

# **TOWN OF THORNTON**

# **ZONING ORDINANCE**

Amended 03/13/01

Amended 03/15/03

Amended 03/09/04

Amended 03/12/05

Amended 03/13/07

Amended 03/11/08

Amended 03/10/09

# **TOWN OF THORNTON ZONING ORDINANCE**

Amended: March 14, 2000

## **ARTICLE I PREAMBLE**

Pursuant to the authority conferred by Chapter 674:16, NH Revised Statutes Annotated, for the purpose of promoting the health, safety, and the general welfare of the Town of Thornton, the following ordinance is hereby enacted by the voters of the Town of Thornton, New Hampshire. This amended version supercedes all previous versions of Thornton's Zoning Ordinance and is effective as of March 14, 2000.

## **ARTICLE II PURPOSE**

The purpose of this ordinance shall be:

- A.** To lessen congestion in the streets;
- B.** To secure safety from fires, panic and other dangers
- C.** To promote health and general welfare;
- D.** To provide adequate light and air;
- E.** To prevent the overcrowding of land;
- F.** To avoid undue concentration of population;
- G.** To facilitate the adequate provision of transportation, solid waste facilities, schools, parks, child daycare; and

H. To assure proper use of natural resources and other public requirements as set forth in RSA 674:17.

I. To protect property values.

### **ARTICLE III DEFINITIONS**

For the purposes of this ordinance, certain terms are defined as provided in this article. Wherever appropriate the singular includes the plural and the plural includes the singular.

**A.** "Dwelling" means a building or portion of a building containing any number of rooms designed for use by one family or group as a single housekeeping unit. A dwelling is any building lived in continuously for six or more months where "continuous" is defined, as a time not interrupted by more than one month.  
Amended: 03/11/08

**B.** "Family" means one or more persons who live as a single housekeeping unit in a dwelling.

**C.** "Frontage" means the distance along the lot line dividing a lot from either (a) a public

Highway, excepting limited access highways as defined in RSA 230:44 and Class VI

Highways; or (b) a road shown on and part of an approved and recorded subdivision plan.

**D.** Home Occupation means that use of a dwelling or an accessory building which is incidental to the use of the premises as a dwelling and is subordinate to the residential use of the property by a person living in the dwelling. Home occupations will not be permitted if they;

1. change the outside appearance dwelling;
2. generate traffic, parking, more than twice that of nearby properties;
3. create a hazard due to traffic or other features of the occupation;
4. create a nuisance by generating noise, odor or liquid discharge;
5. require outside storage; and
6. employ two or more personnel who do not reside in the dwelling.

- E. "Municipality" or "Municipal" means the Town of Thornton.
- F. "Planning Board" means the members of the Thornton Town Planning Board.
- G. "Selectmen" means the Board of Selectmen of said town.
- H. "Variance" means such departure from the terms of this ordinance as the Board of Adjustment, upon appeal in specific uses, is empowered to authorize under the terms of this ordinance RSA 674:33.
- I. Innovative Land Use is defined by RSA 674:21.
- J. "Qualifying Acreage" is the land used in Cluster Developments to satisfy the requirements of one acre per dwelling. Such acreage must be contiguous, but not necessarily with each lot within the development. Amended: 3/11/08

## **ARTICLE IV BOUNDARIES OF ZONES**

For the purpose of this ordinance, the Town of Thornton is divided into the following zones as shown zoning map to be filed with the Town Clerk and the Grafton County Registry of Deeds upon the adoption of this ordinance.

**A. Rural Residence Zone** includes all land, roads and water areas, excluding the White Mountain National Forest, outside those areas defined as General Residence, Commercial, Industrial, and Recreational Zones.

**B. General Residence Zone** Beginning at the center line of highway Route 175 within the Town of Thornton at the Thornton-Woodstock town boundary; thence southwesterly along the Thornton-Woodstock town boundary; to the center of the Pemigewasset River; thence southerly following the center of the river to the Thornton-Campton boundary; thence easterly along the Thornton-Campton boundary to the Thornton-Sandwich boundary; thence northerly along the Thornton-Sandwich boundary to the Thornton-Waterville Valley boundary; westerly and northerly along the Thornton-Waterville Valley boundary to a point one mile north of the upper Mad River Road and the existing Six Mile Bridge so-called; thence south-westerly to a point one mile due north of the Thornton-Campton boundary and one-half mile east of the center line of Highway Route 175; thence northerly parallel with and one-half mile east of the center of Route 175 to the Thornton-Woodstock boundary; thence south-westerly along the Thornton-Woodstock boundary to the point of beginning.

**C. Recreational Zones**

## **1. Recreational Zone East**

Recreational Zone East shall include all abutting lands in Thornton formerly owned by Dr. Warren Butterfield, including that portion of the 352.8acre tract between Upper Mad River Road and the White Mountain National Forest that lies in the Rural Residence Zone and General Residence Zone; the abutting 6.5 acre tract on the corner of the Upper Mad River Road and Burbank Hill Road; and the abutting 27.5 acre Goose Hollow Campground property bordering the Mad River.

## **2. Recreational Zone West**

Recreation Zone West shall include all land bounded by Route 175 on the east; land now or formerly of T.A.M.E. (Tax Parcel 16-1-4) and land now or formerly of Mountain River Development L.L.C. (Tax Parcel 16-1-2) on the north; by Pemigewasset River and Interstate Route 93 on the west; and by the Thornton/Campton Sanitary Landfill and Transfer Station. (Amended 03/12/05)

## **D. Commercial Zone**

Beginning at the center line of Highway Route 3, within the Town of Thornton, at the Thornton-Woodstock boundary; thence northeasterly along the Thornton-Woodstock boundary to the center of the Pemigewasset River; thence southerly along the center of the river to the Thornton-Campton boundary then westerly and northwesterly to the Thornton-Ellsworth boundary; thence northerly along the Thornton-Ellsworth boundary; thence southerly and easterly along the Thornton-Woodstock boundary to the point of beginning.

## **E. Industrial Zones**

### **1. Industrial Zone I**

Beginning at the point where Route 3 and I-93 intersect; thence northeasterly following Route 3 to the Railroad; thence northerly along the Railroad to a point adjacent to the Peaked Hill Pond access road; thence westerly following said road to I-93; thence southerly along I-93 to the point of beginning.

### **2. Industrial Zone II**

Beginning at the point where Merrill Access Road and I-93 intersect; thence easterly following Merrill Access Road and Cross Road to the Railroad; thence northerly along the Railroad to the point where it intersects the old town road by

Hubbard Brook Depot Road; thence northwesterly along said road and Mirror Lake Road to the Thornton-Woodstock town line; thence southerly along the Thornton-Woodstock town line and I-93 from said line to the point of beginning.

## **ARTICLE V PERMITTED USES IN VARIOUS ZONES**

The following are uses, which are considered reasonable in the various zones for the Town of Thornton. They are in no way peculiar to zoning in general; rather, they represent a selection of those uses, which seem fit for small communities of generally rural character. Agriculture activities are permitted in all zones. Regulated commercial excavation operations in accordance with RSA 155:E and Thornton Excavation Regulations are permitted in the Commercial and Industrial Zones. (Amended: 03/09/04)

### **A. Rural Residence Zone**

In the Rural Residence Zone, land, buildings and structures may be used and buildings and structures may be erected or altered only for the following uses:

1. Single family dwellings or multi-family housing containing not more than ten apartment units, housing one family per unit.
2. Greenhouses and nurseries.
3. Home occupations as defined in Article III D
4. Roadside stands when accessory to the premises on which they stand and clearly incidental to the use to the use of the premises for residential purposes.
5. Golf Courses
6. Aircraft landing fields and landing strips.
7. Cemeteries.
8. Manufactured housing per RSA 674:31, mobile homes and what are commonly referred to as trailers are permitted, but a minimum of one acre of land shall be required for each mobile home and such mobile home shall be set back at least 25 feet from any highway, right of way boundary, public or private and 15 feet from any other boundary line. mobile home clusters or parks are not permitted.
9. Non-commercial uses accessory to the above uses.

**10. Public Parks**

**11. Renting of rooms and furnishings of table board to resident guests in private family dwellings.**

**12. Cluster Development**

**13. State Licensed Day Care Facilities serving non-residential persons less than 16 individuals shall be allowed in every zone. (Amended 3/13/01)**

**14. The Planning Board shall have the authority to adopt regulations and approve a campground so long as it meets all state requirements in the area in which it is proposed.**

**15. Small Wind Energy Systems (Amended 3/10/09)**

**B. General Residence Zone**

In a General Residence Zone, land, building and structures may be used and buildings and structures may be erected or altered only for the following uses;

1. Any use allowed in the Rural Residence Zone.
2. Churches, non-profit schools, colleges, including dormitories, hospitals and sanitariums.
3. Recreational buildings designed and proposed to be part of a residential subdivision development shall be individually considered for approval by the Planning Board. Such structures shall be approved if the Planning Board finds that they will be for convenience of the development's residents only.
4. Non-commercial uses accessory to the above uses.
5. Small Wind Energy Systems (Amended 3/10/09)

**C. Recreational Zones East & West**

In a Recreational Zone the following applies:

1. Any use allowed in the Rural Residential or General Residential Zones is allowed. Small Wind Turbines Amended (3/10/09)
2. The Planning Board shall have the authority, pursuant to RSA 674:21, to adopt regulations and grant approvals in appropriate cases for the following uses:
  - a. lodges

- b.** clubhouses
- c.** hotels
- d.** restaurants
- e** recreational buildings
- f.** meeting rooms, shops and offices contained within approved buildings
- g.** residential developments
- h.** commercial indoor and out door recreational activities and related facilities and improvements to serve the same; such activities may include, but not be limited to golf, tennis, swimming, cross country skiing, horseback riding, snowmobiling, hiking and bicycling.

The Board in granting permits for such uses shall give due consideration to the recreational nature of the district; the provision of adequate and appropriate facilities, preservation of natural features and maximizing available open space: the provision of suitable landscaping, buffers and parking; preserving the aesthetic character of the property and surrounding area; ensuring adequate access; preventing overcrowding of the land; and insuring that the proposed use is compatible with surrounding uses.

The above facilities may be open to the public for a fee.

#### **D. Commercial Zone**

In the Commercial Zone, land, buildings and structures may be used and buildings and structures may be erected only for the following uses:

1. Any use allowed in the Rural, General Residence Zone and Recreational Zones.
2. Grocery and drug stores, outdoor theaters, meat and fruit markets, restaurants, automobile service stations, auto sales and repair shops, auto parking lots, barber and beauty shops, business and professional offices, hotels, motels, trailer parks, manufactured housing parks, RV parks and any retail business or other business which provides financial or personal services for the convenience of the general public. Off-street parking facilities must be provided.
3. Small Wind Energy Systems (Amended 3/10/09)

#### **E. Industrial Zones I & II**

In an Industrial Zone, land, buildings, and structures may be used and buildings and structures may be erected only for the following:

1. Any use allowed in the Rural, General Residence, Commercial and Recreational Zones.
2. Manufacturing, processing, and treatment.
3. Warehousing and storage.
4. Distribution and transportation.
5. Research laboratories.
6. Retail facilities and services accessory to principal permitted uses.
7. Accessory buildings and uses.
8. Small Wind Energy Systems (Amended 3/10/09)

The above uses are permitted, except for those involving the manufacture or wholesale distribution of creosote, disinfectant insecticide, poisons, cement, lime gypsum, or plaster of paris, blast furnace, gasoline,

petroleum's, kerosene, paint, varnish, or shellac. Storage or disposal of nuclear waste is prohibited.

## **ARTICLE VI BASIC DEVELOPMENT REQUIREMENTS**

In all zones building shall be constructed in accordance with most current International Building Codes. Amended: 03/13/07, 03/11/08.

### **A. Conventional Development**

**1. Lot Size** – Single family and multiple family dwellings shall be required to have not less than one acre of land for each family unit or dwelling. The lot shall have not less than 100 feet of frontage on the highway or street.

**2. Location of Structures** – Any building or additions shall be setback at least 25 feet from any state, local or private highway/road right-of-way. A set back of 15 feet is required from any other boundary line, except that a 15 foot set-back is required from the edge of any public or private non highway/road right-of-way.

No less than 70 feet of open space shall be provided between multiple family dwellings or additions thereto and multiple family dwellings shall be set back at least 35 feet

from any boundary line. Not less than 30 feet of space shall be provided between single family homes. There shall be a minimum of a 10 feet set back from the edge of a driveway to any boundary line.

**3. Height of Structures** –In all zones, except as hereinafter provided, no building, structure, sign or billboard shall exceed the maximum height of 35 feet above adjacent average grade. An appurtenant structure attached to a building, but not used for human occupancy, such as a church spire, belfry, television antenna, chimney, or similar service feature shall not be subject to the height restriction of this ordinance.

## **B. Cluster Development**

In general Cluster Development shall be considered only on parcels of land exceeding (5) acres, however, the Planning Board shall have the authority, pursuant to RSA 674:21 to adopt regulations and grant waivers in appropriate cases for Cluster Development. In general, the following apply: Amended: 3/11/08

**1. Lot Size** –The basic requirements of one acre per dwelling remains and "qualifying" acreage must be contiguous, but not necessarily to each lot within the development. Lot sizes for individual building lots within a cluster development shall be generally less than 1 acre in size. The overall qualifying acreage shall average a minimum of 1 acre per dwelling with the open space or undeveloped land "dedicated" as such on the relative deeds and drawings. Amended: 3/11/08

a. Owners Association (deeded)

b. Conservation Trust or Non-Profit Organization.

All agreements, deed restrictions and organization provisions for ownership shall be established prior to approval and recorded documents shall clearly demonstrate that the dedicated land is officially recorded as such and cannot be considered for future development. Road frontage for individual lots shall be not less than 50 feet.

c. The Municipality (subject to acceptance)

**2. Location of Structures** – Any building or additions shall be setback at least 25 feet from any state, local or private highway/road right-of-way. A set-back of 15 feet is

required from any other boundary line, except that a 15-foot setback is required from the edge of any public or private non-highway/road right-of-way.

At least 50 feet of open space shall be provided between multiple family dwellings. Final road locations, driveway locations, dwelling location etc. will be reviewed by the Planning Board under the category of innovative land use per RSA 674:21. Amended: 03/11/08

**3. Height of Structures** – In all zones, except as hereinafter provided, no building, structure, sign or billboard shall exceed the maximum height of 35 feet above the adjacent average grade. An appurtenant structure attached to a building, but not used for human occupancy, such as a church spire, belfry, television antenna, chimney, or similar service feature shall not be subject to the height restriction of this ordinance.

## **C. Recreational Zones Development – East & West**

Residential development permitted in a Recreational Zone by Article V.C is governed by the following:

### **1. Lot Size & Density –**

**a.** The basic density of 1 acre per dwelling shall apply and the maximum number of dwellings, either single family, multiple family or a mix shall be computed on that basis. Approved development may be planned and built in phases after subdivision review and approval for each phase to confirm adherence. Individual lot sizes within development projects and tracts may be smaller than 1 acre but overall density utilizing "dedicated" land shall remain at 1 acre per dwelling. The dedicated land may be part of a Golf Course or other recreational facility and/or owned by parties other than the developer but deeds and recorded documents shall demonstrate that the dedicated land is officially recorded as such and cannot be considered for future housing development in a manner inconsistent with the provisions of the approval(s) issued by the Planning Board under RSA 674:21.

**b.** All the land with the exception of the footprint of non residential or commercial structures in each Recreational Zone shall be included in calculations for allowable density in that zone, excepting only lots developed in conventional manner which have not been

included and dedicated for density purposes under the innovative land use procedures.

**2. Location of Structures** – Any building or additions shall be setback at least 25 feet from any state, local or private highway/road right-of-way. A set-back of 15 feet is required from any other boundary line, except that a 15-foot setback is required from the edge of any public or private non-highway/road right-of-way.

No less than 50 feet of open space shall be provided between multiple family dwellings. Final road locations, driveway locations, dwelling locations, relief from strict conformity from setback requirements etc. are subject to approval by the Planning Board under the category of innovative land use per RSA 674:21 during the site review process. Amended: 03/11/08

**3. Height of Structures** – In all zones, except as hereinafter provided, no building, structure, sign or billboard shall exceed the maximum height of 35 feet above the adjacent average grade. An appurtenant structure attached to a building, but not used for human occupancy, such as a church spire, belfry, television antenna, chimney, or similar service feature shall not be subject to the height restriction of this ordinance.

#### **4. Miscellaneous Provisions & Requirements**

**a.** Any golf course in the recreational zone may be separately owned and, if not open to the public, at least 5% of daily starting times each mid week day shall be available for Thornton Residents who shall be entitled to reserve time on a first come, first served basis, upon payment of regular fees and charges for such use.

**b.** The principal developer of any golf course shall be required to design and construct, at it's expense, a suitable fire pond and dry hydrant system according to Thornton's Fire Pond and Hydrant Regulations.

**c.** The principal developer of a golf course in Recreational Zone East shall be required to furnish at its cost a Class A Pumper, in good operating condition and not more than 10 years old, to be stored in a heated garage on the property with the vehicle to be owned, manned, maintained and used by the Town of Thornton as the town determines in its sole judgement, such requirements to take effect when 100 dwellings are constructed upon the property.

## **D. Commercial & Industrial Zone Development**

Commercial & Industrial development in these zones is exempt from specific the minimum lot size requirements but is subject to site plan review to ensure compliance with accepted standards involving safety, vehicular access & parking, set backs, utilities easements, septic disposal etc. Housing development in these zones require one acre per dwelling or unit. The Planning Board shall have the authority to adopt regulations, which determine minimum lot sizes for proposed commercial and/or industrial development.

## **ARTICLE VII MISCELLANEOUS GUIDELINES**

### **& REQUIREMENTS**

**A. Nonconforming, Uses** A non-conforming use exists when lot size, structure placement or construction and/or use does not comply with the current zoning ordinance. Nonconforming uses may continue indefinitely unless either abandoned or discontinued.

- 1.** Non-conforming lots to be recognized must have been duly recorded in the Grafton County Registry of Deeds as of January 10,1970. In order for new construction to take place upon a non-conforming lot that lot must have 50 ft. frontage and be capable of supporting a well and septic system, designed in accordance with State standards, without benefit of a waiver. Two or more non-conforming lots which are contiguous and in single ownership which do not meet the requirements of this ordinance shall be considered merged and treated as an undivided parcel for the purpose of this ordinance. Lots in a subdivision previously approved by the Planning Board are excluded from this provision.
- 2.** Non-conforming structures may be altered and/or expanded only so long as the changes do not increase the non-conformity.
- 3.** When any non-conforming structure is more than 50 percent destroyed by fire or other casualty, and not rebuilt within one year from the date of such fire or casualty, the land and buildings shall thereafter be used in conformity with this ordinance.
- 4.** Non-conforming use may be continued indefinitely so long as it was legally in existence at the date of adoption of this ordinance. However one non-conforming use shall not be changed to another non-conforming use. If the non-conforming use has been discontinued for a period longer than one year it may not be re-

established and any further use must comply with the requirements of this ordinance.

**B. JUNK YARDS** – No junkyards or place for the storage of discarded machinery, vehicle, or other scrap materials as defined in RSA 236:112 shall be permitted within the Town of Thornton.

**C. EARTH REMOVAL** – The removal of topsoil from the town is prohibited except, that excess topsoil resulting from permitted sitework may be removed with the approval of the Board of Selectmen. If the amount is to exceed 30 cubic yards a public hearing shall be required. No owner shall permit any excavation on his property without first obtaining a permit from the Planning Board in accordance with RSA 155E and Thornton Excavation Regulations.

**D. WATER & SEWER-** The Town of Thornton does not maintain a municipal water or sewer system for the inhabitants and no obligation to establish one shall be imposed upon the Town by reason of development unless approved by the voters of the Town at an annual or special Town Meeting. Private wells or other private water systems shall be constructed and maintained in accordance with the requirements of drinking water standards of the United States Public Health Service. Private septic tank systems for sewage disposal systems shall be constructed and maintained in accordance with the requirements of the New Hampshire Water Supply and Pollution Commission.

**E. TIME SHARING** – Timesharing or fractional ownership involves a commercial contract between the developer/ seller and the buyer. It is incumbent on the developer/ seller to provide the Planning Board with documents pertaining to owner's association, restrictive covenants, owners co-operatives etc., to clearly demonstrate that the town can assess and collect property taxes in a normal manner. i.e. one/tax bill per tax parcel.

**F. SIGNS** The Planning Board shall have the authority to adopt regulations for the erection and maintenance of signs.

## **ARTICLE VIII –BOARD OF ADJUSTMENT**

**A.** The Board of Adjustment shall consist of five members appointed by the Board of Selectmen. The terms of members shall be for three years. Terms shall begin in March. The Board of Selectmen shall also appoint up to five alternates. Alternates shall serve in the absence of regular Members or when a regular member needs to recuse themselves.  
Amended: 03/11/08

**B.** The Board of Adjustment may make special exceptions to the terms of this ordinance in harmony with its general purposes and intent, if the Board finds:

- 1.** That the granting of such exceptions is required to promote the public interest and convenience of the citizens of Thornton.
- 2.** That the granting of such special exceptions will not result in diminution of the value of surrounding properties.
- 3.** That adequate and appropriate facilities will be provided.
- 4.** That no excessive demand on municipal services and facilities will be required.
- 5.** That no traffic safety or substantial traffic congestion will occur.
- 6.** That the granting of such special exception will not be contrary to the spirit of this ordinance. In granting of such special exceptions, the Board may impose such reasonable conditions and safeguards, as it considers appropriate.
- 7.** Within the spirit and intent of B1 through 6 above, the Board of Adjustment may approve special exceptions for recreational businesses in the residential zones under the Innovative Land Use provisions of RSA 674:21. Such special exceptions may include any of those businesses allowed in the recreational zones, provided: There is in the Board's judgment sufficient land to accommodate the business seeking any special exception under this section, to insure minimum impact on abutters.
- 8.** Within the spirit and intent of B1 through 7 above, the Board of Adjustment may grant Special Exceptions for businesses in the Residential Zones. Amended: 03/11/08

- Animal Care and/or Grooming Facilities
- Day Care Facilities
- Art and/or Craft Studios/Facilities
- Personal Care Salons/Facilities
- Health and/or Fitness Centers/Facilities
- Home Occupations
- Production and sale of locally produced crafts and goods.  
Amended: 03/1/08

**C.** The Board of Adjustment shall have the following additional powers:

1. To hear and decide appeals where it is alleged there is error in order, requirement, decision, or determination made by an administrative official in the enforcement of this ordinance.
2. To authorize upon appeal in specific cases variance from the terms of the ordinance with respect to density, lot size, height of structures, setback requirements, grade or slope restrictions, frontage, location of structures on lots, and wetlands restrictions so long as any variance granted for wetlands restrictions does not contravene the provisions of the Thornton Floodplain Developments Ordinance. Any variance granted under this authority shall require the Board of Adjustment to determine that the granting of such variance will not be contrary to the public interest; that because of one or more special conditions literal enforcement of the ordinance would result in unnecessary hardship for the applicant; that the intent and spirit of the Zoning Ordinance shall be observed in granting of the variance reflecting substantial justice.
3. The concurring vote of three members of the Board shall be necessary to reverse any action of such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

**D.** The Board of Adjustment is, empowered as set forth in New Hampshire Revised Statutes Annotated. Chapter 674:33 and 33-a.

**ARTICLE IX. ENFORCEMENT**– It shall be the duty of the Selectmen and they are hereby empowered to administer and enforce the provisions of the ordinance.

**ARTICLE X. NOTICE OF INTENT TO BUILD**

- A.** The owner of any real estate who plans to construct a new building or an addition to an existing building, before commencing such construction must file a form prescribed by the Selectmen defining the nature of the proposed construction. Septic system plans approved by New Hampshire Water Supply and Pollution Commission and Building Plans, as required, shall be submitted for all new construction. Amended 3/11/08
- B.** Nothing in this article shall be so construed as to authorize the Selectmen to forbid any construction for any reason other than violation of rule or law.

**C.** Any person constructing any building without obtaining approval of an intent to build (Building Permit) shall be subject to a fine of \$275.00 a day.

**D.** When a building or addition is to be constructed within twice the set back limits the constructor shall have the “as built” location verified once the footings have been laid. This shall be done prior to any further construction. Failure to do so waives the owners right to claim hardship in requesting an area variance, for location of structure. Production of “as built” does not imply an area variance will be granted.

**ARTICLE XI. VALIDITY** – If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudicated invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudicated and the remainder of these regulations shall be deemed valid and effective.

**ARTICLE XII. PENALTY** –Any person, firm or corporation upon being found in violation of any of the provisions of this ordinance shall, be fined not more than \$275.00 for each day such violation may exist. Fines collected hereunder shall be paid to the use of the town.

**ARTICLE XIII ADOPTION DATE** – This ordinance may be amended in the manner provided in New Hampshire Revised Statues Annotated, Chapter 675, as amended. Adoption of this ordinance is March, 2000.

**ARTICLE XIV FLOOD PLAIN** –Thornton Floodplain Development Ordinance Adopted March 13,1990 New Hampshire Model Floodplain Development Ordinance for Communities with Special Flood Hazard areas meets the minimum requirements of Section 60.3 (B) of the National Insurance Flood Insurance Program Regulations.

This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Thornton Floodplain Development Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Thornton Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. If any provision of this ordinance differs or appears to conflict with any provision of the Zoning Ordinance or their ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

The following "Items" are taken from the New Hampshire Model Floodplain Development Ordinance.

**ITEM I DEFINITION OF TERMS:**

The following regulations in this ordinance shall apply to all lands designed as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its Flood

Insurance Rate Maps dated April 2, 1986 which are declared to be a part of this ordinance

and are hereby incorporated by reference.

The following definitions shall apply to this Floodplain Development Ordinance, and shall not be affected by, the provisions of any ordinance of the Town of Thornton.

**AREA OF SPECIAL FLOOD HAZARD** is the land in the flood plain within the Town of Thornton subject to a 1 percent or greater chance of flooding in any given year. The area is designated as Zone A on the Flood Insurance Rate Map.

**Flood Insurance Study** means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

**Manufactured home park or subdivision** means a parcel (or contiguous Parcels) of land divided into two or more manufactured home lots for rent or sale.

**New construction** means, for the purposes of determining insurance rates, structures for which the start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**Violation** means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44CFR S 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

**BASE FLOOD** means the flood having a one-percent possibility of being equaled or exceeded in any given year.

**BASEMENT** means any area of a building having its floor sub-grade on all sides.

**BUILDING** see "structure".

**DEVELOPMENT** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**FEMA** means the Federal Emergency Management Agency.

**FLOOD OR FLOODING** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation of runoff of surface waters from any source.

**FLOOD INSURANCE RATE MAP (FIRM)** means an official map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Thornton.

**FLOODPLAIN OR FLOOD PRONE AREA** means any land area susceptible to being inundated by water from any source (see definition of "Flooding")

**FLOOD PROOFING** means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

**FLOODWAY** see "Regulatory Floodway".

**FUNCTIONALLY DEPENDENT USE** means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.

**HIGHEST ADJACENT GRADE** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURE** means any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered district or a district or a district preliminary determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have certified either:
  - 1. By an approved state program as determined by the Secretary of the Interior, or
  - 2. Directly by the Secretary of the Interior in states without approved programs.

**LOWEST FLOOR** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such an enclosure is not enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

**MANUFACTURED HOME** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. For floodplain management purposes the term “manufactured home” includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.

**MEAN SEA LEVEL** means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a communities Flood Insurance Rate Map are referenced.

**"100 YEAR FLOOD"** see "BASED FLOOD"

**RECREATIONAL VEHICLES** is defined as:

- A. built on a single chassis;
- B. 400 square feet or less when measured at the largest horizontal projection;
- C. designed to be self-propelled or permanently towable by a light duty truck
- D. designed **not** for use as a permanent dwelling but as temporary living quarters for and recreational, camping, travel or seasonal use.

**REGULATORY FLOODWAY** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**SPECIAL FLOOD HAZARD AREA** means an area having flood, mudslide, and/or flood related erosion hazards, and shown on an FHBM or FIRM as Zone A.

**STRUCTURE** means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**START OF CONSTRUCTION** includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 18 days of the permit date. The actual start means either the first placement or permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

**SUBSTANTIAL DAMAGE** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENTS** means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative

cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal:) (1) the appraised value prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvements" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the Structure. This term includes structures, which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a historic structure."

"Water surface elevation," means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.

#### **ITEM II.**

All proposed development in any special flood hazard areas shall require a permit.

#### **ITEM III**

The building inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:

- A. be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
- B. be constructed with materials resistant to flood damage,
- C. be constructed by methods and practices that minimize flood damages,
- D. be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

#### **ITEM IV**

Where new or replacement water and sewer systems (including on-site systems) are

Proposed in a special flood hazard area the applicant shall provide the Building Inspector with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

## **ITEM V**

For all new or substantially improved structures located in special flood hazard areas, the applicant shall furnish the following information to the building inspector:

- A. the as-built elevation structures (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.
- B. if the structure has been flood proofed the as-built elevation (in relation to NGVD) to which the structure was flood proofed.
- D. any certification of floods proofing.

The Building Inspector shall maintain for public inspection, and shall furnish such information upon request.

## **ITEM VI**

The Building Inspector shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

## **ITEM VII**

- A. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Building Inspector, in addition to the copies required by the RSA482-A: 3.
- B. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau.
- C. The applicant shall submit to the Building Inspector, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
- D. The Building Inspector shall obtain, review, and reasonably utilize and floodway data available from Federal, State, or other sources as criteria for requiring that all development located Zone A meet the following floodway requirement:

"No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base discharge".

## **ITEM VIII**

- A. In Zone A the Building Inspector shall obtain, review and reasonably utilize any 100-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).

B. The Building Inspector's 100-year flood elevation determination will be used as criteria for requiring in zone A that:

1 All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100-year flood elevation;

2. That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100-year level; or together with attendant utility and sanitary facilities, shall:

a. be flood proofed so that below the 100-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy,

c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section;

3 All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the 100 year flood elevation; and be securely anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but

are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces;

4. All recreational vehicles placed on sites within Zones A and AE shall either:

a. be on the site for fewer than 180 consecutive days;

b. be fully licensed and ready for highway use; or

c. meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation

and anchoring requirements for  
"manufactured home: in Paragraph (c)  
(6) of Section 60.3.

5. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirement: (1) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage; (2) the area is not a basement; (3) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

#### **ITEM IX VARIANCES AND APPEALS:**

A. Any order, requirement, decision or determination of the building inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

B. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:

1. that the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
2. that if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood will result.
3. that the variance is the minimum necessary, considering the flood hazard, to afford relief.

C. The Zoning Board of Adjustment shall notify the applicant in writing that: (1) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (2) such construction below the base flood level

increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

D. The community shall (1) maintain a record of all variance actions, including their justification for their issuance, and (2) report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.