BUILDING AND DEVELOPMENT ORDINANCE
OF THE TOWN OF WHITEFIELD

APPROVED AT TOWN MEETING June 5, 2021[1]

AMENDED, March 19, 2022, November 8, 2022, March 18, 2023 & **March 21, 2026**

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 ensure 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, open spaces, agricultural environment, historical and natural aspects 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. Allowing for an affordable residential community and compatible commercial growth; and,
8. The timely identification and assessment of all new or expanded structures. Establish effective and simple permitting systems with minimal inconvenience to land owners.

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 Code Enforcement Officer (hereafter CEO) shall review and act upon all Building Applications and refer Development Applications for projects over which the Board has jurisdiction.

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, construction or change in use shall commence in the Town of Whitefield unless and until a Building Application has been submitted to, reviewed and approved by the CEO. If the CEO determines that a Development Permit is needed, he/she shall so instruct the applicant. In this case no development shall occur until a Development Application has been submitted to, reviewed and approved by the 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 agriculture and/or the growing and harvesting of trees.

Construction of all commercial, industrial or institutional development in which both of the following conditions apply is exempt from all provisions of this ordinance except that they require a Building Application to be filed and the minimum lot size and setback requirements of this Ordinance must be met.

1. The structural footprint is less than 320 square feet of total floor space; and
2. The associated disturbed area is less than 22,000 square feet of land area.

ARTICLE 5: Qualifications

Any building, facility or structure destroyed by fire or other disastrous event may be replaced so long as the replacement is complete or substantially underway within two (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: Building Applications

1. Building Applications must be submitted using forms developed by the 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.
2. Building Applications must be signed by the owner of the land or by another person having a written letter of authorization signed by the landowner. The applicant must certify that the information provided in the application is accurate and complete.

ARTICLE 7: Certificate of Occupancy

Whitefield will enforce the provision in Maine statute that towns over 2,000 people must require a Certificate of Occupancy before any structure that has been approved through the building and/or development application procedure may be occupied or used. An Application for Certificate of Occupancy must be completed and submitted to the Code Enforcement Officer.

A Certificate of Occupancy shall only be issued after confirmation from the building official that all proper safeguards against the catching or spreading of fire are used, that the chimneys and flues are made safe and that proper cutoffs are placed between the timbers in the walls and floorings where fire would be likely to spread. The building official may

give such directions in writing to the owner or contractor as the building official considers necessary concerning the construction of the building so as to render the building safe from the catching and spreading of fire. The legal basis for this is MRS Title 25, Part 6, Chapter 313, § 2357-A and § 2353-A. The building official may issue the certificate of occupancy upon receipt of an inspection report by a certified third party inspector as defined in 25 MRS § 2373(4).

Certificate of Occupancy Permits shall be required and shall be obtained from the CEO. Hereafter it shall be unlawful to use, occupy or permit the use or occupancy of any new, remodeled or relocated dwelling unit or recreational vehicle if located on a lot without a dwelling unit in the Town of Whitefield until a certificate of occupancy has been issued. The Select Board shall set fees for a Certificate of Occupancy.

ARTICLE 8: Classification of Projects

Project Classes: As a part of the initial review, the CEO and/or the Board shall classify each project into one of three classifications:

A. Minimal Impact Development: Residential and less than 320 square feet of gross non-residential requires a Building Application.
B. Minor Development: 320 square feet, but less than 2,500 square feet of gross non-residential floor area requires a Development Application.
C. Major Development: 2,500 or more square feet of gross non-residential floor area requires a Development Application.

1. **Minimal Impact Development** shall consist of: (Requires a Building Application)
    a. Single family residence;
    b. No more than 2 new accessory dwelling units (where one can be within or attached to the original single family residence, one can be detached or one of each);
    c. Outbuildings associated with a single family residential property;
    d. Driveways for single family residences;
    e. New or expanded construction of less than 320 square feet of gross non-residential floor area;
    f. Projects involving the installation of less than 320 square feet of impervious surfaces; and
    g. Solar: See Article 10, Section 5, Exemptions. Roof-mounted systems, ground-mounted systems less than 4,200 square feet in area and one for providing electricity primarily to an agricultural operation.

All minimal impact developments (residential) require a Building Application to be approved by the CEO. The CEO may request Board review of an application before approval. Construction of new structures or the conversion of existing structures for use as short term rentals does NOT fall into this category and is considered a Minor Development.

[NOTE}: Public Law 2021, Chapter 672 and Public Law 2025, Chapter 385, implemented the ability for owners to develop up to two accessory dwelling units on lots that are already developed with a single family residential dwelling unit.

Accessory Dwelling Unit:

a. Purpose: The Town of Whitefield provides the Accessory Dwelling Unit (ADU) regulations to increase the supply of affordable housing, encourage the provision of housing that meets the needs of a variety of household types, encourage housing development that is compatible with existing residential uses.
The Town shall allow on a lot with one existing dwelling unit the addition of up to two (2) dwelling units; one (1) additional dwelling unit within or attached to an existing structure or one (1) additional detached dwelling unit, or one (1) of each.

b. Accessory Dwelling Unit (ADU): means a self-contained dwelling unit located within, attached to or detached from a single family dwelling unit structure or multi-unit structure located on the same parcel of

land. For the purposes of this ordinance, Accessory Dwelling Unit shall be referred to as ADUs. These standards apply to residential ADUs for which a permit is sought after the adoption of this ordinance.

An ADU may be constructed or placed on a lot:

1. Within the principal dwelling unit on the lot;
2. Attached to the principal single family dwelling unit;
3. As a new structure on the lot for the primary purpose of creating an ADU;
4. In an existing accessory structure if the setback requirements of the ordinance are met and it is compliant with Town and State building codes;
5. For the purposes of ADUs, attached means either connected to or sharing a wall with the principal dwelling structure.

c. At least one (1) ADU must be allowed on any lot where a single family dwelling unit is the primary structure; and

d. An ADU must be allowed on a lot that does not conform to the municipal land use ordinance if the ADU does not further increase the nonconformity.

e. For the unit attached or within the principal structure, the ADU and the principal structure may be served by a common utility meter.

f. AUTHORITY: Permitting and enforcement is conducted by the CEO. Board approval is not required for three (3) or fewer dwelling units on a lot, or within a structure.

g. Permit Required: A building application is required for the construction, formation or placement of an ADU. An ADU that is placed in the Shoreland Zone must comply with all Shoreland Zoning requirements and will require a Shoreland Zoning permit.

h. STANDARDS:

1. The owners of the principal structure are not required to reside in the principal dwelling or the ADU. The ADU must not be intended for sale and shall remain in common ownership with the principal dwelling unit (single family dwelling).
2. The ADU shall contain a minimum of one hundred ninety (190) square feet and a maximum of one thousand five hundred (1,500) square feet of habitable floor area, and it must meet all applicable setbacks from the property boundaries.
3. A detached ADU shall share the access driveway of the principal structure. No off street parking shall be required for the ADU.
4. ADUs must be connected to adequate water. The owner of the ADU must provide proof of access to potable water from a well.
5. ADUs must be connected to adequate wastewater system. If on a shared septic system, the septic system on the property in question shall be functioning properly and of adequate size for the occupancy.
6. An ADU must be allowed on a non-conforming lot or in a non-conforming structure if the ADU does not further increase the non-conformity, meaning the ADU does not further increase deviation from the dimensional standard(s) creating non-conformity.

<u>Recreational Vehicles (hereafter RV) as a Temporary Residence:</u>

a. The purpose of these guidelines is to ensure that the temporary occupancy of a RV within the limits of the Town of Whitefield shall be conducted in a manner that protects health and public safety.

b. RV may be used as a temporary residence in the Town of Whitefield as long as the following conditions are met:

1. A limit of only one (1) RV to occupy the lot for a period of one hundred twenty (120) days in a calendar year shall be imposed unless:
   (a) The occupant is in the process of constructing a permanent dwelling on the same lot with an approved, active Building Application.
   (b) The occupant is experiencing a housing emergency, such as displacement due to fire, flood or disaster, pending approval by the Town of Whitefield CEO and/or Whitefield Select Board.
   (c) When the RV is placed on a site for more than one hundred twenty (120) days per calendar year, all requirements for the residential installation of subsurface septic and wastewater disposal shall be in compliance with the Maine Subsurface Wastewater Disposal rules.

c. RVs used as a temporary residence must adhere to the setback and other lot coverage limitations of the Town's Building and Development and Shoreland Zoning Ordinances.

d. Temporary Dwelling is allowed in a RV, as long as it has adequate potable water, and is in compliance with Maine septic and wastewater regulations. If sewage disposal is off-site, written authorization is required from the pumping service, receiving facility and/or landowner.
e. Wheels of the RV must not be removed and placement must be on a stable, level surface.
f. No permanent additions, rooms, foundations or lean-tos, except a canopy, shall be attached to the RV.
g. Unoccupied RVs may be parked or stored on a lot provided the lot is owned by the owner of the unit, or there is written authorization/ permission from the lot owner to park or store the RV on the lot.

Emergency Dwelling:

a. Prior to being placed on a lot as an Emergency Dwelling an RV must receive a permit from the CEO. Emergency Dwellings shall comply with all applicable provisions of the Maine Subsurface Wastewater Disposal rules.
b. Permits for the occupancy of emergency dwellings are valid for six (6) months from the date of issuance. Upon a finding by the CEO that the emergency necessitating the installation of the emergency dwelling is continuing, an emergency dwelling permit may be extended for up to three (3) additional periods of six (6) months, for a total permitting length of two (2) years.
c. Notwithstanding anything to the contrary in this section, emergency dwellings shall comply with all applicable provisions of the Town of Whitefield's Building and Development and the Shoreland Zoning Ordinances.

NOTE: All Minor and Major Development projects shall require a Development Application submitted at least eight (8) days prior to the scheduled Board meeting.

2. **Minor Development** shall include those projects involving: (Requires a Development Application)
   a. The construction, enlargement or expansion of at least 320 square feet, but less than 2,500 square feet, of gross non-residential floor area
   b. Those projects involving the installation of at least 320 square feet but less than 2,500 square feet of impervious surfaces. (Excluding driveways serving a single family residence).
   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. This includes the conversion of an existing residential building or structure from single family use to use as a short-term rental unit.
   e. Those projects proposing a renovation or addition to an existing conforming structure within the Shoreland Zone. (Such projects will require a Shoreland Zoning application, which requires Board review)

3. **Major Development** shall include those projects involving: (Requires a Development Application)
   a. The construction, enlargement or expansion of 2,500 or more square feet of gross non-residential floor area and/or a change of use for any residential or commercial development.
   b. The construction, enlargement or expansion of 2,500 or more square feet of impervious surfaces, excluding driveways serving a single family residence.
   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. Projects that generate two hundred (200) or more trips per day in traffic volume.
   f. Projects proposing a renovation or addition to a non-conforming structure within the Shoreland Zone. (Such projects will require a Shoreland Zoning application which requires review of the Board)

g. New construction within the Shoreland Zone (Such projects will require a Shoreland Zoning application which requires review of the Board)

h. 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 9: Procedures for Development Review

SECTION 1: Minimal Impact Development (Residential):

Minimal impact developments involve the construction of new or expanded structures and require the submission of a Building Application for review and the approval by the CEO. The Select Board shall set fees for a Building Application.

A. The CEO shall make an initial review of all Building Applications. If the CEO finds that the proposed project requires a development permit, he/she shall forward the Building Application to the Board and notify the applicant that a Development Application is required for the proposed project and must be submitted to the Board for review. If the CEO is unsure, he/she shall consult with the Board.

B. The CEO will return incomplete or unclear Building Applications for additional information or clarification. The CEO shall act upon complete Building Applications within fourteen (14) days of a completed application being filed with the Town. The Board may review Building Applications at its next regularly scheduled meeting.

C. The CEO shall approve Building Applications only when they conclude the proposed project will comply with applicable laws and ordinances administered by the Town.

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

SECTION 2: A Pre-Application Meeting for Minor and Major Developments:

Prior to submitting a Development Application, the developer or his/her authorized agent may appear informally at a regular or special meeting of the Board to discuss the proposed development.

The developer shall present to the 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 Board in making its determinations.

The Board may request that the developer arrange for an inspection of the site with the Board, or an individual appointed by the Board Chairperson to act as the Board's representative.

No binding commitments shall be made between the developer and the 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: (for Minor and Major Development)

The Development Application shall consist of the following items and information unless waived in writing by the 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/her authorized agent and name, if any, of the proposed development. Any consultants hired to date to assist with the project, with areas of responsibility indicated.
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, date of survey and total acreage.
5. Existing and/or 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. In the case of an existing system(s), if the original system design is not available, certification from the licensed Plumbing Inspector or other certified/licensed official that the system is sufficiently sized and functioning properly.
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 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 and evidence of receipt of all required licenses and/or registrations.
7. A statement from the Town's Road Commissioner, Maine Department of Transportation (MDOT) or Select Board that the proposed road or street construction specifications will meet Town approval.
8. A description of any noise, odor, smoke, glare, vibration, dust, electrical disturbance, activity at unreasonable hours, or other nuisance that may disturb neighboring properties and the proposed methods to comply with the ordinance standards.
9. 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.
10. Any other information as deemed necessary by the Board to describe the proposed development.

SECTION 4: Procedures:

A Development Application shall be filed with the 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.

In general, Minor Development applications may be processed in a shorter time than Major Development applications, although the Town of Whitefield reserves the right to review any development as a Major Development in the event of an unanticipated or controversial aspect of a proposed development of any size or traffic volume.

Expert Witnesses and Opinions: For proposals beyond the general scope of 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 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 Board to arrange a schedule for the payment of the costs. No permit can be issued by the Board until any additional fees incurred by the 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 Board.

ARTICLE 10: Standards

In order to be approvable, a Building Application or 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). 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 of record created after March 17, 1990, shall have a minimum of two hundred (200) feet of frontage on a public right-of-way, private interior subdivision road or a private road which serves two (2) or more parcels of land. New building lots located in cul-de-sacs or turn arounds may be designed so that they have less than two hundred (200) feet of road frontage along the front lot line, so long as lot width at the location where the principal building is to be constructed is at least equal to two hundred (200) feet. Where a cul-de-sac has been created, the minimum frontage requirement may be waived by the Board if the side lot line most perpendicular to the cul-de-sac is at least two hundred (200) feet in length.
2. All commercial or industrial development lots shall have a minimum of two hundred (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 accessory structure shall be located within fifty (50) feet of the center line of any public or private road except for Route 17 where it shall be at least seventy (70) feet from the center line.
   b. Commercial/Industrial: No part of any new or expansion to an existing structure or accessory structure shall be located within seventy (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 accessory structures, shall be at least fifteen (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 fifty (50) feet from any non-roadway property lines.
   c. Shoreland Zone: If the area of the proposed project is located in the Shoreland Zone, all new principal and accessory structures shall be setback at least one hundred feet (100) from the normal high-water line of great ponds classified GPA and rivers that flow into great pond classified GPA, and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the up-land edge of a wetland.

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 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.

1. State and/or Federal permits, registrations, notifications or approvals are required to store or handle oil, petroleum or propane associated with a development.
2. Underground oil or fuel storage facility will require MDEP registration number and if required a U.S. Environmental Spill Prevention Control and Countermeasure Plan.
3. All other applicable license, permit or registration numbers for oil, petroleum or propane storage, including but not limited to Maine Fuel Board will be required.

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 10, Section 4.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. Location and size of parking area must be noted.

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 (1,000) 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 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 10, 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 one hundred (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 Whitefield proving 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 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 (4) feet above ground at the property boundary of the source. Measurements of sound pressure level limits are to be made using the sound equivalent level of one minute (leql) (measured in 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 five (5) minutes in any one-hour (1 hr) 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 one hundred (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 one hundred (100) feet from any lot line, or town road and at least seventy five (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 CEO 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 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 five (5) acres and the total project area including stockpiles, structures and access roads does not exceed ten (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 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 five (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 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 Board for approval prior to the movement of any mechanized equipment to the site. (See Article 10, Section 4.I.J).

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 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 Select Board,
4. Town Attorney and/or
5. Any other person the 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 one thousand (1,000) 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.

SECTION 5: Commercial/Community Ground Mounted Solar Energy Facility:

Exemptions from Site Plan Review

The following solar-related activities must follow the standards in this section but do not require site plan review by the Board. They do require the submission of a Building Application.

1. Roof-mounted systems.
2. Ground-mounted systems less than 4,200 square feet in area.
3. One for providing electricity primarily to an agricultural operation.

Solar Energy Conversion System Sizing

Facility size is measured by calculating the horizontal square footage of solar panels when the panels are at their most horizontal angle.

No more than one system can be installed on a lot and no portion of a facility shall extend onto another lot.

Submission Requirements (requires a Development Application)

In addition to the requirements in Article 9, Procedures for Development Review of this Ordinance, the following additional information shall be provided:

1. An operations, maintenance and decommissioning plan providing:

a. A description of the regular operation and maintenance of the facility, including the frequency and scope of regular inspections and the frequency and method of vegetation management.

b. The timeline and process of decommissioning of the system.

c. A licensed professional engineer's estimate for the cost of decommissioning the system. The Town of Whitefield may hire, at the applicant's expense, a qualified individual to review this estimate.

d. The amount of the guarantee equal to 150 percent of the estimated decommissioning, removal and restoration cost, provided by the applicant and certified by a professional array construction company. Types and contents of the guarantee can be:

1.d.i. An interest bearing escrow account – A cash contribution equal to the estimated removal cost or the establishment of an escrow account shall be made by either a certified check made out to the Town, direct deposit into a savings account, or purchase of a certificate of deposit. For any account opened by the applicant, the Town shall be named as owner or co-owner, and consent of the Town shall be required for any withdrawal. Any interest earned on the escrow account shall be retained in the account to cover any future inflationary changes in the cost of decommissioning. Any funds remaining in the account after decommissioning is complete shall be returned to the applicant.

1.d.ii. Performance Bond – A performance bond shall detail the conditions of the bond, the method for release of the entire bond or portions of the bond to the Town, and the procedures for collection by the municipality. The bond documents shall specifically reference the array facility for which approval is sought.

1.d.iii. Irrevocable Letter of Credit from a bank or other lending institution shall indicate that funds have been set aside for the removal of the array facility and may not be used for any other project or loan.

e. The owner or operator of the facility shall update the decommissioning cost estimates every five (5) years and shall update whichever instrument is used in Section d above to maintain the required 150 percent level.

f. General liability insurance. The owner or operator of the facility shall maintain a general liability insurance policy of at least $1,000,000 by occurrence, $2,000,000 in aggregate, or $5,000,000 excess liability (umbrella policy).

2. Solar System specifications, including manufacturer, model and facility size.

3. Certification that layout, design, and installation conform and comply with all applicable industry standards such as the National Electrical Code (NEC/NFPA-70), the American National Standards Institute (ANSI), the Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), the Institute of Electric and Electronic Engineers (IEEE), the Solar Rating and Certification Corporation (SRCC), the Electrical Testing Laboratory (ETL), and other similar certifying organizations, the Maine Uniform Building and Energy Code (MUBEC), the fire and life safety codes (NFPA 1 and NFPA101), and any other standards applicable to solar energy conversion systems.

4. Certification that the project complies with the utility notification requirements contained in Maine law and accompanying regulations through the Maine Public Utilities Commission, unless the applicant intends, and so states on the application, that the system will NOT be connected to the electricity grid.

5. A wildlife and habitat impact survey by the Maine Natural Areas Program and a project evaluation and essential habitat and threatened species review from the Department of Inland Fisheries and Wildlife (DIFW) indicating that the proposed installation will have no undue negative habitat or wildlife impact.

<u>General Operations</u>

Irrespective of any other provisions in this section of this Ordinance, the owner and/or operator of a Commercial/Community Ground Mounted Solar Energy Facility (hereafter referred to as C/CGMSEF) shall build, operate, maintain, and decommission the C/CGMSEF in compliance with all relevant Federal, State and Local laws, rules, regulations and ordinances.

<u>General Siting Requirements</u>

1. Preference should be given to locating C/CGMSEF's on land previously developed, degraded or marginally productive in nature. No topsoil or prime agricultural soil shall be removed from the site for the installation of the system.

2. C/CGMSEF's shall be sited to eliminate any solar glare onto nearby properties or roadways without unduly affecting the functionality or efficiency of the system.

3. Installations shall not be done so as to obstruct solar access to neighboring properties and shall be a non-reflective color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporates non-reflective surfaces to minimize any visual disruptions.

Dimensional Requirements

1. Perimeter fencing around the project area shall be set back at least one hundred (100) feet from all property lines and one hundred (100) feet from the center line of a public way.

2. All other structures including solar arrays, transformers, security buildings, etc. shall be at least one hundred (100) feet from all side and rear property lines and one hundred (100) feet from the center line of any public way.

3. Height: Height requirements for C/CGMSEF panels shall not exceed twenty (20) feet, as measured from the highest natural grade below each panel. The minimum clearance of panel from the ground shall be four (4) feet to allow grazing or mowing of vegetation. The height restrictions exclude utility poles, substation structures and antennas constructed for the project.

4. Maximum Development Size: The area devoted to C/CGMSEF's shall be defined as the area of the lot covered by all buildings, driveways, parking areas, other areas where vegetation is removed, and all of the area enclosed within the required C/CGMSEF fencing and shall be capped at a maximum of ten (10) acres. For purposes of calculating the ten (10) acre maximum for such facilities, the acreage of a proposed C/CGMSEF or a lot shall include both the acreage of the lot for which approval is sought PLUS the acreage of an already existing C/CGMSEF on any contiguous lot.

Fencing: All fencing must meet the following criteria

1. It must be at a minimum height to meet the National Electrical Code standard for a fence that does not require barbed wire at the top.

2. It must blend in to the natural environment as well as possible by being an unobtrusive color and style.

3. It must be wildlife-friendly by allowing animals such as raccoons, rabbits and other small animals to pass through the bottom portion of the fence.

4. A minimum five (5) foot cleared space shall be maintained on the outside of the fence to facilitate inspection and maintenance of the fence over the life of the project.

5. It must be maintained in good working order for the life of the facility.

Fire Suppression Issues

For purposes of emergency services, the owner or operator of a C/CGMSEF shall provide a copy of the project summary, electrical schematic, and site plan to the Whitefield Fire Chief. Upon request, the owner or operator shall cooperate with the Fire Department in developing an Emergency Response Plan. All means of shutting down the system shall be clearly marked on the plan. A KnoxBox available to the Fire Chief shall be installed at the main gate into the facility. The plan shall also address initial and on-going training needs for the Fire Department should a fire occur at the facility up to, and including, the owner or operator shall provide such training when requested by the Fire Chief. The owner or operator shall identify a responsible person to the CEO and the Fire Chief for public inquiries throughout the life of the installation.

Lighting: C/CGMSEF lighting shall be limited to that required for safety and operational purposes. All lighting provided at the site shall be motion sensor controlled preferred, shielded and downcast such that the light does not spill onto adjacent parcels or night sky.

Natural Screening: Natural forested vegetation shall be left around the perimeter of the facility to a depth of at least forty (40) feet from all property lines and the road. If no forested cover exists on the property, then a visual screening hedge shall be installed. Such a hedge shall be composed of evergreen vegetation that will attain a height of at least seven (7) feet within five (5) years. Such a hedge shall be planted in three rows with plants spaced six (6) feet apart within a row and rows spaced eight (8) feet apart. Plants in different rows shall be offset by two (2) feet to create a uniform visually blocking hedge.

Signage: Signage and advertising shall be limited to that which provides identification and contact information of the owner and/or operator or which provides safety or warning messages to the public. Signs providing owner and/or operator information shall be located at any gates through the fencing into the system plus at the transformer. Electrical warning signs shall be located all along the fencing spaced at two hundred fifty (250) foot intervals.

Topsoil Removal: No topsoil shall be removed from the site. Any soil dug up during construction or maintenance activities shall be spread over the site.

Vegetation Management Plan: The owner or operator shall submit a vegetation management plan approved by the Fire Chief or his/her designee. The plan must indicate that the vegetation growth will be maintained under and around the installation at levels needed to reduce the risk of ignition from the electrical system while minimizing mowing or other mechanical processes to the maximum extent possible. Native, pollinator-friendly seed mixtures shall be used. Herbicides, defoliants or pesticides are not to be used for vegetation management.

If a hedge is planted, the plan shall include how the hedge will be established and maintained over the life of the project such that it continues to provide visual screening of the site.

Routine Maintenance and Repair: The owner or operator of the C/CGMSEF shall maintain all components of the system in good working order during the entire lifetime of the system.

The owner or operator shall visually inspect the integrity of the perimeter fence at least annually to ascertain that it is still structurally sound and has not been breached in any way. Should there be any issues, the owner or operator shall repair any breaches or problems with the fence that jeopardize its function of preventing access to the site.

The owner or operator shall make sure that the primary entrance gate is accessible and functions properly so that access to the site can occur at any time of the year.

Decommissioning / Abandonment

Any C/CGMSEF that has reached the end of its useful life, ceases to generate power or has been abandoned shall be removed pursuant to a plan approved by the Board during the application process. The owner or operator shall physically remove all components of the installation within one hundred eighty (180) days after discontinuance of operations, cessation of power generation or abandonment of the facility. The owner or operator shall notify the CEO by certified mail of the proposed date of discontinuance, cessation or abandonment and plans for removal.

Decommissioning shall consist of the physical removal of all components of the C/CGMSEF including solar arrays, support posts, foundations, wiring, fencing, transformers, poles and any other support equipment for the facility. All decommissioning shall be carried out in accordance with all federal, state, county and local laws, rules, regulations and ordinances at the time of decommissioning. All solar panels and other "single use" supplies, materials, and equipment must be recycled and/or disposed of at a federal or state-licensed recycling or solid waste facility.

The site will be stabilized to minimize soil erosion. The Board may allow the owner or operator to leave landscaping or designated below ground foundations in order to minimize erosion or the disruption of extant vegetation. Any areas of exposed soil shall be revegetated with native, pollinator-friendly seed mixtures.

In the event that the C/CGMSEF is not removed within one hundred eighty (180) days of cessation of generating activities or is abandoned for more than one hundred eighty (180) days, the Town of Whitefield will initiate removal using the performance guarantee set aside by the applicant for that purpose.

Surety

Every five (5) years after the initial effective date of the surety, the owner or operator shall submit an updated engineer's estimate and surety to the Town for review and approval. The Town may hire, at the owner or operator's expense, a qualified individual to review the engineer's estimate. If the owner or operator of the facility fails to submit this revised estimate at the end of the 5-year period, the Town shall assess a fine against said owner or operator. The Town of Whitefield's Select Board shall set the amount of this fine annually.

The Board may modify or waive the requirements for surety when the Board determines that because of special circumstances or the site or project, such application requirements or standards would not be applicable or would be an unnecessary burden upon the applicant and would not adversely affect the general health, safety, and welfare of the Town.

ARTICLE 11: Inspections

Inspection of Mineral Extraction operations

A. The CEO or other person designated by the 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 Board but shall, at a minimum, occur every year until the entire site is reclaimed. The CEO shall report to the 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 12: Transferability of Permit

Within thirty (30) days of the date of the transfer, by sale or otherwise, of land upon which a commercial or industrial activity is permitted, the new owner(s) shall apply to the Board for an amendment to the permit, which the applicant shall provide proof of change in title and ownership, and proof of financial capacity of the new owner as provided under Article 9, Section 3, B,5 of this Ordinance. In addition, in the following situations the new owner(s) shall provide the following:

1. Medical Marijuana Cultivation Facilities,
   A. The new owner's State of Maine Medical Marijuana conditional license, and
   B. An updated Operating Plan noting any changes in operation from the previous owner(s)' plan.

2. Mineral extraction activities:
   A. An updated Certificate of Insurance as required under Article 10, Section 4.I.C of this Ordinance, and,
   B. Proof of sufficient performance guarantees as may be required under Article 10, Section 4.II.F.

3. Commercial/Community Ground Mounted Solar Energy Facility:
   A. The new owner must submit updated documents as required under the Submissions Requirements of Article 10, Section 5.

ARTICLE 13: General Provisions

A. Where the 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 situate the proposed structure/activity in compliance with any one or more provisions of this Ordinance.

B. In granting any waiver, the Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived.

C. The 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 Building Application or Development Application as approved by the Town. Persons proposing to make any changes must contact the CEO or Board for either approval or, if appropriate, to file a new Building Application, Development Application 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 Building Application or Development Application is required.

ARTICLE 14: 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 21, 2026

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 15: Appeal

If the 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 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, reestablished in a special Town Meeting June 11, 2019. Said appeal must be made within thirty (30) days of the date the Board voted on the decision.

ARTICLE 16: Amendments

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

ARTICLE 17: Enforcement

The CEO shall also investigate all complaints of alleged violations of this ordinance. Findings of that investigation shall be presented to the 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 Select Board of the kind or nature of the violation and the development and the Select Board 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 and regular mail.

The Select Board 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 Select Board 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.

Construction or other activities requiring submission and approval of a Building Application or Development Application that begin before such submission and approval shall incur a penalty fee before the Town will consider the after-the-fact Building Application or Development Application. The Select Board shall set this penalty fee along with application fees.

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 18: Definitions

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

A. ABUTTING PROPERTY: The parcel(s) sharing a boundary line with, or across the road from the subject property.

B. ACCESSORY DWELLING UNIT: An accessory dwelling unit is a living area within an existing single family dwelling, attached to or sharing a wall with an existing single family dwelling unit, or within a detached structure accessory to a single family dwelling, such as a garage, barn, or accessory building, which has a separate kitchen, bathroom and entry way. In no case shall the accessory dwelling unit be larger than the primary dwelling unit, nor shall it exceed one thousand five hundred (1,500) square feet in total living area. For purposes of this Ordinance, a mobile home can be an accessory dwelling unit. Motor homes, campers or tent trailers do NOT meet the definition of an accessory dwelling unit.

C. 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.

D. 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.

E. 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.

F. 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.

G. 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 ten (10) gallons per minute.

H. BLASTING: The use of explosives to break up or otherwise aid in the extraction of rock or other consolidated natural formations.

I. BUILDING APPLICATION: This is an application developed by the Board for the express purpose of identifying proper information to be supplied by an applicant prior to the erection of new or expanded structures.

J. 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.

K. 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.

L. CAMPGROUND: Land upon which two (2) or more Recreational Vehicles are parked, occupied, or are available for occupancy, temporarily for recreational or camping purposes; or land upon which two (2) or more camping spaces are installed. A camping site or space for one (1) Recreational Vehicle incidental to a residence is excluded. Campground does not include parking lots or areas where camping is not authorized

M. 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 twenty percent (20%) to accommodate business activities and the construction of accessory structures greater than three hundred twenty (320) square feet for business use on a lot principally used as a single family residence.

N. CODE ENFORCEMENT OFFICER: The person appointed by the Select Board to oversee that all ordinances enacted by the Town are properly followed.

O. COMMERCIAL/COMMUNITY GROUND MOUNTED SOLAR ENERGY FACILITY: A Commercial or Community Owned solar energy conversion system that converts solar energy to electric or thermal energy. A ground mounted facility is one where the support poles for the solar panels are affixed to the ground through some type of foundation system or pole system. For purposes of this ordinance such facilities used exclusively to support traditional farming activities are excluded from this definition.

P. 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.

Q. 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.

R. 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.

S. DISTURBED AREA: All land areas that are stripped, graded, grubbed, filled, bulldozed or excavated at any time during the site preparation or removal of vegetation for, or construction of, a project.

T. 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.

U. GROUNDWATER: All of the water found beneath the surface of the ground present in aquifers and recharge areas.

V. 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 twenty percent (20%) of the floor area of the structure or does not involve the construction or conversion of any accessory structures greater than three hundred (300) square feet for use by the business. Accessory structures used for storage are included in the three hundred (300) square foot threshold.

W. 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.

X. 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.

Y. 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.

Z. 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.

AA. 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.

BB. MEDICAL MARIJUANA: Marijuana as allowed per the Maine Medical Use of Marijuana Act.

CC. 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.

DD. 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.

EE. 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.

FF. NON-RESIDENTIAL FLOOR AREA: Floor area within a single family residential structure or accessory structure to a single family residential structure that is devoted to commercial or industrial activities. In essence, this is considered a home business.

GG. OUTBUILDING: An accessory structure that is not equipped for human habitation.

HH. 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.

II. PRIMARY DWELLING UNIT: The first single family residential structure constructed or placed upon a lot is considered the primary dwelling unit.

JJ. PUBLIC ROAD: Any roadway that is owned by or leased by a government unit or entity, and maintained with public funds.

KK. PRIVATE SUBDIVISION ROAD: Road that is included in any application for, or are intended to serve, any subdivision requiring Board approval under the provisions of the Subdivision and Building and Development Ordinances.

LL. PRIVATE WAY, ROAD, OR RIGHT OF WAY: Any way or road, not a public road, providing access to two (2) or more lots or dwelling units, which are maintained by a property owner or a group of property owners.

MM. 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.

NN. 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.

OO. RECREATIONAL VEHICLE: A vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping and/or living quarters for one (1) or more persons. This may include a motor home, camper trailer, pick-up camper, pop-up camper or other design. In order to be considered as a vehicle and not a structure, the unit must remain with its tires on the ground, and must be registered with a State Division of Motor Vehicles.

PP. RESIDENCE: Shall mean any structure that contains one or more dwelling units. A single family residence shall contain only one dwelling unit. Structures containing two (2) or more dwelling units shall be classified as multi-family residences.

QQ. 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.

RR. 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.

SS. SELECT BOARD: A board composed of the five (5) persons elected by the citizens of the Town of Whitefield to serve as select persons.

TT. SETBACKS: The minimum horizontal distance from a lot line to the nearest part of a building, including porches, steps, and railings.

UU. SHORT TERM RENTAL: Residential units or portions of residential units that are rented out on a nightly or weekly basis for no more than thirty (30) days to individual guests. They are commonly referred to as vacation rentals. Short term rental units may be whole house rentals, apartments, condominiums, RVs, campers or individual rooms in homes.

VV. SOLAR ENERGY: Electromagnetic energy transmitted from the sun.

WW. SOLAR FARM: See Commercial/Community Ground Mounted Solar Energy Facility. Note that a solar farm is in no way an agricultural activity but falls under the definition of an industrial activity.

XX. STRUCTURE: Anything having a footprint of 50 square feet or more built for the support, shelter, or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with 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.

YY. 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.

ZZ. TEMPORARY DWELLING IN A RECREATIONAL VEHICLE: Occupancy of a Recreational Vehicle that does not exceed one hundred twenty (120) days in a calendar year, other than the exemptions noted in Article 8; Recreational Vehicles as a Temporary Residence - a. and b. of the ordinance, and is determined by the length of time a person(s) is present in the RV, using it as a residence.

AAA. TINY HOUSE: A separate, independent dwelling unit that is no more than four hundred (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.

BBB. TOWN: Refers to the minor civil division known as Whitefield, Maine.

CCC. 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

Amended at Town Meeting General Referendum Election November 8, 2022; Adding Section 5 of Article 9

Amended at Annual Town Meeting March 18, 2023: Amending Articles #4, #7, #8, #11 #16 & #17

Amended at Annual Town Meeting March 21, 2026, Amending Articles #1, #2, #6, #7 New, #8, #9 and #18.

Attested a True Copy, Yolanda Violette, Town Clerk 3.21.2026

/s/ on file at Town Office

Yolanda Violette