete or unclear Notices to Build for additional information or clarification. The CEO shall act upon complete Notices to Build within 14 days of a completed Notice being filed with the Town. The 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 involved. An applicant may agree to an extension of these processing times in writing.
- C. The CEO or Board shall approve Notices to Build only when they conclude the proposed project will comply with applicable laws and ordinances administered by the Town.

- D. The CEO or the Board will notify the applicant in writing as soon as a decision has been made on a Notice to Build. In the event a Notice to Build is denied, the reason(s) necessitating the denial shall be provided in writing.

SECTION 2: The Pre-Application Meeting:

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.

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.

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.

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.

SECTION 3: Development Application:

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

- A. A map or maps prepared at a scale of not less than 1 inch to 100 feet, and which shall include:
1. Name and address of the applicant or his authorized agent and name, if any, of the proposed development.
 2. Existing soil conditions.
 3. Municipal tax maps and lot number, if any, and names of abutting landowners.
 4. 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.
 5. Existing and proposed location and any dimensions of utility lines, sewer lines, water lines, easements, drainage ways and public or private rights-of-way.
 6. 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.
 7. Method, location and construction of sanitary waste facilities.
 8. Location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, design of ingress and egress of vehicles to and from the site onto public streets or roads, and curb and sidewalk lines.
 9. Landscape plan showing location, type and approximate size of plantings and location and dimensions of all fencing and screening.
 10. Topography indicating contours at intervals of not more than 5 feet.
 11. Any other information as deemed necessary by the Planning Board to indicate the physical characteristics of the proposed development.
- B. 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.
1. Total floor area and ground coverage of each proposed building, structure, or facility.

2. Summary of existing and proposed easements, restrictions and covenants placed on the property.
3. Types of solid waste and their methods of disposal.
4. Erosion and sedimentation control plan.
5. Statement of financial capacity.
6. List of applicable local, state and Federal ordinances, statutes, law and regulations.
7. A statement from the Town Road Commissioner or Selectmen that the proposed road or street construction specifications will meet Town approval.
8. 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.
9. Any other information as deemed necessary by the Planning Board to describe the proposed development.

SECTION 4: Procedures:

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. The application fee shall be commensurate with the size and complexity of the proposed development, and the fee schedule shall be set by the Select Board.

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 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.

Once the permit is approved, no changes or amendments to the 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.

ARTICLE 9: Standards

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

SECTION 1

A. Minimum Lot Size Requirements:

1. Residential: All residential lots shall have a minimum size of 1 ½ acres (65,340 square feet) per dwelling unit. Further, they shall be of such dimensions as to accommodate within the boundaries a square measuring no less than 140 feet by 140 feet.
2. Commercial/Industrial: All other lots with structural development shall have a minimum size of 1 ½ acres (65,340 square feet).

B. Road frontage:

1. All residential lots created after March 17, 1990, shall have a minimum of 200 feet of frontage on a public right-of-way or private interior subdivision road. Where a cul-de-sac has been created, the minimum frontage requirement may be waived by the Board if the side lot most perpendicular to the cul-de-sac is at least 200 feet in length.

2. All commercial or industrial development lots shall have a minimum of 200 feet of frontage on a public road.

C. Setback Requirements:

1. Road

- a. Residential: No part of any new or expansion to an existing residential structure or ancillary structure shall be located within 50 feet of the center line of any public or private road except for Route 17 where it shall be at least 70 feet from the center line.
- b. Commercial/Industrial: No part of any new or expansion to an existing structure or ancillary structure shall be located within 70 feet of the center line of any public or private road.
- c. For purposes of an easement of access across a property, no new or expansion to an existing structure shall be within the bounds of the easement.

2. Side/Rear property lines

- a. Residential: All new or expansions to existing residential structures including ancillary structures, shall be at least 15 feet from any non-roadway property lines.
- b. Commercial/ Industrial Development: All non-residential development structures and additions to existing structures shall be at least 50 feet from any non-roadway property lines.

SECTION 2: General Standards

- 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 to 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: A commercial or industrial establishment shall not produce emissions of dust, dirt, fly ash, fumes, vapors or gases which could damage human health, animals, vegetation or property, or which could soil or stain persons or property at any point beyond the establishment's lot line.

No land use or development shall be permitted to produce offensive or harmful odors perceptible beyond their lot lines either at ground or habitable elevation. Agricultural uses are exempt from this provision.

- 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.
- E. 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.

F. 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.

1) The maximum permissible sound level of any continuous, regular, frequent or intermittent source of sound produced by an activity shall be limited according to the time of day and the land use which abuts it as listed below.

If Abutting Use is Residential

7 am to 7 pm limit: 55 dBA,

7 pm to 7 am limit: 45 dBA

If Abutting Use is Institutional

7 am to 7 pm limit: 55 dBA,

7 pm to 7 am limit: 45 dBA

If Abutting Use is Commercial

7 am to 7 pm limit: 65 dBA,

7 pm to 7 am limit: 55 dBA

If Abutting Use is Industrial

7 am to 7 pm limit: 70 dBA,

7 pm to 7 am limit: 60 dBA

2) Sound levels shall be measured at least four (4) feet above the ground at the property line of the development.

Noise shall be measured with a sound level meter meeting the standards of the American National Standards Institute (ANSI S1.4) "American Standard Specification for General Purpose Sound Level Meters" and shall have been calibrated at a recognized laboratory within the past year.

3) The following uses and activities shall be exempt from the sound pressure level regulations:

Mineral Extraction/Gravel Mining Activities covered under Article 9, Section 3.I.E of this Ordinance;

Noises from site construction and occasional maintenance activities between 6 am and 8 pm;

The noises of safety signals, warning devices, and emergency pressure relief valves and any other emergency activity;

Traffic noise on public ways;

Activities covered under the Maine Agricultural Protection Act;

Forest Management Activities.

G. 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.

H. 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 downstream conditions.

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, pipelines 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.
- 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.

SECTION 3: Medical Marijuana Cultivation

The following shall be applied to any medical marijuana cultivation facility where more than one caregiver is cultivating for the use of their clients:

1. All Medical Marijuana Cultivation Facilities shall comply with applicable state and local laws and regulations.
2. Medical Marijuana Cultivation Facilities may not be located on property within one thousand (1000) feet of the property line of a preexisting public or private school (K-12). For the purposes of this Ordinance, "school" includes a public school, private school or public preschool program as defined in 20-A M.R.S. §1, or any other educational facility that serves children from prekindergarten to grade 12. Required setbacks shall be measured as the most direct, level, shortest or without regard to the intervening structures or objects, straight-line distance between the school property line and the property line of the parcel of land on which the Medical Marijuana Cultivation Facility is located. If the Medical Marijuana Cultivation Facility is located within a subdivision, the required setback shall be measured from the front door of the Medical Marijuana Cultivation Facility to the property line of the school. Presence of a town, city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.
3. No outside cultivation or manufacturing or storage of marijuana, marijuana products or related supplies is permitted, except as allowed by ordinance.
4. Ventilation and Odor: All Marijuana Cultivation Facilities are required to be in compliance with the state requirements and all Marijuana Cultivation or Manufacturing Facilities shall have odor mitigation systems such that odor is imperceptible from the outside of any building or lease line. A ventilation plan shall be required for Marijuana Cultivation and Manufacturing Facilities that provides for adequate ventilation so as to prevent pesticides, insecticides or other chemicals used in the cultivation or manufacturing of marijuana or marijuana related products from being dispersed or released outside the building or lease line. The plan shall further provide for resulting smoke, vapor, fumes, gases and particulate matter from marijuana or its manufacturing or cultivation to be effectively confined to the any building or lease line.
5. All Medical Marijuana Cultivation Facilities shall obtain a State of Maine conditional license prior to operating in the Town of Whitefield.

6. Operating Plan: Medical Marijuana Cultivation Facilities are required to submit an operation plan that at a minimum addresses the following:
 - a. All general standards as defined under Article 9, Section 2 of this Ordinance;
 - b. Wastewater;
 - c. Solid waste disposal, including plant parts;
 - d. Chemicals used, including pesticides, fungicides, herbicides and fertilizers.

SECTION 4: Mineral Extraction/Gravel Mining

- I. Mineral Extraction: 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 dBA 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
 - a. 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.
 - b. 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.
 - c. The use of underground tanks is strictly prohibited.
3. Machinery Maintenance
 - a. 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.
 - b. 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.

II. 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 Article 9, Section 4.I.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:
 1. Civil Engineer,
 2. Town Road Commissioner,
 3. Town selectman,
 4. Town Attorney and/or
 5. Any other person the Planning Board deems necessary to set a reasonable rate.

III. Rock Crushing, Asphalt Batch Plants and Quarrying

- A. 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 this

Section 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:

1. Operating hours for the rock crusher, if different from those of gravel extraction.
 2. Noise levels.
 3. Active dust mitigation plan. This shall be specific to the rock crusher and in addition to any general dust mitigation measures employed above.
 4. Modifications to the SPCC Plan to account for the operation of such equipment.
 5. Changes in internal and external traffic flow generated by the proposed change.
- B. 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:
1. Operating hours for the asphalt batch plant, if different from those of gravel extraction.
 2. Noise levels.
 3. Active dust mitigation plan. This shall be specific to the asphalt batch plant and in addition to any general dust mitigation measures employed above.
 4. Odor control plans.
 5. An SPCC Plan to account for the operation of such equipment.
 6. 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.
- C. Quarries: Quarrying or the mining of rock or other consolidated material by the use of explosives or mechanical means is prohibited.

ARTICLE 10: Inspections

Inspection of Mineral Extraction operations

- A. 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.
- B. 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. The CEO shall report to the Planning Board annually on these inspections.
- C. 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 Select Board.

ARTICLE 11: Transferability of Permit

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 Article 8, Section 3. B.5 of

this Ordinance, an updated Certificate of Insurance as required under Article 9, Section 4.I.C of this Ordinance, and proof of sufficient performance guarantees as may be required under Article 9, Section 4.II.F.

ARTICLE 12: General Provisions

- 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 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.

For purposes of this ordinance, hardship is defined as any physical limitation of the property in question, NOT CREATED BY THE OWNER OR A PREVIOUS OWNER, that makes it unnecessarily difficult for the owner/applicant to site the proposed structure/activity in compliance with any one or more provisions of this ordinance.

- B. 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.
- C. 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.
- D. All projects must be constructed as described in either the Notice to Build or Development Permit as approved by the Town. Persons proposing to make any changes must contact the Code Enforcement Officer or Board for either approval or, if appropriate, to file a new Notice to Build and/or application for permit amendment. The project must be at least 15% completed within one year of approval by the Town. If the work does not reach this point within this timeframe, either a new Notice to Build or permit amendment is required.

ARTICLE 13: 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: March 19, 2022
- 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.

ARTICLE 14: 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. 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 date the Planning Board voted on the decision.

ARTICLE 15: Amendments

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

ARTICLE 16: Enforcement

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.

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.

The Selectmen are charged with the prosecution for all violations of the provisions of this Ordinance. In cases where such notices 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.

In accordance with 30-A M.R.S. §4452 and M.R. Civ. P. 80K, any person or corporation who violates any of the provisions of this Ordinance or fails to comply with any of the requirements thereof, upon conviction, may be penalized 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.

ARTICLE 17: Definitions

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

- A. ACCESSORY STRUCTURE OR USE: A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure. Accessory structures, except those that require direct access to the water, must also meet all setback requirements. A guest house without kitchen facilities is an accessory structure.
- B. ACCESSORY APARTMENT: An independent dwelling unit that has been added onto, or created within, a single-family house. The accessory apartment has separate kitchen, bathing and sleeping areas from the principal residential building.
- C. 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.
- D. 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.
- E. 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.
- F. BLASTING: The use of explosives to break up or otherwise aid in the extraction of rock or other consolidated natural formations.

- G. BUSINESS: A structure or location used for the production and/or exchange of goods and services for remuneration. A commercial business is one engaged in the exchange of goods or services. The actual exchange of said goods or services might happen primarily off-site while the location itself is primarily a storage and dispatching location such as occurs with many construction-related businesses. An industrial business is one engaged in the manufacture of such goods or services.
- H. CAMPER: Any type of trailer, motor home, tent trailer or other device designed to be driven or towed behind another vehicle for the purpose of staying at a location other than one's home for a short period of time and that is manufactured for that purpose.
- I. CHANGE IN USE: The change of use of a parcel or a building from one type of permitted use to another type of permitted use or an increase in the intensification of use, including an increase in the number of dwelling units. It includes, but is not limited to, changing the use from one business type to another, adding one or more additional dwelling units to an existing single family structure, the increase in size of a single family residential dwelling unit by more than 20% to accommodate business activities and the construction of accessory structures greater than 320 square feet for business use on a lot principally used as a single family residence.
- J. CODE ENFORCEMENT OFFICER: The person appointed by the Select Board to oversee that all ordinances enacted by the Town are properly followed.
- K. 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.
- L. COMMERCIAL MEDICAL MARIJUANA CULTIVATION FACILITY: A facility used for the purpose of the cultivation of Medical Marijuana by a Licensed Medical Marijuana Caregiver other than a home based business.
- M. DEVELOPMENT: A change in land use involving alteration of the land, water, or vegetation, or the addition or alteration of structures or other construction not naturally occurring.
- N. DWELLING UNIT: Any room or group of rooms where one or more people can reside independently from any other person or groups of persons within other rooms or groups of rooms. Such units shall include space (not necessarily in separate rooms) for sleeping, eating, cooking and bathroom facilities. It shall not include a bedroom only where all other activities listed are accounted for as shared facilities with that room and any others within the residence.
- O. GROUNDWATER: All of the water found beneath the surface of the ground present in aquifers and recharge areas.
- P. HOME BUSINESS: A business that is run out of the owner's single family residence provided the business activities do not take up more than 20% of the floor area of the structure or does not involve the construction or conversion of any accessory structures greater than 300 square feet for use by the business. Accessory structures used for storage are included in the 300 square foot threshold.
- Q. IMPERVIOUS SURFACE: A surface that is highly resistant to infiltration by water, such as asphalt, concrete, or rooftop and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce their permeability. Common impervious areas include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and macadam or other surfaces which similarly impede the natural infiltration of stormwater.
- R. 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.

- S. IN-LAW APARTMENT: A separate dwelling unit located within an existing single family residential structure intended strictly for the use of a relative such as the parents, children or siblings of the occupants of the primary residence. It is limited to one bedroom and may have its own bathroom and kitchen facilities.
- T. 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.
- U. MARIJUANA: The leaves, stems, flowers, seeds and other plant material harvested from the plant of the genus Cannabis, including but not limited to Cannabis sativa, Cannabis indica, and Cannabis ruderalis or their hybrids or seeds of those plants. "Marijuana" includes any product derived from any marijuana plant or plant material, including but not limited to marijuana concentrate and marijuana products.
- V. MEDICAL MARIJUANA: Marijuana as allowed per the Maine Medical Use of Marijuana Act.
- W. MEDICAL MARIJUANA CULTIVATION FACILITY: A facility used for cultivating medical marijuana by one or more registered caregivers at a location which is not the registered caregiver's primary year-round residence or their patient's primary year-round residence.
- X. 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.
- Y. MOBILE OR MANUFACTURED HOME OR 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 an 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. Structures under this definition must be at least 750 square feet in area.
- Z. NOTICE TO BUILD FORM: This is a form developed by the Planning Board for the express purpose of identifying proper information to be supplied by an applicant prior to the erection of new or expanded structures.
- AA. PLANNING BOARD: The Municipal Reviewing Authority of the Town of Whitefield, Maine, as defined by 30-A M.R.S. Section 4301, Subsection 12 and re-established by the voters of Whitefield at their annual town meeting on March 16, 2019.
- BB. 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.
- CC. 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.
- DD. RESIDENCE: Shall mean any structure that contains one or more dwelling units. A single family residence shall contain only one dwelling unit. Structures containing 2 or more dwelling units shall be classified as multi-family residences.
- EE. 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 30-A M.R.S., Section 4401, and shall include campgrounds and mobile home parks.

- FF. SEASONAL HIGH GROUNDWATER TABLE: 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.
- GG. SELECT BOARD: A board composed of the 5 persons elected by the citizens of the Town of Whitefield to serve as select persons.
- HH. SETBACKS: The minimum horizontal distance from a lot line to the nearest part of a building, including porches, steps, and railings.
- II. STRUCTURE: Anything having a footprint of 50 sq. ft. 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 fixed location on or in the ground, exclusive of fences. This includes the placement of pre-manufactured, mobile or modular or similar buildings on a parcel of land.
- JJ. 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.
- KK. TINY HOUSE: A separate, independent dwelling unit that is no more than 400 square feet in area. It includes basic functional areas including a bathroom, kitchen, sleeping area and living area. Generally they are a stick-built structure built on a trailer or some form of wheels. Tiny houses are often built in one location with the intention of moving them to one or more other locations, depending upon the owner's lifestyle. They generally have facilities to connect an external water source and electricity. They are smaller than the minimum size requirement for manufactured housing (750 square feet) and are outside the definition of a camper or recreational vehicle.
- LL. TOWN: Refers to the minor civil division known as Whitefield, Maine.
- MM. WATER TABLE: The upper surface of groundwater or that level below which the soil is saturated with water.

Approved at Town Meeting June 5, 2021

Approved as Amended at Town Meeting March 19, 2022

Attested a True Copy, Yolanda Violette, Town Clerk