

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

19Mar2008... 0711h

08-2431

06/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eight

AN ACT relative to workforce housing.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Findings and Statement of Purpose.

I. The state of New Hampshire is experiencing a shortage of housing that is affordable to working households. This housing shortage poses a threat to the state's economic growth, presents a barrier to the expansion of the state's labor force, undermines state efforts to foster a productive and self-reliant workforce, and adversely affects the ability of many communities to host new businesses.

II. Achieving a balanced supply of housing, which requires increasing the supply of workforce housing, serves a statewide public interest, and constitutes an urgent and compelling public policy goal.

III. The purpose of this subdivision is to clarify the requirements of Britton v. Chester (134 N.H. 439 (1991)) and to provide additional guidance for complying with those requirements to local officials and the public.

IV. This subdivision is intended to provide the maximum feasible flexibility to municipalities in exercising the zoning powers under RSA 674 consistent with their obligation to provide reasonable opportunities for the development of workforce housing, and is not intended to create a system of statewide land use regulation or a statewide zoning process.

2 New Subdivision; Workforce Housing Opportunities. Amend RSA 674 by inserting after section 57 the following new subdivision:

Workforce Housing

674:58 Definitions. In this subdivision:

I. "Affordable" means housing with combined rental and utility costs or combined mortgage loan debt services, property taxes, and required insurance that do not exceed 30 percent of a household's gross annual income.

II. "Multi-family housing" means a building or structure containing 5 or more dwelling units, each designed for occupancy by an individual household.

III. "Reasonable and realistic opportunities for the development of workforce housing" means opportunities to develop economically viable workforce housing within the framework of a municipality's ordinances and regulations adopted

pursuant to this chapter and consistent with RSA 672:1, III-e. The collective impact of all such ordinances and regulations on a proposal for the development of workforce housing shall be considered in determining whether opportunities for the development of workforce housing are reasonable and realistic. If the ordinances and regulations of a municipality make the development of workforce housing sufficient to satisfy the municipality's obligation under RSA 674:59 feasible, and such development is not unduly inhibited by natural features, the municipality shall not be in violation of its obligation under RSA 674:59 by virtue of economic conditions beyond the control of the municipality that affect the economic viability of workforce housing development.

IV. "Workforce housing" means housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. "Workforce housing" also means rental housing, which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing for the purposes of this subdivision.

674:59 Workforce Housing Opportunities.

I. In every municipality that exercises the power to adopt land use ordinances and regulations, such ordinances and regulations shall provide reasonable and realistic opportunities for the development of workforce housing, including multi-family workforce housing. In order to provide such realistic opportunities, lot size and overall density requirements for workforce housing shall be reasonable

II. A municipality shall not fulfill the requirements of this section by adopting voluntary inclusionary zoning provisions that rely on inducements that render workforce housing developments economically unviable.

III. A municipality that adopts land use ordinances and regulations shall allow, in its discretion, workforce housing to be located in a majority of, but not necessarily all, land areas in districts zoned to permit residential uses within the municipality.

IV. A municipality's existing housing stock shall be taken into consideration in determining its compliance with this section. If a municipality's existing housing stock is sufficient to accommodate its fair share of the current and reasonably foreseeable regional need for such housing, it shall be deemed to be compliant with paragraph I.

V. Paragraph I shall not be construed to require municipalities to allow workforce housing that does not meet reasonable standards or conditions of approval related to environmental protection, water supply, sanitary disposal, traffic safety, and fire and life safety protection.

674:60 Appeals.

I. Any person whose application to develop workforce housing is denied or is approved with conditions or restrictions which have a substantial adverse effect on the viability of the proposed workforce housing development may appeal the municipal action to the superior court under RSA 677:4 or RSA 677:15 seeking permission to develop the proposed workforce housing. The petition to the court shall set forth how the denial is due to the municipality's failure to comply with the workforce housing requirements of RSA 674:59 or how the conditions or restrictions of approval otherwise violate such requirements.

II. A hearing on the merits of the appeal shall be held within 6 months of the date on which the action was filed unless counsel for the parties agree to a later date, or the court so orders for good cause. If the court determines that it will be unable to meet this requirement, at the request of either party it shall promptly appoint a referee to hear the appeal within 6 months. Referees shall be impartial, and shall be chosen on the basis of qualifications and experience in planning and zoning law.

3 Planning and Zoning; Declaration of Purpose. Amend RSA 672:1, III-e to read as follows:

III-e. All citizens of the state benefit from a balanced supply of housing which is affordable to persons and families of low and moderate income. Establishment of housing which is decent, safe, sanitary and affordable to low and moderate income persons and families is in the best interests of each community and the state of New Hampshire, and serves a vital public need. Opportunity for development of such housing, including so-called cluster development and the development of multi-family structures, ~~[should]~~ **shall** not be **unreasonably** prohibited or discouraged by use of municipal planning and zoning powers or by unreasonable interpretation of such powers;

4 Effective Date. This act shall take effect 60 days after its passage.

LBAO

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Amended 03/31/08