



SUBDIVISION ORDINANCE OF THE TOWN OF WHITEFIELD

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SUBDIVISION ORDINANCE OF THE TOWN OF WHITEFIELD

Section 1. Purpose

The purpose of this ordinance is to assure the comfort, convenience, safety, health and welfare of the people of the Town of Whitefield, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Whitefield, Maine, the Planning Board shall consider the following criteria and before granting approval shall make findings of fact that the provisions of this ordinance have been met and that the proposed subdivision will meet the guidelines of Title 30-A M.R.S. Section 4401 et. seq.

Section 2. Authority and Administration

- 2.1 Authority: This Ordinance is adopted pursuant to and consistent with Title 30-A, M.R.S. Section 3001 and Title 30-A M.R.S. Section 4401 et. seq. and shall be known and cited as the "Subdivision Ordinance of the Town of Whitefield".
- 2.2 Administration: The Planning Board shall administer this Ordinance. The provisions of this Ordinance shall apply to all of the land area of all proposed subdivisions, as defined, located in the Town of Whitefield.

Section 3. Definitions

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

- 3.1 Applicant: The person applying for subdivision approval under these regulations.
- 3.2 Average Daily Traffic (ADT): The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.
- 3.3 Buffer Area: A part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.
- 3.4 Cluster Subdivision: A subdivision in which the lot sizes are reduced below those normally required in return for the provision of permanent open space.
- 3.5 Common Open Space: Land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.
- 3.6 Complete Application: An application shall be considered complete upon submission of the required fee and all information required by this ordinance for a Final Plan, or by a vote of the Board to waive the submission of required information. The Board shall issue a receipt to the applicant upon its determination that an application is complete.
- 3.7 Complete Substantial Construction: The completion of a portion of the improvements which represents no less than thirty percent of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the applicant, the cost of construction of buildings on

those lots shall not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

- 3.8 Comprehensive Plan: A document or interrelated documents adopted by the Legislative Body, containing the elements established under Title 30-A M.R.S. Section 4326 Subsection 1 to 4, including the strategies for an implementation program which are consistent with the State goals and guidelines established under Title 30-A M.R.S. Sections 4311 through 4350.
- 3.9 Conservation Easement: A non-possessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.
- 3.10 Contiguous Lots: Lots which adjoin at any line or point, or are separated at any point by a body of water less than 15 feet wide.
- 3.11 Density: The number of dwelling units per acre of land.
- 3.12 Densely Developed Area: Any commercial, industrial, or compact residential area of 10 or more acres with an existing density of at least one principal structure per 2 acres.
- 3.13 Direct Watershed of a Great Pond: That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond. For the purposes of these regulations, the watershed boundaries shall be as delineated in the comprehensive plan, or as depicted in the drainage divide data layer provided by the Maine Office of GIS. Due to the scale of the map there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant cannot agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a professional land surveyor showing where the drainage divide lies.
- 3.14 Driveway: A vehicular access-way serving two dwelling units or less.
- 3.15 Dwelling Unit: A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, bathing and sanitary facilities; includes single family houses, and the units in a duplex, apartment house, multifamily dwellings, and residential condominiums.
- 3.16 Farmland: A parcel consisting of 5 or more acres of land that is:
 - A. Classified as prime farmland, unique farmland or farmland of statewide or local importance by the Natural Resources Conservation Service within the United States Department of Agriculture; or
 - B. Used for the production of farm products as defined in Title 7 M.R.S., Section 152, Subsection 3A, and registered with the State as farmland that meets the requirements of registered farmland according to Title 7 M.R.S., Chapter 2B, Subsection 52.
- 3.17 Final Plan: The final drawings, on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, shall be recorded at the Registry of Deeds.
- 3.18 Freshwater Wetland: Areas which are inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and are not part of a great pond, coastal

wetland, river, stream or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

- 3.19 Floodplain Wetland: Lands adjacent to a river, stream or brook that are inundated with floodwater during a 100-year flood event and that under normal circumstances support a prevalence of wetland vegetation typically adapted for life in saturated soils.
- 3.20 Great Pond: Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has surface area in excess of thirty acres, except for the purposes of these regulations, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.
- 3.21 High Intensity Soil Survey: A map prepared by a Certified Soil Scientist identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that point. Single soil test pits and their evaluation for suitability for subsurface wastewater disposal systems shall not be considered to constitute high intensity soil surveys.
- 3.22 100 Year Flood: The highest level of flood that, on the average, has a one percent chance of occurring in any given year.
- 3.23 Level of Service: A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the Highway Capacity Manual, most recent edition, published by the National Academy of Sciences, Transportation Research Board. There are six levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.
- 3.24 Liquidation harvesting: The purchase of timberland followed by a harvest that removes most or all commercial value in standing timber, without regard for long-term forest management principles, and the subsequent sale or attempted resale of the harvested land within 5 years.
- 3.25 Municipal Engineer: Any registered professional engineer hired or retained by the municipality, either as staff or on a consulting basis.
- 3.26 Normal High Water Line of Inland Waters: That line along the shore of a great pond, river, stream, brook or other non-tidal body of water which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or from changes in vegetation and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of great ponds, all land below the normal high water line shall be considered the bottom of the great pond. In the case of wetlands adjacent to rivers, the normal high water line is the upland edge of the wetland, and not the edge of the open water. In places where the shore or bank is of such character that the high water line cannot be easily determined (rockslides, ledges, rapidly eroding or slumping banks), the normal high water line shall be estimated from places where it can be determined by the above method.
- 3.27 Outstanding River Segment: For purposes of this Ordinance, this status applies to the Sheepscoot River and the West branch of the Sheepscoot River within the Town of Whitefield.
- 3.28 Parcel: See Tract or Parcel of Land.
- 3.29 Person: Includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

- 3.30 Planning Board: The Planning Board of the Town of Whitefield. The Planning Board is also referred to in this ordinance as the "Board".
- 3.31 Preliminary Subdivision Plan: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Board for its consideration.
- 3.32 Principal Structure: Any building or structure in which the main use of the premises takes place.
- 3.33 Professional Engineer: A professional engineer, registered in the State of Maine.
- 3.34 Protected Natural Resource: Significant wildlife habitat, freshwater wetlands, public water system wellhead protection areas, great ponds or rivers, streams or brooks, as these terms are defined in Title 38 M.R.S., Chapter 3, Subsection 5-A.
- 3.35 Public Water System: A water supply system that provides water to at least 15 service connections or services water to at least 25 individuals daily for at least 30 days a year.
- 3.36 Recording Plan: An original of the Final Plan, suitable for recording at the Registry of Deeds and which need show only information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.
- 3.37 Re-subdivision: The division of an existing subdivision or any change in the plan for an approved subdivision which affects the lot lines, including land transactions by the applicant not indicated on the approved plan.
- 3.38 River, Stream or Brook: A channel between defined banks. A channel is created by the action of surface water and has 2 or more of the following characteristics.
- A. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topographic map or, if that is not available, a 15-minute series topographic map.
 - B. It contains or is known to contain flowing water continuously for a period of at least 6 months of the year in most years.
 - C. The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.
 - D. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, within the stream bed.
 - E. The channel contains aquatic vegetation and is essentially devoid of upland vegetation. River, stream or brook does not mean a ditch or other drainage way constructed, or constructed and maintained, solely for the purpose of draining storm water or a grassy swale.
- 3.39 Road: Public and private ways such as alleys, avenues, highways, streets, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way for vehicular access other than driveways.
- 3.40 Road Classification:
- Arterial Road:** A major thoroughfare which serves as a major traffic way for travel between and through the municipality.
 - Collector Road:** A road with average daily traffic of 200 vehicles per day or greater, , or roads which serve as feeders to arterial roads, and collectors of traffic from minor roads.
 - Cul-de-sac:** A road with only one outlet and having the other end for the reversal of traffic movement.
 - Industrial or Commercial Road:** Roads servicing industrial or commercial uses.
 - Minor Road:** A road servicing only residential properties and which has an average daily traffic of less than 200 vehicles per day.

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

3.41 Significant Wildlife Habitat:

- A. The following areas to the extent that they have been mapped by the Department of Inland Fisheries and Wildlife or are within any other protected natural resource: High and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife; and critical spawning and nursery areas for Atlantic salmon as defined by the Department of Marine Resources; and [PL 2023, c. 156, §1 (AMD).]
- B. Except for solely forest management activities, for which "significant wildlife habitat" is as defined and mapped in accordance with 38 M.R.S. Chapter 3, Subchapter 1, Article 5-A, Subsection 480-1 by the Department of Inland Fisheries and Wildlife, the following areas that are defined by the Department of Inland Fisheries and Wildlife and are in conformance with criteria adopted by the Department of Environmental Protection or are within any other protected natural resource:
 - (1) Significant vernal pool habitat;
 - (2) High and moderate value waterfowl and wading bird habitat, including nesting and feeding areas;
 - (3) Shorebird nesting, feeding and staging areas; and
 - (4) Habitat for state endangered and state threatened species listed under Title 12 M.R.S., Part B, Subpart 4, Chapter 925, Subchapter 3, Subsection 12803, Subsection 3 that is within another protected natural resource area or that is located wholly or partly within the boundaries of a proposed project site that requires approval from the department pursuant to this article, except for activity or development on a residential lot that is not part of a proposed multi-lot housing development;

3.42 Sketch Plan: Conceptual maps, renderings and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval.

3.43 Street: See Road

3.44 Subdivision: The division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise.

- A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:
 - (1) Both dividings are accomplished by a applicant who has retained one of the lots for the applicant's own use as a single-family residence that has been the applicant's principal residence for a period of at least 5 years immediately preceding the 2nd division; or
 - (2) The division of the tract or parcel is otherwise exempt under this subchapter.
- B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.
- C. A lot of 40 or more acres must be counted as a lot, except: When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, Article 2-B, Subsection 435 or a municipality's shoreland zoning ordinance.
- D-1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

- D-2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
- D-3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
- D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than 1/2 the assessed value of the real estate.
- D-5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
- D-6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection.
- E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.
- F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.
- G. This subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that otherwise regulates land use activities.

A municipality may not enact an ordinance that expands the definition of "subdivision" except as provided in this subchapter. A municipality that has a definition of "subdivision" that conflicts with the requirements of this subsection at the time this paragraph takes effect shall comply with this subsection no later than January 1, 2021. Such a municipality must file its conflicting definition at the county Registry of Deeds by June 30, 2020 for the definition to remain valid for the grace period ending January 1, 2021. A filing required under this paragraph must be collected and indexed in a separate book in the Registry of Deeds for the county in which the municipality is located.

- H. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs D-1 to D-6 above, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
- I. Unless the intent of a transferor is to avoid the objectives of this subchapter, the division of a tract or parcel of land accomplished by the transfer of any interest in the land to a holder does not create a lot or lots for purposes of this definition if:
 - (1) The transferred interest, as expressed by conservation easement, binding agreement, declaration of trust or otherwise, is to be permanently held for one or more of the following conservation purposes:
 - (a) Retaining or protecting the natural, scenic or open space values of the land;
 - (b) Ensuring the availability of the land for agricultural, forest, recreational or open space use;
 - (c) Protecting natural resources; or
 - (d) Maintaining or enhancing air quality or water quality; and

(2) The transferred interest is not subsequently further divided or transferred except to another holder. As used in this paragraph, "holder" has the same meaning as in Title 33, Section 476, Subsection 2.

- 3.45 Subdivision, Major: Any subdivision containing more than five lots or dwelling units, or any subdivision containing a proposed road.
- 3.46 Subdivision, Minor: Any subdivision containing five lots or dwelling units or less, and in which no road is proposed to be constructed.
- 3.47 Subsurface Wastewater Disposal System: Any system designed to dispose of waste or wastewater on or beneath the surface of the earth; including, but not limited to, the following: Septic tanks; disposal fields; legally existing, nonconforming cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S. Section 414, any surface wastewater disposal system or any municipal or quasi-municipal sewer or wastewater treatment system.
- 3.48 Timber Harvesting: The cutting or removal of trees or forest products that when cut or removed are transported to a round wood processing operation, as defined in Title 12 M.R.S., Part 11: Chapter 805, Subchapter 3-A: Subsection 8868. Timber harvesting does not include reclaiming trees, logs or bark from timber harvesting or other operations, including but not limited to retrieving submerged timbers from log drives or bark from bark piles.
- 3.49 Tract or Parcel of Land: All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
- 3.50 Transferor: Someone who transfers or conveys a title or property to another.

Section 4. Administrative Procedure

- 4.1 Purpose. The purpose of this section and Sections 5 through 8 is to establish an orderly, equitable and expeditious procedure for reviewing proposed subdivisions.
- 4.2 Agenda. In order to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda at least one week in advance of a regularly scheduled meeting by contacting the Chairperson. Applicants who attend a meeting and who are not on the Board's agenda may be heard only after all agenda items have been completed, and then only if a majority of the Board so votes.
- 4.3 Joint meetings. If any portion of a subdivision crosses municipal boundaries, all meetings and hearings to review the application must be held jointly by the reviewing authorities from each municipality. All meetings and hearings to review an application under Title 30-A M.R.S Section 4407 for a revision or amendment to a subdivision that crosses municipal boundaries must be held jointly by the reviewing authorities from each municipality. In addition to other review criteria, the reviewing authorities shall consider and make a finding of fact regarding the criteria described in Title 30-A M.R.S. Section 4404, Subsection 19. The reviewing authorities in each municipality, upon written agreement, may waive the requirement under this subsection for any joint meeting or hearing.
- 4.4 Approval of Final Plans. The Board may not accept or approve final plans or final documents prepared within the meaning and intent of Title 32 M.R.S., Chapter 141 that are not sealed and signed by the professional land surveyor under whose responsible charge they were completed, as provided in Title 32 M.R.S. Section 18226.

Section 5. Pre-application Conference

- 5.1 Procedure.
 - A. Applicant presentation and submission of sketch plans.
 - B. Question and answer period. The Board makes specific suggestions to be incorporated by the applicant into subsequent submissions.
 - C. Scheduling of on-site inspection.
- 5.2 Submission. The Pre-application Sketch Plan shall show, in simple sketch form, the proposed layout of roads, lots, buildings and other features in relation to existing conditions. The Sketch Plan, which may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It is recommended that the Sketch Plan be superimposed on or accompanied by a copy of the Tax Map(s) on which the land is located. The Sketch Plan shall be accompanied by a copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision, unless the proposed subdivision is less than 10 acres in size.
- 5.3 Contour Interval and On-Site Inspection. Within 30 days, the Board shall determine and inform the applicant of the required contour interval on the Preliminary Plan in the case of a major subdivision, or Final Plan in the case of a Minor Subdivision, and hold an on-site inspection of the property. The applicant shall place "flagging" at the center line of any proposed roads, and at the approximate intersections of the road center lines and lot corners, prior to the on-site inspection.
- 5.4 Rights not Vested. The submittal or review of the pre-application sketch plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.R.S. 302.

Section 6. Minor Subdivisions

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

newspaper of general circulation in Whitefield at least two times, the date of the first publication to be at least seven days prior to the hearing.

- H. Within 30 days of a public hearing, or within 60 days of receipt of a complete application if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

6.3 Submissions.

- A. The subdivision plan for a Minor Subdivision shall consist of two reproducible, stable based transparent originals, one to be recorded at the Registry of Deeds, the other to be filed at the Town Office and three copies of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch provided all necessary detail can easily be read. Space shall be provided for endorsement by the Board. A copy of the plan and all accompanying information shall be submitted to the Town Office seven business days prior to the meeting.
- B. The application for approval of a Minor Subdivision shall include the following information:
1. Proposed name of the subdivision, or identifying title, and the name of the municipality in which is located, plus the Tax Map and Lot numbers.
 2. Verification of right, title or interest in the property.
 3. A field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a person duly licensed by the State to perform such work. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument to be set or found at each lot corner.
 4. A copy of the deed from which the survey was based. A copy of all deed restrictions, easements, rights-of-way or other encumbrances currently affecting the property.
 5. A copy of any deed restrictions intended to cover all or part of the lots in the subdivision.
 6. An indication of the type of sewage disposal to be used in the subdivision.
 - a. When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses prepared by a person duly licensed by the State to perform such work shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
 7. Indication of the type of water supply system(s) to be used in the subdivision.
 8. The location and size of existing and proposed sewage disposal systems, water supply systems, culverts and drainage ways on or adjacent to the property to be subdivided.
 9. The date the Plan was prepared, north point, graphic map scale, names and addresses of the record owner, applicant and individual or company who prepared the plan and the names of adjoining property owners.
 10. A copy of the portion of the Lincoln County Soil Survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submittal of a high intensity soil surveyor a report by a Registered Soil Scientist or Registered Professional Engineer experienced in geotechnics, indicating the suitability of soil conditions for those uses.
 11. The number of acres within the proposed subdivision, location of property lines, existing buildings, water courses, vegetative cover type, and other essential existing physical features.
 12. Contour lines at the interval specified by the Board, showing elevations in relation to Mean Sea Level.
 13. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.

Section 7. Preliminary Plan for Major Subdivision

7.1 Procedure

- A. Within six months after the on-site inspection by the Board, the applicant shall submit an application for approval of a Preliminary Plan at least seven business days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Preliminary Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.
- B. All applications for Preliminary Plan approval for a Major Subdivision shall be accompanied by an application fee as set by the Select Board, payable by check to the Town of Whitefield. In addition, the applicant shall pay a fee as set by the Select Board to be deposited in a special account designated for that subdivision application, to be used by the Board for hiring independent consulting services to review the application. If the balance in this special account is drawn down by 75%, the Board shall notify the applicant and require that the fund be restored to 100%. Any balance in the account remaining after a decision on the final plan application by the Board shall be returned to the applicant.
- C. The applicant, or the duly authorized representative, shall attend the meeting of the Board to discuss the Preliminary Plan.
- D. Upon receipt of an application for Preliminary Plan approval of a major subdivision, the Board shall issue a dated receipt to the applicant and shall notify in writing all owners of abutting property that an application for subdivision approval has been submitted.
- E. Within 30 days of receipt of a Preliminary Plan application form and fee, the Board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application.
- F. Upon determination that a complete application has been submitted for review, the Board shall determine whether to hold a public hearing on the Preliminary Plan application. If the Board decides to hold a public hearing, it shall hold the hearing within 30 days of receipt of a complete application, and shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the Town of Whitefield at least two times, the date of the first publication to be at least seven days prior to the hearing.
- G. The Board shall, within 30 days of a public hearing, or within 60 days of receipt of a complete application if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, make findings of fact on the application, and approve, approve with conditions or deny the Preliminary Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.
- H. The Board shall notify the Road Commissioner, School Superintendent, Select Board, and Fire Chief of the proposed subdivision, the number of dwelling units proposed, the length of roadways and the size and construction characteristics of any multi-family, commercial or industrial buildings. The Board shall request that these officials comment upon the adequacy of the Town's existing facilities to service the proposed subdivision. In addition, the Board shall request the following specific information:
 1. From the Fire Chief:
 - a. Ability to provide adequate fire protection to this project using existing equipment and personnel;
 - b. Identifying equipment and capability improvements needed to provide adequate fire protection to this project, including estimated cost of such enhancements;
 - c. Percent of present capacity at which the fire company is operating and an estimate of when 100% capacity will be reached;
 - d. Adequacy of road access to the project for emergency vehicles;
 - e. Availability of firefighting water resources in the project vicinity; and
 - f. Effect of the project on Town insurance ratings based on present fire company capabilities.
 2. From the School Superintendent:
 - a. Expected additional student loading due to the project;

- b. Ability to absorb anticipated additional student loading and provide necessary business of subdivision students with existing assets;
 - c. Additional assets needed to provide above services and associated costs;
 - d. Present percent capacity at which school facilities are operating and projected 100% capacity attainment date; and
 - e. Adequacy of road access for school buses.
- I. When granting approval to a Preliminary Plan, the Board shall state the conditions of such approval, if any, with respect to:
- 1. The specific changes which it will require in the Final Plan;
 - 2. The character and extent of the required improvements for which waivers may have been requested and which in the Board's opinion may be waived without jeopardy to the public health, safety and general welfare; and
 - 3. The amount of all performance guarantees which it will require as prerequisite to the approval of the Final Plan;
- J. Approval of a Preliminary Plan shall not constitute approval of the Final Plan or intent to approve the Final Plan, but rather it shall be deemed an expression of approval of the design of the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Board upon fulfillment of the requirements of this ordinance and the conditions of preliminary approval, if any. Prior to the approval of the Final Plan, the Board may require additional changes as a result of the further study of the subdivision as a result of new information received.

7.2 Submissions

- A. Location Map. The Preliminary Plan shall be accompanied by a Location Map adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The Location Map shall show:
- 1. Existing subdivision in the proximity of the proposed subdivision.
 - 2. Locations and names of existing and proposed roads.
 - 3. An outline of the proposed subdivision and any remaining portion of the owner's property if the Preliminary Plan submitted covers only a portion of the owner's entire contiguous holding.
- B. Preliminary Plan. The Preliminary Plan shall be submitted in three copies of one or more maps or drawings which shall be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The Preliminary Plan shall be drawn to a scale of not more than 100 feet to the inch. The Board may allow plans for subdivisions containing more than 100 acres to be drawn at a scale of not more than 200 feet to the inch provided all necessary detail can easily be read. A copy of the preliminary plan and all accompanying information shall be submitted to the Town Office seven business days prior to the meeting. The following information shall either be shown on the Preliminary Plan or accompany the application for preliminary approval:
- 1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Tax Map and Lot Numbers.
 - 2. Verification of right, title or interest in the property.
 - 3. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a person duly licensed by the State to perform such work. The corners of the tract shall be located on the ground and marked by monuments.
 - 4. A copy of the deed from which the survey was based. A copy of all covenants or deed restrictions, easements, rights-of- way, or other encumbrances currently affecting the property.
 - 5. A copy of any covenants or deed restrictions intended to cover all or part of the lots in the subdivision.
 - 6. Contour lines at the interval specified by the Board, showing elevations in relation to Mean Sea Level.

7. The number of acres within the proposed subdivision, location of property lines, existing buildings, water courses, vegetative cover type and other essential existing physical features.
8. Indication of the type of sewage disposal to be used in the subdivision.
 - a. When sewage disposal is to be accomplished by subsurface sewage disposal systems, test pit analyses shall be provided that are prepared by a person duly licensed by the State to perform such work. A map showing the location of all test pits dug on the site shall be submitted.
9. Indication of the type of water supply system(s) to be used in the subdivision.
10. The date the Plan was prepared, true and magnetic north point, graphic map scale, names and addresses of the record owner applicant and individual or company who prepared the plan.
11. The names and addresses of owners of record of adjacent property, including any property directly across an existing public road from the subdivision.
12. The location and size of existing and proposed sewage disposal systems, water supply systems, culverts and drainage ways on or adjacent to the property to be subdivided.
13. The location, names and widths of existing and proposed roads, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
14. The proposed lot lines with approximate dimensions and lot areas.
15. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
16. The location of any open space to be preserved and a description of proposed improvements and its management.
17. A copy of that portion of the Lincoln County Soil Survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submittal of a high intensity soil surveyor a report by a Registered Soil Scientist or Registered Professional Engineer experienced in geotechnics, indicating the suitability of soil conditions for those uses.
18. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.
19. A hydrogeologic assessment, prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers" by the Maine Geological Survey.
20. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours.
21. For subdivisions involving 40 or more parking spaces or projected to generate more than 400 vehicle trips per day, a traffic impact analysis prepared by a Registered Professional Engineer with experience in traffic engineering shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the road giving access to the site and neighboring roads which may be affected and recommended improvements to maintain the desired level of service on the affected roads. Trip generation rates used shall be obtained from the latest edition of "Trip Generation", published by the Institute of Transportation Engineers.
22. A list of construction items with cost estimates that will be completed by the developer prior to the sale of lots. A separate list of construction and maintenance items, with both capital and annual operating cost estimates that must be financed by the municipality, or quasi-municipal districts. These lists shall include but not be limited to:
 - Schools, including busing
 - Road maintenance and snow removal
 - Police and fire protection
 - Solid waste disposal
 - Storm water drainage

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

Section 8. Final Plan for Major Subdivision

8.1 Procedure

- A. The applicant must, within six months after the approval of the Preliminary Plan, submit an application for approval of the Final Plan to the Town Office at least seven business days prior to a scheduled meeting of the Board. If the application for the Final Plan is not submitted within six months after Preliminary Plan approval, the Board may refuse without prejudice to act on the Final Plan and require resubmission of the Preliminary Plan. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any recommendations made by the Board.
- B. All applications for Final Plan approval for Major Subdivision must be accompanied by an application fee as set by the Select Board payable by check to the Town of Whitefield.
- C. Prior to submittal of the Final Plan application, the following approvals shall be obtained in writing, where appropriate:
 1. Maine Department of Environmental Protection, under the Site Location of Development Act, Natural Resources Protection Act, or if a Wastewater Discharge License is needed.
 2. Maine Department of Human Services, if the applicant proposes to provide a central water supply system.
 3. Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system(s) is to be utilized.
- D. The applicant, or duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.
- E. Upon receipt of an application for Final Plan approval of a major subdivision, the Board shall issue a dated receipt to the applicant and shall notify in writing all owners of abutting property that an application for subdivision approval has been submitted.
- F. Within 30 days of receipt of a Final Plan application form and fee, the Board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application.
- G. Upon determination that a complete application has been submitted for review, the Board shall determine whether to hold a public hearing on the Final Plan application.
- H. A public hearing may be held by the Board within 30 days after the issuance of a receipt for the submittal of a complete application. This hearing shall be advertised in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days before the hearing and the notice of the hearing shall be posed in at least three prominent places at least seven days prior to the hearing.
- I. When a subdivision is located within 500 feet of a municipal boundary, and a public hearing is to be held, the Board shall notify the Clerk and the Planning Board of the adjacent municipality involved, at least ten days prior to the hearing.
- J. Before the Board grants approval of the Final Plan, the applicant shall meet the performance guarantee requirements contained in Section 11.10.
- K. If the subdivision is located in more than one municipality, the Board shall have a joint meeting with the Planning Board of the adjacent municipality to discuss the Plan.
- L. The Board shall within 30 days from the public hearing or within 60 days of receiving a complete application if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant make findings of fact on the application and conclusions relative to the standards contained in Title 30-A M.R.S. Section 4401 et. seq. and in this ordinance. If the Board finds that all standards of the Statute and this ordinance have been met, they shall approve the Final Plan. If the Board finds that any of the standards of the Statute or this ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for a denial or any conditions shall be stated in the records of the Board.

8.2 Submissions.

The Final Plan shall consist of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivision containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch provided all necessary detail can easily be read. Space shall be reserved on the plan for endorsement by the Board. Two reproducible, stable based transparent originals, one to be recorded at the Registry of Deeds, the other to be filed at the Town Office, and three copies of the plan shall be submitted. The applicant may instead submit one reproducible stable based transparent original of the Final Plan and one Recording Plan with three copies of the Final Plan. In addition, one copy of the Final Plan, reduced to a size of 11 by 17 inches, and all accompanying information shall be submitted to the Town Office no less than seven business days prior to the meeting.

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

- A. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Tax Map and Lot numbers.
- B. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a person duly licensed by the State to perform such work. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.
- C. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses and other essential existing physical features.
- D. Indication of the type of sewage disposal to be used in the subdivision.
- E. Indication of the type of water supply system(s) to be used in the subdivision.
- F. The date the Plan was prepared, magnetic and true north point, graphic map scale, names and addresses of the record owner, applicant, and individual or company who prepared the plan.
- G. The location and size of existing and proposed sewage disposal systems, water supply system, culverts and drainage ways on or adjacent to the property to be subdivided.
- H. The location, names and widths of existing and proposed roads, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every road line, lot line, and boundary line to be readily determined and reproduced upon the ground. These lines shall be tied to reference points previously established. The length of all straight lines, the deflection angles radii, length of curves and central angles of curves, tangent distances and long chord bearing for each road shall be included.
- I. A soil erosion and sedimentation control plan, prepared in accordance with Department of Environmental Protection rules for storm water management, or a comparable set of standards found to be acceptable by the Board.
- J. A plan for the disposal of surface drainage waters prepared by a Registered Professional Engineer, in accordance with Department of Environmental Protection rules for storm water management, or a comparable set of standards found to be acceptable by the Board.
- K. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers of cession to the municipality of all public open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the Select Board are satisfied with the legal sufficiency of the written offer of cession shall be included.
- L. A list of construction items with cost estimates that will be completed by the developer prior to the sale of lots. A separate list of construction and maintenance items, with both capital and annual operating cost estimates, that must be financed by the municipality, or quasi-municipal districts. These lists shall include but not be limited to:
 - Schools, including busing
 - Road maintenance and snow removal
 - Police and fire protection
 - Solid waste disposal

Storm water drainage

- M. The developer shall provide an estimate of the net increase in taxable assessed valuation at the completion of the construction of the subdivision.
- N. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood evaluation shall be delineated on the plan.

8.3 Final Approval and Filing.

- A. No plan shall be approved by the Board as long as the applicant is in violation of any provisions of this Ordinance on a previously approved Plan or where no plan was ever filed or approved.
- B. Upon findings of fact and determination that all standards in Title 30-A M.R.S. Section 4401 et. seq. and this ordinance have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Select Board. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within 90 days of the date upon which the plan is approved and signed by the Board shall become null and void.
- C. At the time it grants Final Plan approval, the Board may permit the subdivision to be developed in phases subject to any conditions the Board deems necessary in order to insure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision.
- D. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Board approves any modifications, except in accordance with Section 9. The Board shall make findings that the revised plan meets the standards of Title 30-A M.R.S. Section 4401 et. seq., and this ordinance. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.
- E. The approval by the Board of a subdivision plan shall not be deemed or constitute or be evidence of any acceptance by the municipality of any road, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the Plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Select Board covering future deed and title, dedication, and provision for the cost or grading, development, equipment, and maintenance of any such dedicated area.
- F. Failure to commence substantial construction of the subdivision within five years of the date of approval and signing of the Plan shall render the Plan null and void. In the case of a phased subdivision, failure to commence substantial construction of any phase within five years of the anticipated date of commencement as indicated by the developer at the time of approval shall render the approval of such phases null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

Section 9. Revisions to Approved Plans

- 9.1 Procedure. An applicant for a revision to a previously approved plan shall, at least seven business days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the procedures for preliminary plan approval shall be followed. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed.

- 9.2 Submissions. The applicant shall submit a copy of the approved plan, as well as three copies of the proposed revisions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of this ordinance.
- 9.3 Scope of Review. The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

Section 10. Criteria for Approval

- 10.1 Shall not result in undue water or air pollution. In making this determination, the Board shall at least consider the elevation of the land above sea level and its relation to the flood plains; the nature of soils and subsoils and their ability to adequately support Waste disposal; the slope of the land and its effect on effluents, the availability of streams for disposal of effluents; and the applicable state and local health and water resource rules and regulations;
- 10.2 Has sufficient potable water available for the reasonably foreseeable needs of the subdivision;
- 10.3 Shall not cause an unreasonable burden on an existing water supply, if one is to be utilized;
- 10.4 Shall not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- 10.5 Shall not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed, and if the proposed subdivision requires driveways or entrances onto a state or state aid highway, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, Section 704 and any rules adopted under that section;
- 10.6 Shall provide for adequate solid and sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;
- 10.7 Shall not cause an unreasonable burden on the provision of municipal services, including schools, maintenance of roads, solid waste disposal, etc;
- 10.8 Shall not have an undue adverse effect on the scenic or natural: beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
- 10.9 Is in conformance with this duly adopted subdivision ordinance, other town ordinances, and the Town's Comprehensive Plan, development plan or land use plan, if any. In making this determination, the Board may interpret these ordinances and plans;
- 10.10 The applicant has shown proof of adequate financial and technical capacity to meet the above stated standards;
- 10.11 Whenever situated in whole or in part, within designated shoreland zone, within 250 feet of any pond, lake, river or tidal waters, shall not adversely affect the quality of the body of water or unreasonably affect the shoreline of that body of water;
- 10.11.1 When lots in a subdivision have frontage on the Sheepscot River or the West Branch of the Sheepscot River, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal highwater mark of 500 feet. This provision in no way eliminates the need to comply with structural setback requirements found within the Town's Shoreland Zoning Ordinance;

- 10.11.1.1 To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore;
- 10.12 Shall not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;
- 10.13 Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the applicant shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;
- 10.14 Freshwater wetlands. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the Knox Lincoln Soil and Water Conservation District;
- 10.15 Farmland. All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the Knox Lincoln Soil and Water Conservation District;
- 10.16 River, stream or brook. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38 M.R.S., Section 480-B, Subsection 9;
- 10.17 Storm water. The proposed subdivision will provide for adequate storm water management. The DEP has Best Management Practices that can be used to develop these plans;
- 10.18 Spaghetti-lots prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in Title 38 M.R.S., Section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;
- 10.19 Lake phosphorus concentration. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision;
- 10.20 Impact on adjoining municipality. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located; and
- 10.21 Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12 M.R.S, Section 8869, Subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Board may request technical assistance from the Department of Agriculture, Conservation and Forestry, Bureau of Forestry to determine whether a rule violation has occurred, or the Board may accept a determination certified by a forester licensed pursuant to Title 32 M.R.S., Chapter 76. If the Board requests technical assistance from the bureau, the bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the Board within 30 days of receipt of the Board's request. If the bureau notifies the Board that the bureau will

not provide assistance, the Board may require a subdivision applicant to provide a determination certified by a licensed forester.

10.22 The proposed must be in compliance with all other local, state and federal laws and rules.

Section 11. General Requirements

In reviewing applications for a subdivision, the Board shall consider the following general standards and make findings that each has been met prior to the approval of a Final Plan. In all instances, the burden of proof shall be upon the applicant.

- 11.1 **Buffer Strip:** The Board shall require a buffer strip when the proposed subdivision will be located adjacent to a use where separation is desirable.
- 11.2 **Basement Drainage:** If lots are being created to accommodate structures with basements, the applicant shall show that the basement can be drained by gravity to the ground surface, or storm sewers, if they are required to be installed.
- 11.3 **Conformance with other Laws, Regulations:** The proposed subdivision shall be in conformance with all pertinent local, state, and federal ordinances, statutes, laws and regulations and Whitefield's Comprehensive Plan. If the proposed subdivision meets the definition of subdivision as defined in the Site Location Act, Title 38, M.R.S., Section 482, the applicant must secure the approval of the Board of Environmental Protection prior to approval, approval with conditions, or denial, of the Final Plan by the Board. The Board may deny approval of the subdivision even though the Board of Environmental Protection has granted an approval under the provisions of the Site Location Act.
- 11.4 **Construction Prohibited:** No utility installations, no ditching, grading, or construction of roads, no grading of land or lots, and no construction of buildings shall be done on any part of the subdivision until a Final Plot Plan of the subdivision has been prepared, submitted, reviewed, approved, and endorsed as provided by this Ordinance, nor until an attested copy of the Final Plot Plan so approved and endorsed has been recorded by the applicant in the Registry of Deeds.
- 11.5 **Ditches, Catch Basins:** The Board may require the installation of ditches, catch basins, piping systems, and other appurtenance for the conveyance, control, or disposal of surface waters. Adequate drainage shall be provided so as to reduce the danger of flooding and erosion.
- 11.6 **Easements:** The Board may require easements for sewerage, drainage, or other utilities.
- 11.7 **Lots and Density:**
 - A. The lot size, width, depth, shape and orientation and the minimum setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated, and shall conform to any local Ordinances, standards, and regulations.
 - B. If a lot on one side of a stream, tidal water, road or other similar barrier fails to meet the minimum requirements for lot size, it shall not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.
- 11.8 **Land Not Suitable for Development:** The Board shall not approve for buildings or dwellings such portions of any proposed subdivision that are within the 100-year frequency flood plain, unless all principal structures are constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation, or on land which must be filled or drained or on land created by diverting a perennial stream. In no instance shall the Board approve any part of a subdivision located on filled or drained Great Ponds.

11.9 Open Space Provisions:

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

11.10 Performance Guarantees:

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

11.11 Sewage Disposal

The developer shall submit evidence of soil suitability for subsurface sewage disposal prepared by a person duly licensed by the State to perform such work in full compliance with the requirements of the State or Maine Subsurface Wastewater Disposal Rules. In addition, on lots in which the limiting factor has been identified as being within 24 inches of the surface, a second site with suitable soils shall be shown as a

reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted so as not to be built upon.

11.12 Road Design Standards

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

	<u>COLLECTOR</u> ¹	<u>MINOR</u> ¹	<u>PRIVATE</u> ¹	<u>IND. &¹ COMM.</u>
Minimum Right-of-Way Width	60'	50'	50'	60'
Minimum Roadway Width	24'	20'	18'	30'
Minimum Grade	1%	1%	1%	1%
Maximum Grade	6%	8%	8%	5%
Minimum Center Line Radius	175'	110'	110'	230'
Minimum Tangent between Reverse Curves	100'	50'	50'	100'
Roadway Crown	¼ / ft	3/8 / ft	3/8 / ft	¼ / ft
Minimum Angle of Road Intersections ²	90	75	75	90
Maximum Grade Within 75 Feet of Intersection	2%	2%	2%	2%
Minimum Curb Radii at Intersections	25'	20'	15'	30' ³
Minimum Right-of-Way Radii at Intersections	10'	10'	10'	15'
Minimum Width of Shoulders	3'	3'	3'	4'

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

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

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

- G. The center line of the roadway shall be the center line of the right-of-way.
- H. Dead End Roads. In addition to the design standards above, dead-end roads shall be constructed to provide a cul-de-sac turn-around with the following minimum requirements for radii: Property line: 65 feet; outer edge of pavement 56 feet. The Board may require the reservation of a 20 foot easement in line with the road to provide continuation of pedestrian traffic or utilities to the next road. The Board may also require the reservation of a 50 foot easement in line with the road to provide continuation of the road where future subdivision is possible. Private roads may provide

a permanent "T" turnaround in lieu of a cul-de-sac. It shall be a minimum of 25 feet in length by 15 feet in width. The right-of-way dimensions shall be 50 feet in length by 30 feet in width.

I. Grades, Intersections, and Sight Distances.

1. Grades of all roads shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.

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

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

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

3. Where new street intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curblineline or edge of shoulder, with the height of the eye 3 1/2 feet, to the top of an object 4 1/2 feet above the pavement.

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

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

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

11.13 Road Construction Standards

A. Minimum thickness of material after compaction.

Minimum Requirements

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

B. Preparation

1. Before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at fifty foot intervals.

2. Before grading is started, the right-of-way shall be cleared of all stumps, roots, brush, and other objectionable material to within ten feet of the outside edge of the shoulders on both sides. All ledge, large boulders, and tree stumps shall be removed from the right-of-way.

3. All organic materials shall be removed to a depth of two feet below the subgrade of the roadway. Boulders shall also be removed to a depth of two feet below the subgrade of the roadway. On soils which have been identified by the Road Commissioner as not suitable for roadways, the subsoil shall be removed from the road site to a depth of two feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base below. As an alternative, the Board may require the use of an engineering geotextile fabric

4. Except in a ledge cut, side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, loamed, limed, fertilized, and seeded according to the specifications of an erosion and sedimentation control plan prepared by the developer.

5. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the end or the right-of-way prior to paving.

C. Base and Pavement

1. Base

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

Aggregate Sub-base Type "D"

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

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

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

Aggregate Base Course

Sieve	Percentage by Weight
<u>Destination</u>	<u>Passing Square Mesh Sieves</u>
½ inch	45-70%
¼ inch	30-55%
No. 40	0-20%
No. 200	0-5%

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

2. Pavement Joints. Where pavement joints an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.
3. Pavements. The applicant shall consult with the Town of Whitefield Road Commissioner regarding current requirements for the type and placement of pavement.
4. Culverts
 - a. Culverts shall be a minimum of 18 inches in diameter and shall be of a material acceptable to the Board.

Section 12. Enforcement

12.1 Inspection of Required Improvements

- A. At least five days prior to commencing each major phase of construction of required improvements, the applicant or builder shall:
 1. Notify the Code Enforcement Officer in writing of the time of the commencement of construction of such improvements, so that the Select Board can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
 2. Deposit with the Town Office a check, payable to the Town of Whitefield, for the amount of 2 % of the estimated costs of the required improvements to pay for the costs of inspection.
- B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by

- the applicant, such a report shall be in writing to the Select Board, the Board, and the applicant or builder. The Select Board shall take any steps necessary to preserve the municipality's rights.
- C. If at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed at the Town Office. For major modifications, such as relocation of rights-of-way, property boundaries, and changes of grade by more than 1 %, etc., the applicant shall obtain permission to modify the plans from the Board.
 - D. By December 1 of each year during which construction was done on the site, the Code Enforcement Officer shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate to do the job they were designed for. The report shall also include a discussion and recommendations of any problems which were encountered.
 - E. Prior to the sale of any lot, the applicant shall provide the Board with a letter from a Registered Land Surveyor, stating that all documentation shown on the plan has been installed.
 - F. Upon completion of road construction and prior to a vote by the Select Board to submit a proposed town way to a town meeting, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Select Board at the expense of the applicant, certifying that the proposed town way meets or exceeds the design and construction requirements of this ordinance. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility.
 - G. The applicant, builder or homeowners' association shall be required to maintain all improvements and provide for snow removal on roads until acceptance of the improvements by the municipality.

12.2 Violations and Enforcement

- A. SALES and OTHER CONVEYANCES. No person, firm, corporation, or other legal entity may sell, lease, develop, build upon or convey for consideration, or offer to sell, lease, build upon or convey for consideration any land or dwelling unit in a subdivision within the Town of Whitefield that has not been approved by the Board and subsequently recorded in the proper Registry of Deeds.
 - 1. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with this ordinance. Approval for the purpose of recording must appear in writing on the plan. All subdivision plans required by this subchapter must contain the name and address of the person under whose responsibility the subdivision plan was prepared.
 - 2. Whenever the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a variance from any applicable subdivision approval standard, that fact must be expressly noted on the face of the subdivision plan to be recorded in the Registry of Deeds.
 - (a) In the case of an amendment, if no amended plan is to be recorded, a certificate must be prepared in recordable form and recorded in the Registry of Deeds. This certificate must:
 - (i) Indicate the name of the current property owner;
 - (ii) Identify the property by reference to the last recorded deed in its chain of title; and
 - (iii) Indicate the fact that a variance, including any conditions on the variance, has been granted and the date of the granting.
 - (b) The variance is not valid until recorded as provided in this paragraph. Recording must occur within 180 days of the final subdivision approval by the Board or the variance is void.
 - 3. Whenever the subdivision is exempt from Title 38 M.R.S, Chapter 3, Subchapter I, Article 6, because of the operation of Title 38 M.R.S., Section 488, Subsection 5, that fact must

be expressly noted on the face of the subdivision plan to be recorded in the Registry of Deeds. The developable land, as defined in Title 38 M.R.S., Section 488, Subsection 5 must be indicated on the plan. The person submitting the plan for recording shall prepare a sworn certificate in recordable form and record it in the Registry of Deeds. This certificate must:

- (a) Indicate the name of the property owner;
- (b) Identify the property by reference to the last recorded deed in its chain of title and by reference to the subdivision plan;
- (c) Indicate that an exemption from Title 38 M.R.S., Section 488, Subchapter I, Article 6, has been exercised;
- (d) Indicate that the requirements of Title 38 M.R.S., Section 488, Subsection 5 have been and will be satisfied.

The exemption is not valid until recorded as provided in this paragraph. Recording must occur within 180 days of the final subdivision approval under the Subchapter or the exemption is void.

4. A building official may not issue any permit for a building or use within a land subdivision unless the subdivision has been approved by the Board.
 5. Any person who sells, leases, develops, builds upon, or conveys for consideration, offers or agrees to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision that has not been approved by the Board, shall be penalized.
 6. Any person who, after receiving approval from the Board or approval under Title 38 M.R.S., Chapter 3, Subchapter I, Article 6 and recording the plan at the Registry of Deeds, constructs or develops the subdivision or transfers any lot in a manner other than depicted on the approved plans or amendments or in violation of any condition imposed by the Board must be penalized according to this ordinance
 7. Any person who sells, leases or conveys for consideration any land or dwelling unit in a subdivision approved under this subchapter and exempt from Title 38 M.R.S., Chapter 3, Subchapter I, Article 6, because the operation of Title 38 M.R.S., Section 488, Subsection 5, shall include the instrument of sale, lease or conveyance a covenant to the transferee that all requirements of Title 38, Section 488, Subsection 5 have and will be satisfied.
- B. UTILITY INSTALLATION. A public utility or any utility company of any kind may not install services to any lot or dwelling unit in a subdivision for which a final plan has not been approved by the Board. If a public utility has installed services to a lot or pre-existing dwelling unit in a subdivision in accordance with this ordinance, a subsequent public utility may install services to the lot or pre-existing dwelling unit in a subdivision without first receiving written authorization pursuant to this ordinance.
- C. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a Final Plan approved as provided in this ordinance and recorded in the Registry of Deeds.
- D. No lot in a subdivision shall be sold, leased or otherwise conveyed before the road upon which the lot fronts is completed in accordance with this ordinance up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the road upon which the unit is accessed is completed in accordance with this ordinance.
- E. Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by this ordinance shall be punished by a fine of not less than \$100.00 and not more than \$5000.00 for each conveyance, offering or agreement. The municipality shall institute proceedings to enjoin the violation of this section and may collect attorney's fees and court costs if it is the prevailing party.
- F. ENFORCEMENT - a municipal officer, such as a municipal Code Enforcement Officer, local Plumbing inspector or building official, who is designated by ordinance or law with the responsibility to enforce a particular law or ordinance may:
1. Enter a property at reasonable hours or enter any building with the consent of the owner, occupant or agent to inspect the property or building for compliance within the laws set

forth in the ordinance. A municipal official's entry onto property under this paragraph is not trespass.

2. Issue a summons to any person who violates a law or ordinance, which the official is authorized to enforce; and
3. When specifically authorized by the Select Board, represent the municipality in District Court in the prosecution of alleged violations of ordinances or laws, which the official is authorized to enforce.

G. **LIABILITY FOR VIOLATIONS** - Any person, including, but not limited to, a landowner, the landowner's agent or a contractor, who violates any of the laws or ordinances is liable for the penalties set forth in the ordinance.

H. **CIVIL PENALTIES** - The following provisions apply to violations of the laws and ordinances set forth in the ordinance. Monetary penalties may be assessed on a per-day basis and are civil penalties.

1. The minimum penalty for starting construction or undertaking a land use activity without a required permit is \$100.00, and the maximum penalty is \$2500.00.
2. The minimum penalty for a specific violation is \$100.00, and the maximum penalty is \$5000.00. The maximum penalty is \$10,000.00 for any violation of a law or an ordinance, if the violation occurs within an area zoned for resource protection.
3. The violator may be ordered to correct or abate the violations. When the court finds that the violation was willful, the violator shall be ordered to correct or abate the violation unless the abatement or correction results in:
 - (a) A threat or hazard to public health or safety;
 - (b) Substantial environmental damage; or
 - (c) A substantial injustice.
4. If the municipality is the prevailing party, the municipality must be rewarded reasonable attorney fees, expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and courts unjust. If the defendant is the prevailing party, the defendant may be awarded reasonable attorney fees, expert witness fees and costs as provided by the court rule.
5. In setting a penalty, the court shall consider, but is not limited, the following:
 - (a) Prior violations by the same party;
 - (b) The degree of environmental damage that cannot be abated or corrected;
 - (c) The extent to which the violation continued following a municipal order to stop; and
 - (d) The extent to which the municipality contributed to the violation by providing the violator with the incorrect information or by failing to take timely action.
6. The maximum penalty may exceed the amounts set forth in 11.H.2 but may not exceed \$25,000.00, when it is shown that there has been a previous conviction of the same party within the past 2 years for a violation of the same law or ordinance.
7. If the economic benefit resulting from the violation exceeds the applicable penalties under this ordinance, the maximum penalties may be increased. The maximum civil penalty may not exceed an amount equal to twice the economic benefit resulting from the violation. Economic benefit includes, but is not limited to, the costs avoided or enhanced value accrued at the time of the violation as a result of the violator's noncompliance with the applicable legal requirements.

Section 13. Waivers

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

Section 14. Validity, Effective Date, Conflict of Ordinances, Filing

- 14.1 Validity: Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance, and to this end, the provisions of this Ordinance are hereby declared to be severable.
- 14.2 Effective Date: As amended, **March 16, 2024**
- 14.3 Conflict of Ordinances: This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other ordinance, rule, regulation, by-law, permit, or provision of law. Where this Ordinance imposes a higher standard for the promotion and protection of public health, safety, and welfare, the provisions of this Ordinance shall prevail.
- 14.4 Filing: Whitefield Town Office with the Town Clerk.

Section 15. Appeals

If the Board shall deny an application for subdivision approval, or grant approval with conditions that are objectionable to any party affected directly or indirectly, or when it is alleged that the provisions of this Ordinance do not apply, or that the intent and meaning of this Ordinance has been misconstrued or wrongly interpreted, that party may appeal within 30 days from the date of the final decision of the Board directly to Superior Court, pursuant to Maine Rule of Civil Procedure 80B.

Section 16. Amendments

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

Originally Approved March 19, 1977
Approved as Amended March 18, 1989