

TO: The Voters of the Town of Thornton

FROM: Nancy Decoteau, Chairperson, and Members of the Planning Board

RE: Proposed Zoning Amendments for the 2023 Town Meeting

Attached to this memo you will find a copy of the proposed zoning amendments for the 2023 Town Meeting. The attachments show the proposed zoning amendments as they will appear on the Town Warrant.

Proposed Zoning Amendment #1 pertains to the Town's Telecommunication Ordinance. The language in the proposed amendment allows the Planning Board to retain authority over the Site Plan Review portion of a cell tower application. The proposed amendment also corrects typographical errors and the sequential numbering of the sections of the Telecommunications Ordinance. Additionally, it also corrects grammatical errors, deletes duplicate or incomplete sentences, and modifies the Savings Clause.

Proposed Zoning Amendment #2 pertains to the Town's Floodplain Development Ordinance. The Town of Thornton is a member of the National Flood Insurance Program (NFIP). The Federal Emergency Management Agency has required that member communities update their floodplain ordinance so the ordinance is fully compliant with NFIP regulations. The amendments contained in Proposed Zoning Amendment #2 are the changes that the Town of Thornton must make in order to maintain the Town's eligibility to participate in the National Flood Insurance Program. No other changes are being proposed.

The Planning Board held a public hearing on the proposed zoning amendments on Thursday, December 15, 2022, at 6 pm to accept questions and comments from the public.

If you have questions or desire further information, you may also reach out to the Town's Planning Director, Kathy Menici, at (603) 726-8168.

Zoning Amendment #1

Are you in favor of the adoption of amendments to the existing Town of Thornton Zoning Ordinance Telecommunications Facilities Ordinance, as proposed by the Town of Thornton Planning Board, as follows:

Add a new *Section 1. Authority* which alters the sequential numbering of subsequent Articles and adds the following language:

This ordinance is adopted pursuant to RSA 674:21. The Town of Thornton Planning Board is vested with the authority to administer this ordinance, and may grant conditional use permits, or waiver provisions of this ordinance to allow the site of wireless telecommunications facilities.

Amend newly numbered *Section 4. Applicability, Paragraph A* to read:

In addition to compliance with this Ordinance, all applications are subject to Site Plan Review by the Thornton Planning Board in accordance with the Thornton Site Plan Review Regulations and are subject to approval by the Thornton Board of Selectmen.

Amend newly numbered *Section 4. Applicability*, to delete Paragraph B.

~~B. All requests for a variance must to before the Zoning Board of Adjustment.~~

Amend the first sentence of the newly numbered *Section 6. Use Regulations*, introductory paragraph to read:

All wireless telecommunications facilities shall, in all cases, require a zoning compliance certificate issued by the Board of Selectmen and may be permitted as follows:

Amend the newly numbered *Section 6. Use Regulations, Paragraph A. Existing Tower Structures*: as follows:

Change reference from building permit to zoning compliance certificate.

Change reference from Section 6 to Section 8.

Amend newly numbered *Section 6. Use Regulations, Paragraph C*. to change the reference from Section 6.C. to Section 8.C.

Amend newly numbered Section 6. Use Regulations, Paragraph D. to read as follows:

- D. Ground-Mounted Facility: A wireless telecommunications facility involving construction of a ground mount shall require Site Plan Review and require a conditional use permit pursuant to the provisions of this Ordinance.

Amend newly numbered Section 9. Monitoring and Maintenance, Paragraph B. to change reference from building permit to zoning compliance certificate.

Amend newly numbered Section 11. Application Procedure., Paragraph A. to read:

- A. An applicant for a telecommunications tower must apply for a conditional use permit pursuant to the terms of this ordinance and for site plan review. If approved, the Planning Board will make recommendations to the Board of Selectmen to issue a zoning compliance certificate.

Amend the first sentence of the newly numbered Section 11. Application Procedure., Paragraph C. to read:

- C. If the applicant is proposing to build a tower or other ground-mounted structure, the applicant shall submit written evidence demonstrating why no existing structure can accommodate the applicant's proposed facility.

Amend newly numbered Section 12. Waivers, Paragraph A. to read:

- A. Where the Planning Board finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with the terms of this Ordinance, or the purpose of these regulations may be served to a greater extent by an alternative proposal, it may approve waivers to the regulations. The Planning Board shall not approve any waiver(s) unless a majority of those present and voting shall find that all of the following apply:

Amend newly numbered Section 12. Waivers, Paragraphs B. and C.:

Replace all references to Zoning Board of Adjustment with Planning Board.

Amend newly numbered Section 15. Savings Clause to read:

If any provision of this Ordinance is found to be unenforceable or unlawful by a Court of competent jurisdiction, such finding shall not be construed to invalidate the remainder of the Ordinance.

Recommended by the Planning Board

Zoning Amendment #2

Are you in favor of the adoption of amendments to the existing Town of Thornton Zoning Ordinance Floodplain Development Ordinance, as proposed by the Town of Thornton Planning Board, as follows:

Amend *Section II: Establishment*, second paragraph to read:

The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for Grafton County, NH" dated February 20, 2008 as amended, together with associated flood insurance rate maps dated February 20, 2008, or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference.

Amend Section VI: Certification, Paragraph 1. to read:

1. The as-built elevation (in relation to Mean Sea Level) of the lowest floor (including basement) and include whether or not such structures contain a basement.

Amend Section VI: Certification, Paragraph 1.a. to read:

- a. If the structure has been flood-proofed, the as-built elevation (in relation to Mean Sea Level) to which the structure was flood-proofed.

Amend *Section IX. Special Flood Hazard Areas* to delete all references to 100-year flood elevation and replace it with Base Flood Elevation.

Amend *Section IX. Special Flood Hazard Areas, Paragraph 6.c.*, third sentence, to read:

A minimum of two flood 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.

Amend *Section X: Variances and Appeals, Paragraph 2* to change the reference from RSA 674:33, I(b) to **RSA 674:33, I.**

Amend Section XI. Definitions to add the following definitions:

“Base Flood Elevation” (BFE) means the elevation of surface water resulting from the base flood.

“Flood Opening” means an opening in a foundation of enclosure walls that allows automatic entry and exit of floodwaters. See FEMA “Technical Bulletin 1, Openings in Foundation Walls and Walls of Enclosures.”

Amend Section XI. Definitions to delete the definition of “Functionally Dependent Use”.

Amend Section XI. Definitions to delete the existing definition of “Substantial Improvement” and insert the following:

“Substantial Improvement” means any reconstruction rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

Amend Section XI. Definitions to delete the incomplete sentence “Additional Sections Required”, which follows the definition of “Water Surface Elevation”

Recommended by the Planning Board.