

# NEW HAMPSHIRE'S WORKFORCE HOUSING LAW

## RSA 674:58 through 61

### THE LAW'S CORE MEANING

- All municipalities must provide reasonable and realistic opportunities for the development of workforce housing, including rental and multi-family housing.
- The collective impact of all local land use regulations adopted under RSA 674 shall be considered to determine if such opportunities exist (a facial test).
- Workforce housing of some type must be allowed in a majority of land area where residential uses are permitted (but not necessarily multi-family in a majority of such areas).
- Existing housing stock shall be accounted for to determine if a municipality is providing its “fair share” of current and reasonably foreseeable regional need for workforce housing.
- Reasonable restrictions may be imposed for environmental protection, water supply, sanitary disposal, traffic safety, and fire and life safety protection.

### LAND USE BOARD PROCESS

- As part of the application, the developer must notify the board in writing that a workforce housing development is being proposed—the applicant must invoke the statute.
- Planning board RSA 676:4 plat review (or other process) proceeds as normal, but discussions of cost should be part of this.
- Upon approval with conditions, the board notifies the applicant of the conditions, who then has at least 30 days to identify the cost impact of the conditions upon the economic viability of the project. The board may then modify its conditions accordingly.

### APPEALS

- To superior court if application is denied or has conditions that have a substantial adverse effect on the project's viability. Burden is on developer to show how the municipality's actions violated the Workforce Housing statute (an as-applied test).
- Hearing on the merits within 6 months; compulsory appointment of a qualified referee if the court is too busy
- “Builder's Remedy” shall include affordability restrictions on workforce housing units, as determined by negotiation between the parties, or by the court if an impasse is reached.

### DEFINITIONS

- Workforce housing—housing that's “affordable” for
  - Renter family of 3 making 60% of Area Median Income.
  - Owner family of 4 making 100% of Area Median Income.
  - Does not include age-restricted housing.
  - Does not include developments with >50% of units having less than 2 bedrooms.
- Affordable—no more than 30% of income should be spent on housing (rent + utilities; or mortgage principal and interest, taxes, and insurance).
- Reasonable and realistic opportunities
  - Economically viable workforce housing.
  - Collective impact of land use ordinances and regulations.
  - Natural features and market considerations may be beyond the control of a municipality.
- Multi-family housing—5 or more dwelling units.

*Effective Date: January 1, 2010 (extended from July 1, 2009 by Chapter 157, Laws of 2009)*

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