

NEW HAMPSHIRE'S WORKFORCE HOUSING LAW

A 10-Year Retrospective on the Law's Impact
on Local Zoning and Creating Workforce Housing



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DEDICATED TO KAREN WHITE, whose commitment to creating and preserving affordable housing in New Hampshire was seen and felt deeply. She had a passion for life, passion for planning, and always a grand smile!

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SECTION 1

New Hampshire's Workforce Housing Law

EXECUTIVE SUMMARY

Over a decade ago, the New Hampshire Legislature passed a landmark law requiring all municipalities to provide a “reasonable and realistic opportunity” for the development of workforce housing. This law codified and clarified existing case law and provided guidance to municipalities on how to meet their legal obligations, while also maintaining maximum feasible flexibility for local governments. In the intervening years, many communities have taken significant steps to reform their regulations, not only to meet the law’s requirements, but to encourage workforce housing development. Others have been less proactive or ignored the law altogether. At the 10th anniversary of the law, New Hampshire Housing recognized an opportunity to review progress that has been made to meet the state’s workforce housing challenge and to identify work that remains to be done. This report is the result of that review.

BACKGROUND

Concern about the rising price and limited supply of quality housing for New Hampshire’s residents and, importantly, its workforce population has been well-documented over the years, including a series of three different legislative studies between 2000 and 2006. In addition to these legislative reports, independent research documents the significant impact that regulatory constraints on the housing supply were having on the state’s economic performance.

Then, as now, employers in New Hampshire were experiencing first-hand the inability to attract additional workers needed to fill open positions. Where their employees lived and the cost of a house or apartment became vital concerns for businesses. Responding to this concern, starting in 2001 in the Seacoast and the Upper Valley regions of the state, business leaders began to organize coalitions aimed at solving this problem. They recognized their common problem in the rapidly escalating cost of housing, combined with home production that wasn’t keeping pace with demand.

Around this time, New Hampshire Housing and the New Hampshire Charitable Foundation provided financial support for local education and advocacy and developed a funding program to create regional workforce housing coalitions that would build grassroots efforts to reduce barriers to housing at the local level. By 2007, six formal housing coalitions were at work around the state. The ongoing work of regional workforce housing coalitions in concert with community leaders has continued this sustained effort to lift unnecessary barriers to housing development.

In 2008, through the combined efforts of these coalitions, many housing partners (including the NH Business and Industry Association), along with an engaged Legislature, New Hampshire’s Workforce Housing Law was enacted. It took effect on January 1, 2010.

A 10-YEAR RETROSPECTIVE ON THE LAW’S IMPACT

Through a process of regulatory review and assessment, and interviews with representatives from 33 towns and cities throughout the state, this report explores the municipal responses to the Workforce Housing Law and actions they undertook to comply with it. Drawing on these 33 assessments, 10 case studies were prepared that provide a more thorough review and explore the many nuances of each community’s approach to compliance with the law. The case studies evaluate whether municipal regulations are serving the purpose and intent of the law, which is to allow for a greater supply of housing that is affordable to New Hampshire’s workforce. The case studies were written in 2020.

Key components of this report are the summary and conclusions that highlight some of the themes that emerged through the analysis. This uncovers some of the barriers that still exist and provides recommendations that may be useful to communities that are still working on regulatory change.

SECTION 2

New Hampshire's Workforce Housing Law

INTRODUCTION

In 2008, the New Hampshire Legislature adopted the Workforce Housing Law, codifying and clarifying court decisions on the obligation of cities and towns to provide an opportunity for affordable housing development. The law ultimately took effect on January 1, 2010, and in the years since, many of New Hampshire's municipalities have made changes to their zoning ordinances and other land use regulations in an effort to respond to the requirements of the law. Recognizing these efforts and hearing ongoing questions about the Workforce Housing Law, New Hampshire Housing saw the law's 10th anniversary as an opportunity to review progress made toward meeting its challenges, to identify questions that persist, and to recommend possible solutions to remaining questions.

DEVELOPMENT OF THE WORKFORCE HOUSING LAW

New Hampshire's municipalities may only act pursuant to a grant of power from the Legislature, meaning that New Hampshire is not a "home rule" state. Almost a century ago, the state adopted zoning enabling legislation (now codified at RSA Chapter 674), and in the years since, most municipalities have adopted zoning ordinances as well as other land use regulations. More recently, the Legislature amended its introductory findings that preface the zoning enabling statute to say:

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 shall not be prohibited or unreasonably discouraged by use of municipal planning and zoning powers or by unreasonable interpretation of such powers ... (RSA 672:1, III-e).

Despite this encouraging language, developers in many communities have faced high barriers when attempting to build modestly priced housing. Starting in 1979, a developer sought to build affordable housing in Chester. Denied the necessary approvals by the local planning board, he took the town to court. In 1991, after years of litigation, the New Hampshire Supreme Court issued a decision in *Britton v. Town of Chester* [134 N.H. 434 (1991)], in which the court held against the town and recognized that the state's zoning enabling statute contains an obligation for every municipality to provide a reasonable and realistic opportunity for the development of housing that is affordable to low- and moderate-income families. The court also ruled that every municipality has an obligation to provide for its "fair share" of a region's current and prospective need for affordable housing. The court didn't define what the term "fair share" meant, and it specifically refused to establish "arbitrary mathematical quotas." For his efforts, the developer was awarded the "builder's remedy," meaning that the court itself issued the permits to proceed with the development.

In the years following the *Britton* case, a body of research began to be developed that documented the impact of rising prices and limited supply of quality housing on New Hampshire's residents and, importantly, its workforce population. These include a 2000 legislative study committee's report [Chapter 74, Laws of 2000 (HB 1199)] and the 2002 legislative commission report on "Reducing Regulatory Barriers to Workforce

Housing in New Hampshire.” [Chapter 262, Laws of 2001 (SB 21)] The commission concluded that although there were other factors, the regulatory barriers created by municipalities had a significant impact on housing costs and were also within the Legislature’s capacity to influence.

This subject was examined once again by a 2006 legislative study committee that issued a report “Affordable Housing/Living in New Hampshire.” [Chapter 210, Laws of 2006 (SB 190)] One part of the last report’s introduction reads, “This may be one of the most redundant and repetitive study assignments in the last twenty or more years in the State of New Hampshire.”

In addition to these legislative studies, a 1998 report commissioned by New Hampshire Housing and prepared by Russ Thibeault of Applied Economic Research linked the state’s economic slowdown towards the end of 1997 with the lack of housing available to accommodate an increased demand for workers. The report concluded that, “Housing policy now has a structuring influence over the state’s economic development.” A 2005 study by Dr. Lisa Shapiro of Gallagher, Callahan & Gartrell quantified the impact of a constrained housing supply in terms of dollars lost in state and local revenue, jobs and personal income.

In these years, several attempts were made to pass legislation that recognized the relationship between local land use regulations and the cost of housing – and also to codify the Court’s rulings in *Britton*. These efforts culminated with the enactment of SB 342 in 2008 (Chapter 299), codified as RSA 674:58-61, which took effect on January 1, 2010.

New Hampshire’s Workforce Housing Law requires municipalities to provide “reasonable and realistic opportunities” for the development of workforce housing in a majority of their residentially zoned areas. For an opportunity to be reasonable and realistic, workforce housing must be “economically viable,” meaning that it must return a reasonable profit to a developer. The law additionally defines the terms “affordable” and “workforce housing” to guide municipalities in their efforts to comply with the law. Also drawing from the *Britton* case, the law requires every municipality to provide a “fair share” of its region’s need for workforce housing. Like the Supreme Court, the Legislature opted not to define “fair share” or to use prescriptive mathematical standards.

In early 2009 New Hampshire Housing assembled an advisory committee and hired consultants to develop written guidance for local action under the Workforce Housing Law. This resulting guidebook, ***Meeting the Workforce Housing Challenge***, was produced to help local land use boards address the requirements of the law and to shape future growth consistent with their vision for dynamic, healthy communities. While that guidebook has been helpful to many communities, questions about how to comply with the law persist.

With the 10th anniversary of the Workforce Housing Law, New Hampshire Housing commissioned Fougere Planning and Development to undertake a retrospective of the law’s impacts: its successes, failures, lessons learned, and challenges that remain. The team of consultants, including Mark Fougere and Karen White, reviewed the regulations of 33 municipalities in New Hampshire and from that sample developed 10 case studies which provide a more in-depth look at the successes and challenges of creating local workforce housing regulations. This report includes their analysis, as well as a series of recommendations to address outstanding questions about the law’s implementation.

WHAT IS WORKFORCE HOUSING? *THE FINE PRINT*

The Workforce Housing Law (RSA 674:58-61) requires New Hampshire municipalities to provide a “reasonable and realistic opportunity” for the development of workforce housing. The law provides municipalities with great flexibility in determining how to meet its obligations and specifically requires municipalities to make a provision for multi-family rental housing (of at least five units per structure).

The law defines “workforce housing” as:

- for-sale housing that is affordable to a household of four earning up to 100% of the Area Median Income (AMI)
- rental housing that is affordable to a household of three earning up to 60% AMI

“Affordable” is defined as spending no more than 30% of a household’s income on housing costs. (Ownership housing cost is defined as principal, interest, taxes and insurance; rental cost is defined as rent plus utilities.)

Workforce housing does not include age-restricted (senior) housing.

Developments must have a majority of units with at least two bedrooms to qualify as a workforce housing development.

See Appendix B for the full text of the law.

SECTION 3

New Hampshire’s Workforce Housing Law: CASE STUDIES

The consultants for this 10-year retrospective conducted a review and assessment of land use regulations and processes and interviewed staff of 33 municipalities in New Hampshire in the first quarter of 2020. From that sample, 10 case studies were selected that represent the diversity in population, governance structure, and location of NH’s municipalities. The case studies provide a more in-depth look at the nuances of each municipality’s approach, including the successes and challenges of creating land use regulations that seek to provide reasonable and realistic opportunities for the creation of workforce housing or of defending the assertion that the municipality meets its “fair share” of the need for workforce housing.

BEDFORD

Gains & Losses

1. OVERVIEW

Population 23,322 (2020 Census; 9.9% increase over 2010 Census of 21,203)

County: Hillsborough

RPC: Southern NH Planning Commission

HUD Fair Market Rent Area: Manchester

Recommended Maximum Gross Rent (2020): \$1,130

Recommended Maximum Purchase Price (2020): \$298,500

Workforce Housing Ordinance: 2009 (NH Housing grant)

Workforce Housing projects approved: 4

2. GENERAL DESCRIPTION

With 77.3% of its housing stock single family, Bedford is a bedroom community that also includes a diverse non-residential tax base and lies to the southwest of Manchester. A majority of its multi-family housing stock exists along the Route 3A corridor, east of the Everett Turnpike. Bedford enjoys direct access to the Turnpike and NH Route 101, providing easy access to many areas of the state and beyond.

3. ORDINANCE/REGULATION ADOPTION AND STRUCTURE

Adoption: In response to the Workforce Housing Law, the community adopted a workforce housing ordinance in 2009. A committee was formed and a consultant was hired to guide the community through the drafting of the ordinance. There were few objections raised during the public hearing process and the measure was overwhelmingly approved by the voters (83%).

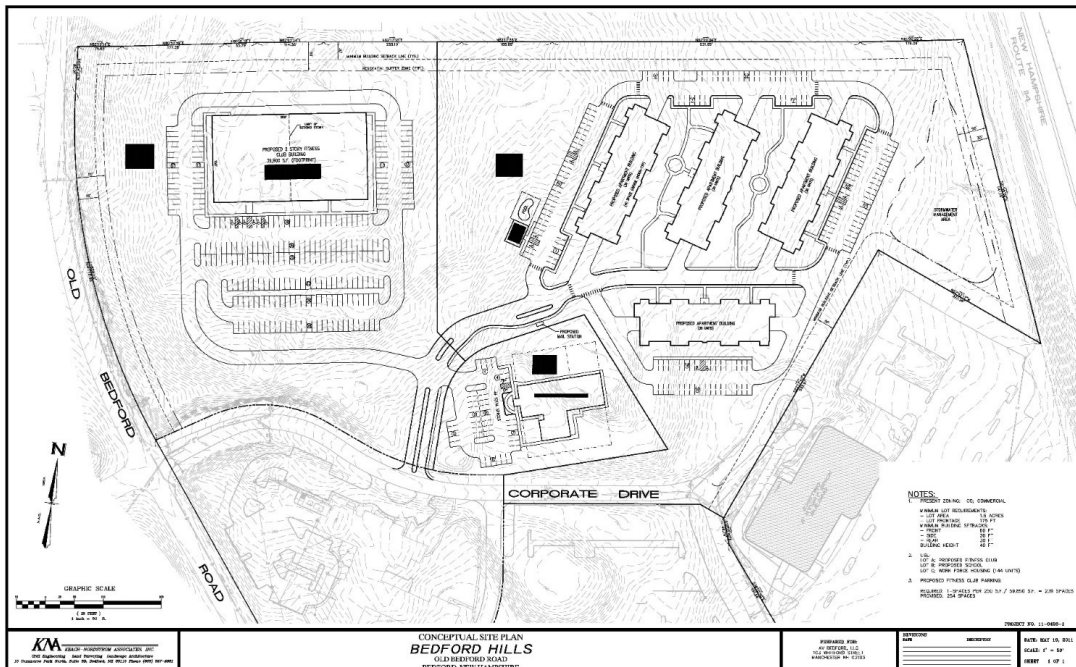
In 2019, a 93-unit apartment proposal that included workforce housing units was proposed (Bow Lane) adjacent to the high school. This project encountered significant opposition and reaction within the community. Although the project was approved, the fallout from this mixed-income complex led to a series of petitioned zoning amendments that removed workforce housing as a permitted use from areas along NH Route 101, reduced building density to a maximum of 12 units, reduced the areas where workforce housing was allowed, and made other changes. Although workforce housing was added as an allowable use in the Performance Zone district, properties cannot front on either the turnpike or U.S. Route 3, severely limiting development options. The Planning Board did not support the petitioned articles, but Bedford voters approved these measures (three ballot questions, with approval rates ranging from 55 – 60%). The Planning Director believes a significant amount of misinformation was spread through social media about the topic prior to the vote, including the belief among some residents that if the petitions were adopted, the Bow Lane development would be stopped. This belief was, in fact, erroneous as the development project was already before the Planning Board and as such, was “vested” from any zoning amendments.

How the regulation is constructed: The workforce housing ordinance requires a 25% set-aside of workforce housing units, along with a 30-year restrictive covenant for affordability. If an owner-occupied unit is not held by the owner for the full 30 years, then the 30-year restriction recommences with the new owner. An owner who remains with the home for the full 30-year time period may sell the property at full market value at the expiration of the covenant. Multi-family developments are allowed in the AR, CO-2, PZ and SI zones at a density of 12 units an acre. Within the AR and PZ zones, the maximum number of units allowed per building is limited to 12; with no limitations on units per building in the CO-2 and SI Zones. In the RA and GR zones, owner-occupied developments are allowed for up to four-unit buildings. Single-family lots can be reduced to one-third of the required minimum lot area and frontage. NH Department of Environmental Services’ septic loading criteria determines allowable density.

Workforce housing monitoring procedures: Monitoring reports are required to be submitted to the Planning Board upon the sale/resale of any owner-occupied affordable housing unit. For rentals, yearly reports must be submitted to the planning department confirming that all workforce housing units are rented to qualified tenants.

4. SNAPSHOTS OF PROJECTS

Bedford Hills Apartments. This project was approved in 2015, to have 144 garden-style units with 25% of the units set aside as workforce housing. It is part of a mixed-use development (commercial and office space). The project consists of 14 one-bedroom units, 110 two-bedroom units and 14 three-bedroom units. Thirty-one school-age children (SAC) reside within the development resulting in a per unit SAC ratio of .215 (31/144 units). The property is assessed for \$23,717,800 (\$164,706/unit). The property is occupied by a total of 275 residents or 1.9 per unit. There are 214 vehicles (1.48 per unit) registered to these tenants. Twenty-five percent of the residents are age 55 or older. Leasing staff qualifies all workforce housing tenants and reports a census to the town on a regular basis.



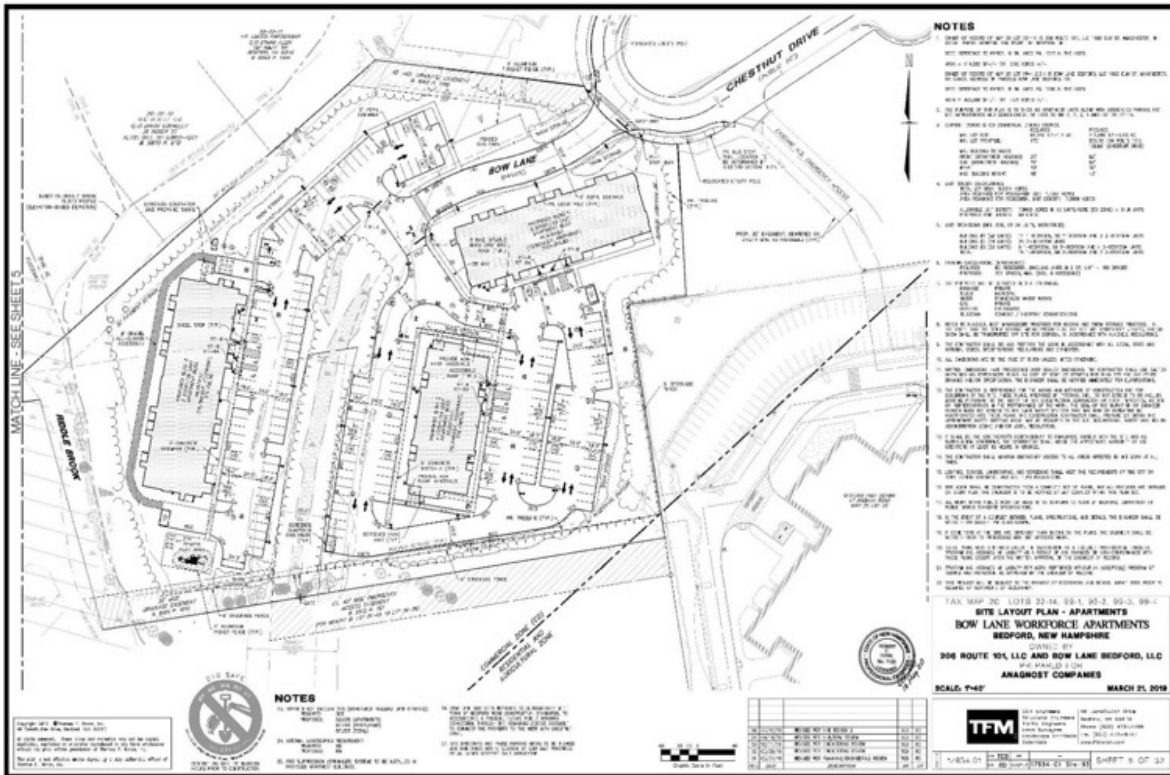
Bedford Green. This complex includes 83 apartment units with 25% of the units designated as workforce housing. The development was approved in 2012. The building consists of 7 one-bedroom units and 76 two-bedroom units. Twenty-four school-age children reside at the development, which equates to a per unit SAC ratio of 0.289 (24/83). The property is assessed for \$10,666,500 (\$128,512/unit).



Kensington Woods. This property has 41 rental units and is 100% workforce housing, consisting of 17 one-bedroom units and 24 two-bedroom units. There are 13 school-age children living in this complex (0.317 SAC unit per unit, 13/41). This property is assessed for \$856,300.



Bow Lane. The project will consist of 93 apartments, with 25% of the units set aside for workforce housing. The development was approved in 2019 with a fall 2020 construction start date. The complex will include 18 one-bedroom units, 68 two-bedroom units and 7 three-bedroom units.



5. PROS AND CONS

Two workforce housing multi-family developments were approved with few major objections. The third workforce housing project, located within a key community corridor, met significant opposition. Social media played a large role in influencing the approval of the petition zoning amendments against the recommendation of the Planning Board.

6. LESSONS LEARNED

Locational context plays a significant role with multi-family developments. The Bow Lane project, located within a former “historic district” along with being adjacent to the middle/high school, played a significant role in creating opposition. The Planning Board is in the process of updating their Master Plan and they intend to highlight facts about workforce housing, with the hope that Bedford residents realize the need for workforce housing and its benefits to the community. Once the update process is complete, the Planning Board can review alternative housing options supported by a strong basis of facts. Armed with these points, the Board can engage the community in an effort to rebuild support for a diverse housing stock.

7. LOCAL INTERVIEWS

Planning Director: As a result of the Bow Lane development, workforce housing has become a “dirty word” in town. With Bedford tied into the Manchester HUD income area, it impacts the ability to develop workforce housing (owner-occupied) in a community with high land prices. Changes to the law could be made to address this issue. Context of where multi-family projects are allowed is also very important.

Town Administrator: As a result of the petition zoning changes, questions have been raised as to the ability to construct “economically viable” workforce housing within the community. This concern is compounded by the reality that land prices in Bedford are very high. Also, the addition of the frontage workforce housing location restrictions along Route 3 and the turnpike is not rational given the existing mix of uses present in this area. Relative to the Workforce Housing Law, the vagueness surrounding the requirement that the community must prove its existing housing stock “is sufficient to accommodate its fair share of the current and reasonable foreseeable regional need for such housing” in order to be deemed in compliance is a real concern. There is no “clear” definition of this requirement, nor one acceptable methodology to calculate this benchmark. Amending the law to provide a more concrete milestone would be a welcome change, thereby providing communities with a clear goal that must be achieved.

Planning Board Chair: When the Workforce Housing Law was adopted, the Planning Board moved immediately to address the matter in an effort to be proactive. The town was successful in obtaining a grant from NH Housing to hire a consultant who provided advice and drafted a workforce housing zoning ordinance amendment to present to voters. The amendment was adopted with little opposition. The Bow Lane workforce housing application involved many strong personalities and given the location adjoining the middle/high school, created many conflicts and opposition. Citizens’ views and attitudes towards workforce housing have changed. Being tied into the Manchester HUD standard is also challenging; costs are much greater in Bedford than Manchester.

Town Resident/Petition Sponsor: Jane Aitken, a lead opponent of the Bow Lane apartment project, stated that the project proposed at Bow Lane was unfairly subsidized, which would result in Bedford’s taxpayers bearing the cost burden of the development. She stated that Bedford has sufficient multi-family housing and the proposed site was not appropriate for a large multi-family project. Additionally, she noted that the town should encourage owner-occupied workforce housing properties, and the state should not be mandating workforce housing on local communities. Aitken is against developers having access to tax credits, subsidies, tax breaks and tax deferments, and believes such vehicles burden the local taxpayer. The fact that some of the apartments were going to be workforce housing was not a problem for her; the location, density, traffic and other issues were her biggest stated concerns.

Developers:

Bedford Green: The only reason the housing project was successful was the fact that the site was the last remaining undeveloped lot on the street; the developer had substantial equity in the property and all utilities were in place. With Bedford tied into the Manchester HUD fair market rent area, rents are substantially reduced, hampering the viability of project financing. Given this requirement, additional density should be considered for workforce housing apartment developments in Bedford.

Bedford Hills and Bow Lane: The Bedford Hills development (a mixed-use development) met few objections in the community, although a few issues were raised by abutters during the approval process. The Planning Board was supportive of the proposal. The Bow Lane development was opposed by residents who were not abutters to the project and lead a misinformation campaign against the proposal. The project was so contentious that someone relocated wetland flags on the site, making it appear that there were more wetlands on the property than actually existed. There were also gross unsupported assertions that the project would impact town property values, change the “character of the town” and allow “those people” to live in the community. It also appeared to some people that some town staff members became advocates for the opposition, raising objections and concerns in an effort to delay the project and increase costs.

CHESTER

Groundbreaker

1. OVERVIEW

Population 5,232 (2020 Census; 9.7% increase over 2010 Census of 4,768)

County: Rockingham

RPC: Southern NH Planning Commission

HUD Fair Market Rent Area: Lawrence, MA (NH Portion)

Recommended Maximum Gross Rent (2020): \$1,320

Recommended Maximum Purchase Price (2020): \$342,500

Workforce Housing Ordinance: 1990's & 2007

Workforce Housing Projects Approved: None since 2007

2. GENERAL DESCRIPTION

The Town of Chester is a small bedroom community east of Manchester with the predominant land use being single-family homes. Of the 3,991 acres of land in the community that is developed, 73% of the area is residential, while 2.7% is non-residential. All properties are serviced by on-site well and septic.

In land use circles, Chester is best known for the ground-breaking Supreme Court case *Britton v. Chester* (134 N.H. 434 1991). This decision, along with years of concerted advocacy, led to the adoption of the Workforce Housing Law in 2008. Key provisions noted within the decision include:

- "Growth controls must not be imposed simply to exclude outsiders..."
- "Towns may not refuse to confront the future by building a moat around themselves and pulling up the drawbridge."
- "Municipalities are not isolated enclaves, far removed from the concerns of the area in which they are situated."
- "Communities must afford 'a realistic opportunity' for the construction of its fair share of the present and prospective regional need for low and moderate income housing."
- "Zoning was never conceived to be a device to facilitate the use of governmental power to prevent access to a municipality by 'outsiders of any disadvantaged social or economic group'."

SHAKER HEIGHTS: This development was the genesis of the *Britton* court case and was approved by the Supreme Court through the “builder’s remedy” to the owner, allowing the project to proceed. Shaker Heights is a 22-unit (duplex) development which encompasses 23 acres, 19 of which are in conservation. Six of the units are affordable, limiting occupancy to those who meet specific income criteria. Four units are owner-occupied with a 30-year restrictive covenant that will expire in 2035. Two of the units are rental, with 15-year income restrictions. A review of town records indicates that the highest assessed valuation of any of the 22 units in the development is \$260,000, well below 2020’s recommended maximum purchase price of \$342,500 for workforce housing.

Shaker Heights, Chester



Units were built over a three-year period starting in 2005.

3. ORDINANCE/REGULATION ADOPTION AND STRUCTURE

Adoption: As a result of the *Britton* court case, the town adopted Article 6, Cluster Development and Article 7, Incentive System for Low-Moderate Income Cluster Housing. Oak Hill I (1998) and II (2000) were approved under these Articles, creating 10 affordable housing units.

As a result of a loophole discovered by a developer, who won a lawsuit over the poor wording contained in the ordinance, in 2004 the Planning Board put forth an amended Article. Significant opposition began relative to the proposed changes, as the original drafts contained a provision that required all projects to be Open Space developments. On the third try, after removing the objectionable language, the current Open Space ordinance was adopted in 2007. The requirements surrounding the affordable housing provisions were never an issue, as these requirements were already in the zoning ordinance.

How the regulation is constructed: The Open Space Subdivision ordinance is the primary vehicle for the creation of workforce housing in the community, although to date no units have been constructed since its adoption in 2007. The ordinance provides for a 25% density bonus with a requirement that 20% of the total units be designated as workforce. Single-family, duplex and multi-family (3 - 6 unit buildings) are allowed. The density bonus may be increased to 75% if the applicant includes senior housing, with the breakdown of unit types negotiated with the planning board. A provision in the ordinance states that the "incentive" will expire should the Planning Board approve the town's "fair share" of workforce housing units.

For owner-occupied housing units, the unit cannot be improved in a manner that would increase the unit's value above the affordable "price" that is in place. This includes additions to the home and exterior changes such as pools and accessory buildings.

Workforce housing monitoring procedures: Approved workforce units carry a 30-year affordable covenant restriction for owner occupied units and 15 years for rentals. Rental property owners are required to monitor workforce units yearly and provide a report certifying that the unit occupants meet income criteria. The monitoring reports must be submitted to the Board of Selectmen or their designee and list the contract rent and occupant household incomes of all workforce units for the calendar year. The developer is required to provide for the proper qualification of occupants of workforce housing units by verification of income by an appropriate agency, which may include a local public housing authority; a local non-profit housing organization; a workforce housing committee; or New Hampshire Housing.

4. SNAPSHOT OF PROJECTS

There have been no recently developed projects in the community.

5. PROS AND CONS

At the 2020 town vote, the planning board sponsored an amendment to remove the 25% open space density bonus (within the Open Space ordinance) and increase the density bonus for workforce housing to 50%. There was some confusion with voters as to the intent of the amendment and it failed. The planning board may reintroduce the amendment in 2021.

In 2019, an Age-Friendly ordinance was adopted in the community geared towards seniors and families. Although the ordinance does not specifically note "workforce housing," the intent was to encourage smaller homes, limited to two-bedroom units arranged on smaller lots. No applications have been submitted under this provision.

6. LESSONS LEARNED

Given the legal history in the community, it is surprising that more workforce housing units have not been built. Barriers still appear to be in place to create an incentive to construct affordable housing.

LOCAL INTERVIEWS

Planning Board: Board members believe they have been responsible and pro-active in addressing workforce housing needs in the community. They are frustrated that the development community has not been interested in building workforce housing. With the market being so strong, with homes selling for over \$600,000, there has been little interest from developers to build homes for \$364,000 or less. The Planning Board is always struggling to find solutions to the housing problem in the community and realize that the current market for new homes is well beyond the reach of most young families. One of the members, who was on the Board during the *Britton* case, felt that the decision was unfair and that the community never had an issue with affordable housing. Board members noted the trouble with the existing Workforce Housing Law is the requirement that communities supply enough workforce housing to meet the “regional need.” Determining the quantity of workforce housing needed to meet this definition is murky. Clarifying the regional need question would be of great help to New Hampshire communities.

Developers: We spoke with Grant Benson, who is a local developer and owns Benson Lumber & Hardware. His family has been doing business in Chester for many years. Benson believes the community is trying to address workforce housing, but the regulations are still too overwhelming. He noted that the standard frontage requirement in the community is 290 feet and with road costs ranging from \$400 - \$600 a foot, lots have to sell for over \$150,000. Other factors that contribute to increasing costs include impact fees and current use fees. Zoning interpretations have also changed recently including requiring driveways to meet setbacks, along with other changes. The existing cluster ordinance does help, but the density is not enough to allow for the construction of homes for \$342,500 (affordable price). The town needs to look at density in order to make it work.

We also spoke with a land use professional who believes the current zoning can be termed “snob zoning,” with housing so expensive that young adults cannot afford to live there. Infrastructure costs are very expensive and the frontage requirements drive costs up. Regulations have been “reinterpreted” without going to the voters and these rule changes are impacting costs. The new interpretation that anything built is a “structure,” requiring it to meet setbacks, further impacts project costs. There has been a slow evolution of rule changes that never seem to stop. Even when the Planning Board tries to open things up, such as allowing age-restricted housing, they add a provision that requires a mile setback between projects. Changes are needed to the zoning ordinances to allow viable workforce housing to be built.

CONWAY

Persistence & Planning

1. OVERVIEW

Population 9,822 (2020 Census; 2.9% decline from 2010 Census of 10,115)

County: Carroll

RPC: North Country Council

HUD Fair Market Rent Area: Carroll County

Recommended Maximum Gross Rent (2020): \$970

Recommended Maximum Purchase Price (2020): \$281,000

Workforce Housing Ordinance: Inclusionary - 2020

Workforce Housing Projects: 1

2. GENERAL DESCRIPTION

Conway and its village districts offer popular resort areas that draw tourists to the White Mountains. The Mount Washington Observatory Center, skiing at Mount Cranmore, fall foliage tours on the Conway Scenic Railroad, and shopping at the many retail outlets bring a year-round bustle of seasonal visitors. Conway also illustrates the competing housing demands that exist in many of the state's resort areas. The demand for upscale seasonal housing is financially lucrative for developers; however, there also is a pressing need for affordable housing for seasonal and year-round workers who staff the support services in these areas. Conversion to short-term rentals is further diminishing the stock of year-round affordable housing.

3. ORDINANCE ADOPTION AND STRUCTURE

Background: Planning Director Tom Irving says that Conway and the villages have been aware of the need for affordable housing for many years. In 2003, Conway amended its zoning density provisions to allow, by special exception, up to 12 dwelling units per acre in three districts where municipal sewer and water are available and up to eight units per acre in a fourth district without municipal water and sewer. The density bonuses offered in these four districts carry the stipulation that "not less than 25% of all dwelling units shall be designated as full-time rental apartments... and these units shall remain as full-time rental units for 20 years by a deed restriction."

Unfortunately, over time, the tool of simply offering density bonuses in the hope of expanding modestly-priced rental units proved to be insufficient to coax developers into building affordable housing. According to the NH Office of Strategic Initiatives' *Current Estimates and Trends in NH's Housing Supply*, only 49 units of multi-family housing were constructed in Conway between 2010 and 2018. Irving explained that the Conway Planning Board was unwilling to impose financial restrictions for workforce housing that might require continual monitoring by the Planning Board or necessitate an additional municipal agency to enforce financial caps.

By 2014, the North Country Council's study *Housing Needs Assessment and Fair Housing Equity Assessment*, estimated that 424 households were paying 50% or more of their income for housing in Conway and the villages. In 2019, the ZBA granted variances to allow development of 20 rental units (maximum of 12 units allowed by special exception) plus a fast-food restaurant with a drive-thru window on a 1.1-acre site; nevertheless, the developer decided not to go forward due to insufficient profit projections in keeping the units as rentals for 20 years rather than immediately selling them as condominiums.

Adoption: During 2019, the Mt. Washington Valley Housing Coalition – aided by a \$5,000 grant from New Hampshire Housing – began working on a model workforce housing ordinance for consideration by the Town of Conway. The goal of the ordinance was to combine density bonuses for development of rental apartments and for-sale homes that met the financial criteria of the workforce housing legislation. The coalition presented their draft to the Conway Planning Board in September of 2019, and members of the Board discussed their concerns about enforcing the financial restrictions. Several methods were discussed, and it was decided that the Coalition would submit the draft ordinance as a citizen petition for the 2020 Annual Town Meeting vote. The petition was adopted overwhelmingly by the voters on April 14, 2020.

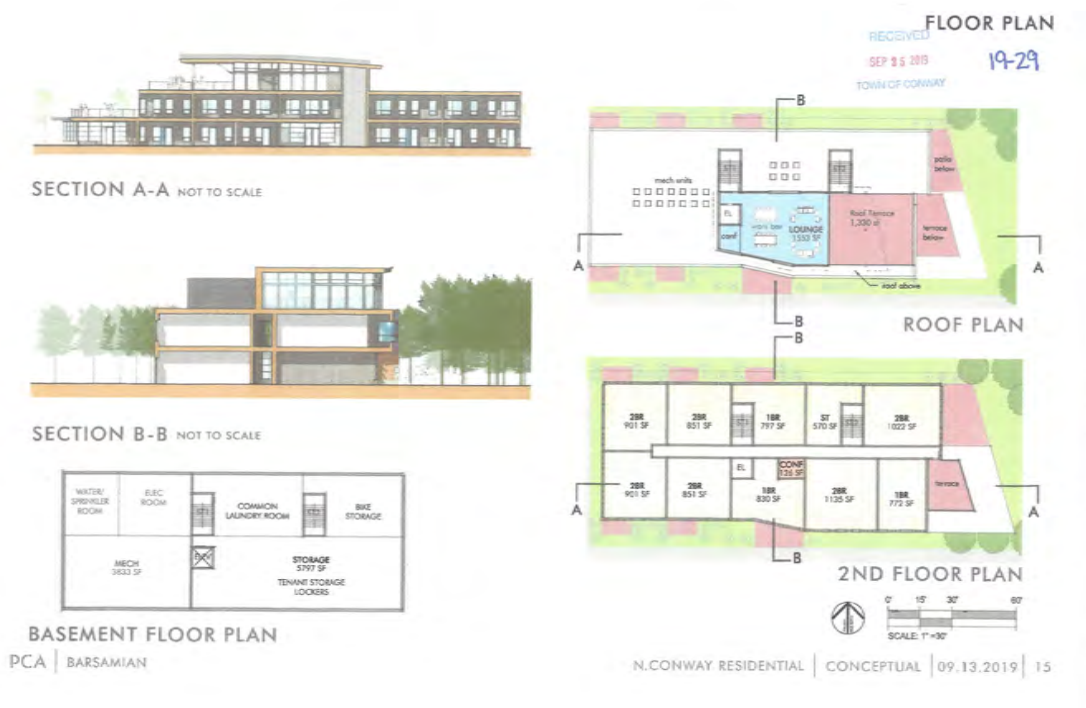
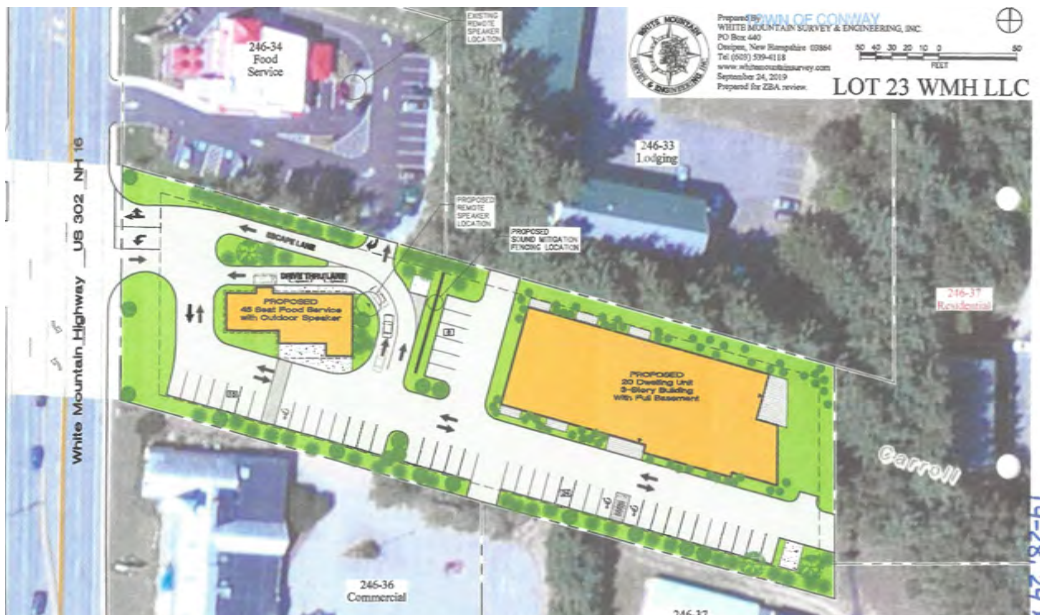
How the ordinance is constructed: This new Workforce Housing Ordinance (which became effective July 14, 2020, three months after approval by the voters) incorporates voluntary inclusionary zoning inducements including density bonuses, reduced road frontage, and eliminating the need for a special exception in most circumstances. Key components of the new ordinance include:

- Expansion of districts eligible for density bonuses: The underlying zoning ordinance offered 8 – 12 units per acre by special exception in the three Village Commercial Districts and the Highway Commercial District where 25% of the units were covenanted to remain as rental apartments for a period of 20 years. In the new Workforce Housing Ordinance, density bonuses are available by right in six zoning districts, and these bonuses are available for single- and two-family homes as well as multi-family units.
- Density bonuses available: In six of the seven districts, lots with municipal sewer and water may increase density from one-half acre for the first unit and 10,000 square feet for each additional unit to one-quarter acre for the first unit and 5,000 square feet for each additional unit. Lots with municipal water only may effectively double the number of units allowed from two units per acre in the underlying zones to four units per acre, subject to NH Department of Environmental Services septic loading requirements. Lots without public water or sewer may increase density from one unit per acre to two units per acre if the septic loading meets NH DES requirements. Only lots in the Residential/Agricultural District are not eligible for automatic density bonuses for workforce housing under this new ordinance.
- No mandatory special exception: ZBA approval is no longer required to activate density bonuses, thereby streamlining the development process. However, to obtain the higher bonus of 12 units per acre for multi-family rentals, a special exception is still necessary.
- Road frontage reduced: Road frontage in all zones is reduced to 75 feet along a State or Town road, private road or cul-de-sac. Currently, the underlying requirement in residential districts is 150 feet of frontage on a state or town road or 100 feet entirely on a cul-de-sac. The underlying requirement in commercial districts is 50 feet on a state or town road or 100 feet on a cul-de-sac.
- At least 25% of the rental and/or for-sale units in the development must meet the general definitions of affordable housing found in state law, with a few exceptions. Eligible buyers have to meet 80% of the median income for Carroll County (instead of 100%), and the new workforce housing ordinance does NOT require at least 50% of the units to provide two bedrooms.
- Management of the workforce housing units will be controlled by a restrictive covenant enforceable by the Town of Conway and shall be recorded in the Carroll County Registry of Deeds prior to the sale or rental of any affordable units.

4. SNAPSHOTS OF PROJECTS

OVP Management. In 2019, OVP Management of Newton, MA proposed a rental apartment project on 1.6 acres of land on U.S. 302 (White Mountain Highway). The target market for these apartments was described as “workforce housing for upper-management households with six-figure incomes” by Mark Lucy, P.E. of White Mountain Survey. Although the existing Conway zoning ordinance provided for up to 12 multi-family rental units per acre by special exception, this developer secured variances to allow 20 rental apartments on 1.1 acres (a density of 18.2 units/acre) plus a fast-food restaurant on the remaining 0.5 acre of land. Yet even after the ZBA granted these generous variances, the developer decided not to proceed with the approval process, citing inability to achieve the necessary profit margin. (See “Pros and Cons” section.)

OVP Management Project, Conway



Avesta Housing Development. On June 11, 2020, the Conway Planning Board gave conditional approval to Avesta Housing Development, a non-profit corporation, to construct “workforce and senior rental housing units” off of Technology Lane. Four total buildings are proposed in two phases, with 40 units each in two buildings and 38 units each in another two buildings. The total of 156 units on 37 acres with municipal water and sewer is in the Residential/Agricultural District. The first building will be non-age restricted workforce housing consisting of 29 one-bedroom units and 11 two-bedroom units. The configuration of units in the other three buildings has not yet been finalized.

This development is planned as a subsidized project with Avesta hoping to receive an allocation of \$800,000 in Low-Income Housing Tax Credits through New Hampshire Housing and a Community Development Block Grant of \$500,000 to support infrastructure for the project. Patrick Hess of Avesta stated that if they are able to secure all their permits and financing through tax credits by the end of this year, the first building could be ready for occupancy by early fall 2021. The workforce housing rental units will be affordable to households earning a maximum of 60% of Carroll County median income.

Avesta’s Technology Lane Project, Conway



https://www.conwaydailysun.com/news/local/conway-planning-board-oks-avesta-housing-project/article_840221b6-b4ab-11ea-9c7c-f7ff9aea5bab.html

Conway planning board OK's Avesta housing project

Tom Eastman
Jun 23, 2020



5. PROS AND CONS

Developers: A phone interview with Mark Lucy, P.E., Senior Design Engineer for White Mountain Survey of Ossipee, NH, shed some light on the decision-making process of OVP Management. Lucy explained that OVP Management purposely targeted their residential rental units for upper management households. The units were planned as a mixture of studio, 1-bedroom, and 2-bedroom apartments with storage lockers, a lounge area, various pocket terraces and a master roof terrace. This development was never intended to try to meet the NH Workforce Housing Law standards.

After the Conway Zoning Board granted the variances, OVP Management and their architect went through a design/cost analysis. They decided that the square foot cost of the architecture for these high-end units would not guarantee a payoff of start-up costs within 10 years. Lucy explained that in this instance, the cost of the raw land was not the critical factor in the success of the project. He pointed out that the commercial component is the key to financing the residential portion of the project. More than the cost of land in many projects is the cost of utilities. He says that water and sewer lines and hook-ups can run between \$4,000 to \$10,000 per unit. In addition, the required green space and parking are the most difficult components to integrate into the site.

Patrick Hess, Development Officer for Avesta Housing, said that a significant reason for choosing Conway, NH for a new workforce housing project is its proximity to other Avesta projects, including one in Oxford, Maine. Since Avesta provides on-site management of its rental complexes, there is an economy of scale to be found in neighboring developments. He points out that key assets in the ability to develop affordable housing are institutions such as New Hampshire Housing and helpful allies in municipal government such as the Planning Director and the Select Board in Conway who are supporting the application for a Community Development Block Grant for this new project.

6. LESSONS LEARNED

The Town of Conway continues to face the challenge of providing affordably-priced rental apartments and for-sale homes against a tide of demand for seasonal dwellings and up-scale units. Previous efforts to create some affordability tools in the zoning ordinance have not had a measurable impact. Accessory dwellings are allowed by special exception, but the short-term rental market threatens to reduce this option for year-round affordable housing. A special exception in the commercial zones allows up to 12 rental units per acre with a stipulation that the units remain as rentals for 20 years. However, this tool does not appear to be of significant value since there is no restriction on the affordability, as illustrated by the OVP Management project. As Planning Director Tom Irving pointed out, "The profit margin for building affordable housing was not sufficient to compel developers to build them. Instead, they preferred to construct the more profitable high-end projects. Affordable housing could be built and likely could be profitable, just not yielding the high returns that higher-end projects generate."

The new Affordable Housing Ordinance that was drafted by the Mount Washington Valley Housing Coalition and was submitted by citizen petition for 2020 was approved by voters overwhelmingly, with 1,198 persons in favor and only 174 persons opposed. Clearly, residents of Conway have identified a need for affordable housing. It is too soon to predict whether the new addition to the Conway zoning ordinance will be utilized by developers. One immediate concern is that the ordinance requires a restrictive covenant enforceable by the Town of Conway and in a form approved by the town for all affordable units offered for sale or rent as approved pursuant to the ordinance. Irving said that the town expects applicants to draft the covenants rather than the Planning Board or the Selectmen providing a pre-approved model. Experiences in other communities indicate that this could be a stumbling block, since town officials may have differing opinions on what constitutes a satisfactory restrictive covenant.

This new workforce ordinance does provide a fresh approach to the often-asked question of how to allow for improvements made to homes at the time of resale. The financial criteria state that the resale price of an affordable unit may be increased by an amount not to exceed 50%, up to a maximum amount of \$10,000 of documented capital improvements made by the seller. A cap of \$10,000 may have to be adjusted upward in the future, since a simple project such as building a garage for a home would cost more than this amount.

DOVER
Leading By Example

1. OVERVIEW

Population 32,741 (2020 Census; increase of 9.2% over 2010 Census of 29,987)
County: Strafford
RPC: Strafford Regional Planning Commission
HUD Fair Market Rent Area: Portsmouth-Rochester
Recommended Maximum Gross Rent (2020): \$1,390
Recommended Maximum Purchase Price (2020): \$364,000
Workforce Housing Ordinance: Transfer of Development Rights, Inclusionary Zoning.
Workforce Housing Projects: 2

2. GENERAL DESCRIPTION

The City of Dover is a river community with an energetic downtown, a robust real estate market, and a vibrant zoning code that provides innovation and flexibility towards land use development. Located between Portsmouth and Rochester along the Spaulding Turnpike, Dover is strategically located in the Seacoast region and has a strong local economy. In addition, its proximity to the University of New Hampshire heavily influences the local housing market.

3. ORDINANCE/REGULATION ADOPTION AND STRUCTURE

According to New Hampshire Housing's data, the median rent in 2020 for the community was \$1,347, which is below the present workforce housing statutory maximum of \$1,390. The median owner-occupied value is \$286,000, which is below the recommended maximum of \$364,000. Given these statistics, Dover may already comply with the Workforce Housing Law, meaning that no specific ordinances are required to be adopted.

Adoption: Even though the city may be in compliance with the Workforce Housing Law, the Dover Planning Board recently approved a number of zoning amendments to further encourage the development of affordable housing in the community:

In the manufacturing and commercial zones, for any assembly/manufacturing structure that is approved and constructed greater than 40,000 square feet, the property owner receives a building right for one dwelling unit for every 2,000 square feet of building area (e.g., a 50,000 square foot building nets five units). These units can be used on-site as employee housing, sold to other developers to be used citywide, or may be used by the property owner anywhere else in the city. The receiving areas for this density must have public utilities and the proposed development must be consistent with existing density of the surrounding neighborhood as well as the Master Plan.

In the Gateway zone, if a developer/property owner agrees to limit rents to HUD Fair Market guidelines, the density increases from 1 unit per 4,000 square feet to 1 unit per 2,000 square feet.

Two provisions were added to the TDR Ordinance which include:

- a. Single-family detached size restricted: For construction of units no larger than six hundred (600) square feet of total living area, there are no density limits. The monthly cost of the units shall conform to the HUD Fair Market Rent rates. In addition, the TDR fee is waived.
- b. For multi-family unit developments, if the additional unit(s) resulting from the TDR have rent levels that conform to the HUD Fair Market Rent rates, then the TDR fee is waived.

Section 170-28.2 of the Residential/Commercial Mixed Use Overlay District was amended to allow for increased density for single-family or duplex units from 40,000 square feet per unit to 10,000 square feet per unit if the living area of the units was limited to 1,000 square feet.

How the regulation is constructed: Given the city's innovative form-based zoning ordinance, numerous "pro-housing" examples exist that may provide ideas to other communities struggling to find solutions to their workforce housing riddle. In addition, it is the city's belief that providing for a wide variety of housing options supports the local economy and is consistent with community goals.

There are numerous opportunities for higher density development in Dover, especially in the Central Business District (CBD) and the Little Bay & Cochecho Waterfront District. Other Districts (Suburban, Low & Urban Density) allow for duplex and multi-family units. In addition, zoning in some districts allows for the conversion of existing homes into multi-family properties.

Some other key existing zoning provisions include:

- Suburban Density Multi Residential: Minimum lot area is 20,000 square feet. Duplexes and 3 - 4 family homes are allowed. In addition, the conversion of existing homes into four or more units (10,000 square feet of area required for each unit) is permitted.
- Urban Density Multi Residential: Minimum lot area 10,000 square feet. Duplex and conversion of an existing dwelling into a maximum of two units is permitted. Conversion of an existing home to no more than four units and 3 - 4 family homes are permitted by special exception.
- Central Business District: Section 170-20, D(2)(b) provides, through a conditional use permit process, the increase in building height by one story provided that the rents for the additional units are limited to those set by HUD.
- Little Bay Waterfront District: The minimum lot area is 10,000 square feet. Single family, duplex and 3 - 4 family units are permitted.
- Cochecho Waterfront District: There is no minimum lot area. Duplex, 3 - 4 family homes and multi-family (1,000 square feet per unit, dwelling unit must be at least 600 sq. ft.) are permitted. The height limit is 55 feet.

Workforce housing monitoring procedures: Those who propose rental housing with affordable provisions are required to report yearly, verifying that the units are being rented to those who meet HUD Fair Market Rent rates income limits. HUD data is updated yearly to reflect changes in income and populations.

4. SNAPSHOT OF PROJECTS

An affordable housing apartment development is presently before the Planning Board involving 44 units of detached one-bedroom 384-square foot apartment cottages. The total site area is 7.16 acres, with 3.16 preserved as open space. The project is being put forth under the provisions of the city's Transfer of Development Rights (Section 170-27.2) *Visit www.dover.nh.gov/government/city-charter-code*

Chris Parker, the city's Assistant City Manager, Director of Planning and Strategic Initiatives, described the project this way:

"The 44 units are designed to be less than 400 square feet and are laid out so that they interact as a community. Instead of having a conventional road down the center of the lot with house lots to each side, the layout is designed to create a community around traditional "greens" for the residents. All of the residents will have access to a green area in front of their unit and centralized parking with walking paths to the cottages. In addition to the individual homes, the existing home on the site will be repurposed to be a shared space by the residents who live in the development. In understanding the impact to the neighbors

around it, there will be a vegetative buffer around the perimeter of the development and the homes blend into the property, as opposed to overwhelming it.

This is very different than what we have been seeing for proposed housing in Dover. These units are small and efficient, much like an apartment, yet are detached to provide a level of separation for the residents. The goal is a blend of independent living in a dependent community. You have privacy in your four walls, but the ability to take advantage of community gardens, lawn area, etc. I am not aware of any similar project in the Seacoast, and maybe not in New Hampshire.

Dover as a community is very interested in providing housing for all demographics and needs. With this in mind, the city's Planning Board created innovative zoning to challenge developers to step up and be creative in providing homes for all. The City Council saw the same innovation and ratified the zoning in July. This zoning allows for smaller units at a higher density, if the tradeoff is that the units are rent restricted. The regulations are part of the changes to the existing Transfer of Development Rights ordinance, which allows for the purchase of development units as a way to promote density. The base TDR ordinance was created in 2010 and amended in 2018. The 2018 version has been used multiple times in Dover to create 1,000 and 1,400 square foot homes. Funds raised by the sale of the units reimburse the City for past conservation easements, and funds future preservation of land.

The change, to the 2018 regulations, allows the Planning Board to sell, at no charge, density to a developer if the unit is both below 600 square feet and rent restricted to the HUD fair market rental rates in Dover. These units will be restricted to no more than the HUD rate in perpetuity. In this way the Planning Board is trading long term affordable single family homes being added to the community, in exchange for waiving the TDR fee, which normally would be \$13,402 per unit. It is important that if we are going to strive to include more diverse housing options that we recognize that the cost to construct the unit may be a barrier for creating the unit. In passing the zoning changes, the Council and Planning Board recognized that it is important to have this diversity of housing and to create a new and innovative style of cottage housing here in the Seacoast."

5. PROS AND CONS

Even though the city is likely not obligated to address workforce housing to meet statutory provisions, it has adopted a pro-housing position to ensure that an adequate supply of housing exists in the community for all income groups. This proactive approach supports the business community, helping create a local workforce and encourages a diverse and vibrant community.

6. LESSONS LEARNED

Zoning can be a powerful tool that can leverage many types of development if a community is willing to think "outside the box." The chief regulatory barrier to workforce housing development in New Hampshire is density.

7. LOCAL INTERVIEWS

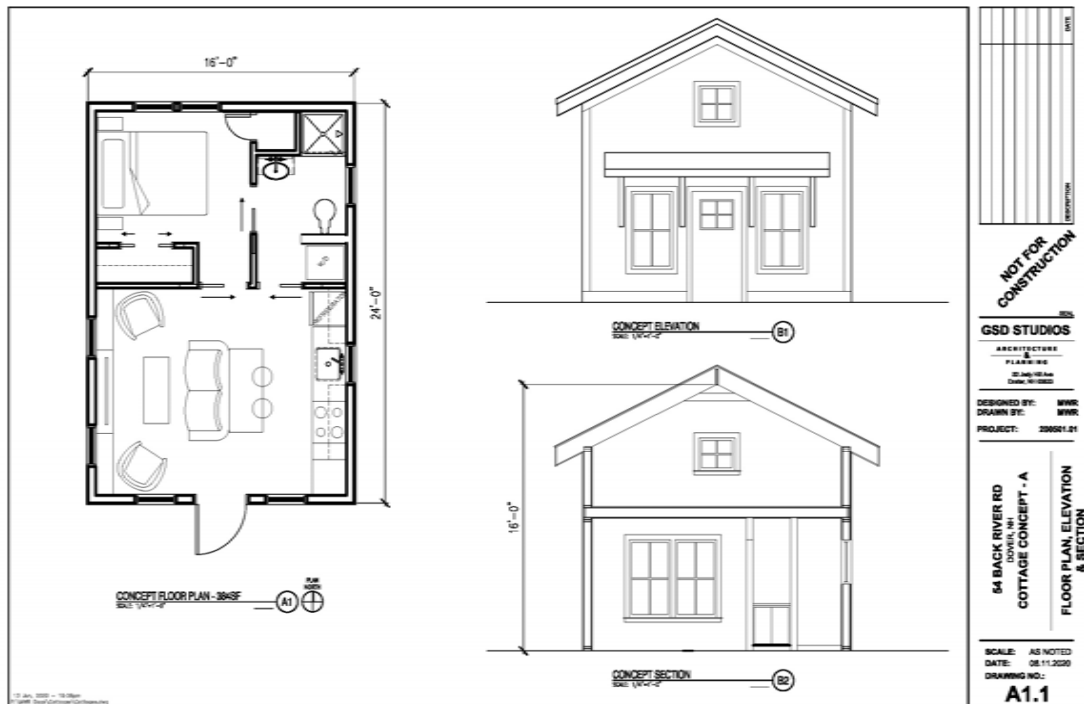
Assistant City Manager. We spoke with Christopher Parker about workforce housing conditions in the community. Dover has taken the position that it meets the regional need and therefore no specific workforce housing statute is required. Approximately 48% of the community is rental and 52% owner-occupied, creating a very diverse housing stock. Even with this condition, there continues to be strong support in the community to encourage the construction of affordable housing and their zoning reflects that goal. The community's ordinances provide incredible flexibility to address many development scenarios and frameworks, allowing for the implementation of the city's housing goals.

Developer. The applicant of the cottage apartment proposal, John Randolph, initiated the project due to business need. As a local businessman involved with senior supportive housing, he has continued to experience staffing challenges because of the area's high rent levels and child care needs. These issues were pushing his employees to live farther away from the community, creating commuting and availability challenges. With the ability to increase density through TDR zoning, the Cottages at Back

River Road became viable even though the units will be detached rental units with rents capped by HUD rates.

In addition to addressing a need for his workers, market research had indicated strong support for such housing among younger workers just out of college, as well as those over 50 and those who are divorced. Randolph is not looking for a quick return on his investment, but is looking long term. He has found the city staff very supportive, assisting him through the regulatory process. In addition, he has reached out to area employers to either sponsor units or partner with the initiative; these inquiries have garnered strong support from the business community. Randolph is already considering another similar type project, most likely a two-bedroom 640-square foot model that would be suitable for either a few individuals or a small family.

The Cottages at Back River Road, Dover



The Cottages at Back River Road, Dover



Cottage Cluster Concept - Pocket Neighborhoods
The Cottages at Back River Road

September 2020



HANOVER

Power in Partnerships

1. OVERVIEW:

Population 11,870 (2020 Census; 5.4% increase over 2010 Census of 11,260)

County: Grafton

RPC: Upper Valley Lake Sunapee Regional Planning Commission

HUD Fair Market Rent Area: Grafton County

Recommended Maximum Gross Rent (2020): \$1,250

Recommended Maximum Purchase Price (2020): \$327,000

WF Housing Ordinance: Inclusionary

WF Housing Projects: 1 – Gile Hill

2. GENERAL DESCRIPTION

Situated along the border between New Hampshire and Vermont, the Town of Hanover is known for being the home of the Ivy League's Dartmouth College. With an enrollment of approximately 6,500 students and a staff of 3,500 people, this private educational institution is the largest employer in the municipality. Dartmouth-Hitchcock Medical Center in neighboring Lebanon is also a dominant employer for this area, with over 5,000 employees. These two major economic drivers can be both a blessing and a curse, depending on which community goals are being examined. Citizens in Hanover enjoy a wage scale that is competitive with larger cities in New England, and the median household income ranks among the top 10 municipalities in New Hampshire year after year. On the other hand, housing is at a premium, both in terms of inventory and price.

3. REGULATION/ORDINANCE ADOPTION & STRUCTURE

Adoption: Hanover incorporated "Section 520 Affordable Housing" into its municipal zoning ordinance a decade ago. The town's Affordable Housing Commission was designated to review and advise the Planning Board on each development proposal's compliance with statutory income criteria and method for ensuring continued affordability of the units created under the ordinance.

How the regulation is constructed: This inclusionary ordinance has some features not commonly found in other ordinances created in response to NH RSA 674:58-61. Notably, the Definitions section defines "affordable housing" as serving occupants having a family income of less than 120% of the area median household income as defined by HUD for Grafton County. There is also a definition of affordable senior housing which specifies that one occupant must be 62 or have disabilities and have a family income less than 120% of the area median income. Rather than identifying specific zoning districts where workforce housing is permitted, Hanover's ordinance allows affordable housing, i.e., both workforce and senior housing, in all major subdivisions, open space subdivisions, multi-family residential developments, senior housing developments, or planned residential developments. The density bonus may not be greater than 20% of the number of lots/dwelling units otherwise allowed by the ordinance.

The density bonuses are calculated as follows:

- For each 2 lots/units affordable at 120% median family income = 1 unit non-income restricted
- For each 1 lot/1 unit affordable at 80% median family income = 1 unit non-income restricted
- For each 1 lot/1 unit affordable at 50% median family income = 2 units non-income restricted

The minimum lot area and frontage of each lot may be reduced in direct proportion, not to exceed 20%, to the increase in the number of lots permitted in a major or open space subdivision. Each lot or dwelling unit designated as affordable must remain affordable in perpetuity. All lot dimensional requirements for front, side, and rear setbacks and building heights and parking space requirements

are the same as required by the underlying ordinances. Planning & Zoning Director Rob Houseman explains that the income threshold was intentionally raised from 100% of median income to 120% of median income. He points out that this tool in the ordinance spreads the average between the median income of medical center employees and the other residents of Grafton County.

Monitoring procedures: The Hanover ordinance makes the solution to preserving affordability appear simple. The ordinance requires that the number of “affordable” units in all developments must be preserved in perpetuity. The logic is that if density bonuses are granted by the Planning Board due to creation of affordable housing units, then the overall density of any subdivision would be invalid if the designated number of affordable housing units decreases over time. Nevertheless, there is a clause wherein the Town of Hanover agrees to subordinate its deed covenant or other document to agreements and documents from HUD, NH Housing, or US Department of Agriculture, so long as the goal of continued affordability is reasonably similar to the zoning ordinance.

As originally written, Section 520 of the zoning ordinance identifies Hanover’s Affordable Housing Commission as the agency designated to assess the proposed affordability calculations of each development and the method for preserving affordable units in perpetuity. One role of the Commission was to advise the Planning Board if a proposal met the criteria specified in the ordinance. Unfortunately, the Commission has not held a meeting since 2016, and Planning and Zoning Director Rob Houseman says that the Affordable Housing Commission is now officially defunct due to lack of membership. The town now partners with the Twin Pines Housing Trust to develop, own, and manage town-sponsored affordable housing projects.

4. SNAPSHOT OF PROJECTS

Gile Hill Apartments. This is a multi-phased project of 12 buildings containing 120 housing units on Gile Drive near the municipal border between Lebanon and Hanover and within walking distance to the medical center. There are 76 rental apartments, of which 61 units (consisting of 1,2, and 3-bedroom configurations) are designated as affordable at 50-60% of the median household income for Grafton County. The development also offers 44 owner-occupied condominiums, of which seven units are designated as affordable at 80 -120% of median household income for Grafton County.

Gile Hill was a monumental undertaking. It took more than 13 years of collaboration among many agencies to come to fruition, including crucial financing through New Hampshire Housing and its provision of Low-Income Housing Tax Credits. Hanover originally donated the land for the project, and Twin Pines Housing Trust became the owner of the property. The NH Community Loan Fund was an early lender and later stepped in again during the devastating recession that began in 2008. In addition to funding challenges, the site was riddled with ledge, making it difficult and costly to develop. Twin Pines originally partnered with the Hartland Group to create the master plan and 96 of the units. Both Twin Pines and Habitat for Humanity have helped to review income documents and qualify families for acceptance as tenants. Local developer Bill Bittinger built the last eight condos. Currently, Maloney Properties serves Twin Pines as the leasing agent for the rental units. There has been a relatively negligible impact on municipal services, with the exception of increased traffic on the already busy Route 120 between Lebanon and Hanover. The entire Gile Hill impact on public schools has been a very modest increase of 36 students in 120 units, or an average of 0.297 pupils per unit.

Summer Park Apartments: Hanover also donated the land for this 24-unit affordable senior housing development, which is owned and managed by Twin Pines Housing Trust. As senior housing, it does not qualify as “workforce” housing, but the project is worth mentioning because Summer Park and Gile Hill are the only affordable housing developments in Hanover and both projects were developed with land donated by Hanover. Built in the 1970s, this age-restricted housing is slated for major upgrades soon.

5. PROS AND CONS

Hanover finds itself in a unique bubble. According to the Planning and Zoning Director, most of the land in Hanover is owned or controlled by either Dartmouth College or Dartmouth-Hitchcock Medical Center in neighboring Lebanon. These two entities are a blessing in that they provide stable employment and generous salaries for a substantial portion of the population of this Upper Valley region. Yet at the same time, the very nature of the two businesses creates the curse of an oversized housing demand and exorbitant prices for housing that does exist.

At Dartmouth College, there is a severe lack of on-campus dormitory beds for students, but the college needs to rehabilitate 700 existing beds before putting brand-new beds into availability. Therefore, even if the college were to build 700 new dorm beds today, students in existing dorms will be shuffled into the hypothetical new housing while the older rooms are renovated – a task that could require several years before any net increase in student housing is realized. The Tuck School of Business is a major draw for international post-graduate students. Most of these students receive financial stipends from their sponsoring corporations. Subsequently, a majority of apartments within the Hanover area command rents of \$3,000 or more per month, driving up the rental prices for all housing in the area. According to Twin Pines, a number of years ago Dartmouth College presented a proposal for a dense rental housing initiative, but the plans were never finalized and ultimately were abandoned.

Dartmouth-Hitchcock in Lebanon requires that all medical residents/doctors at the Medical Center live within a 15-minute commute from the hospital. This requirement puts an enormous strain on housing availability, and landlords can demand out-of-scale rents. Until very recently, D-H has not been willing to create new housing to meet the demand generated by their operations. However, in November 2020, the Vice President of Facilities Management announced that D-H had issued a request for proposals for a developer to build and manage between 350 to 400 new rental housing units on land already owned by Dartmouth-Hitchcock. The housing is intended to provide below-market-rate units for employees.

6. LESSONS LEARNED

“Be careful what you wish for” might be the watchword for the housing dilemma faced by Hanover. Businesses in Hanover enjoy the retail vitality generated by the numerous college students, salaried professors and medical practitioners associated with Dartmouth College or Dartmouth-Hitchcock. Yet, at the same time, many of the campus buildings at Dartmouth College are tax-exempt, and therefore provide no municipal tax revenue to offset their significant infrastructure impact. As discussed earlier, on two occasions the Town of Hanover has stepped up to the plate to create affordable housing by donating town-owned land. Gile Hill offers 68 units of affordable rental and owner-occupied housing, and Summer Park provides 24 affordable senior units. Nevertheless, these projects appear to be just a drop in the bucket towards addressing the ongoing needs for affordable housing in this community. And, as the Planning and Zoning Director points out, the majority of land in Hanover is owned or controlled by the college and the medical center.

If there is a lesson to be learned from this case study, it would be the essential role that partnerships can play in facilitating affordable housing. Twin Pines Housing has been instrumental in shepherding both Gile Hill and Summer Park to completion and providing ongoing management. The most obvious – but perhaps the hardest – next step is to get the college and the medical center involved in partnerships to develop more affordable housing on the scale that is necessary to offset some of the demand created by these entities. In the past, Dartmouth College had brought forth an affordable housing initiative that never got off the ground, and right now Dartmouth-Hitchcock is looking for professional help to create a development of up to 400 new affordable units. In an ideal world, both the planning staffs of Hanover and Lebanon, along with Twin Pines Housing or another experienced affordable housing builder/manager, would be invited to offer their professional guidance to ensure that new developments actually materialize.

7. LOCAL INTERVIEWS

Planning and Zoning Director. Hanover Planning and Zoning Director Robert Houseman is no stranger to the issues surrounding affordable workforce housing. As the former Planning Director for Wolfeboro, he was instrumental there in pairing a vibrant non-profit agency with municipal resources to create a multi-phase development of workforce rental and owner-occupied housing. He is also knowledgeable about the unique housing issues in college towns, having been a planner for Durham. Houseman expressed frustration at the failure of business that generate demand for housing, such as Dartmouth College and Dartmouth-Hitchcock Medical Center, to accept responsibility for their major impact on stressing the housing inventory and prices in the area. He points out that a majority of the land in Hanover is owned by the private Dartmouth College, yet the only two existing affordable housing projects were created by donations of town-owned land and development by non-profit entities.

Other issues that concern Houseman – and many other city/town planners – are proposed legislative initiatives that could strip municipalities of their ability to regulate short-term rentals and “tiny houses.” He points out that if the town’s stock of accessory dwelling units becomes eligible for use as short-term rentals, then a significant source of moderately priced year-round housing might suddenly be repurposed for nightly or weekly fees equal to the current monthly rental prices. Regarding tiny houses, Houseman worries that the term “tiny house” might become synonymous with substandard construction and/or infrastructure provisions. He is strongly opposed to any development concessions that might represent initial cost-savings but long-term problems. He says that municipalities should never craft regulations that lead to development or construction to a lesser standard than regular single-family homes. He said that low-income families can’t afford to pay more for heat or water than average income families, so why approve construction that will lead to future difficulties.

Developer. Twin Pines Housing is a non-profit agency that develops and/or manages a variety of affordable housing options in the Upper Valley region of New Hampshire and Vermont. TPH offers affordable housing in Hanover, Lebanon, Enfield, Hartford, White River Junction and Woodstock. Executive Director Andrew Winter and Director of Development and Communications Michelle Kersey offered the following observations regarding the affordable housing initiatives in Hanover.

Officials in Hanover have been very supportive, but given the high land costs in Hanover, workforce housing initiatives struggle to gain enough traction to make the financials work to actually build a project. There are limited areas in the community that are both zoned for multi-family housing and have access to public utilities. Hanover does not offer the same zoning flexibility that exists in neighboring Lebanon, which has proven an easier place to undertake projects.

Gile Hill Apartments, Hanover



LANCASTER

Reasonable Opportunities

1. OVERVIEW:

Population 3,218 (2020 Census; a 8.2% decrease from 2010 Census of 3,507)

County: Coös

RPC: North Country Council

HUD Fair Market Rent Area: Coös County

Recommended Maximum Gross Rent (2020): \$840

Recommended Maximum Purchase Price (2020): \$206,500

Workforce Housing Ordinance: None

Workforce Housing Projects: 0

2. GENERAL DESCRIPTION

The Connecticut River serves as the western boundary of Lancaster and the demarcation between New Hampshire and Vermont. Although the Town of Lancaster has the second-highest population in Coös County – after Berlin – it has been slowly losing residents for 30 years. This is in part due to the decline of the forest products industry, and in part due to its aging population. During the past 12 months, only one new residential lot has applied for Planning Board approval, and no new site plans for residential developments have been submitted. Public/private joint investments in housing may hold the most promise for the revitalization of Lancaster’s population.

3. ORDINANCE/REGULATION ADOPTION AND STRUCTURE

Adoption: There is no formally adopted workforce housing ordinance in Lancaster. The question posed in this case study is whether the existing zoning ordinances provide reasonable opportunities for development of workforce housing and/or whether the town could go further to encourage affordable housing. Since 2005, the Zoning Ordinance throughout the entire town prescribes the minimum lot size with municipal sewer and water as 10,000 square feet for every permitted use (one acre is required for lots without these utilities). For example, in the Residential District, single-family residences are allowed on 10,000 square feet with sewer and water. Multi-family development of up to four units per 10,000 square feet are also allowed with sewer/water for a total of up to 17 units per acre. Surprisingly, almost all of the Residential District is already served by municipal sewer and water service or utility extensions are readily available.

In the Commercial District, one single-family dwelling is allowed per 10,000 square feet with water/sewer and two multi-family dwellings per 10,000 square feet with water/sewer. Again, municipal water and sewer service are already available in most of the Commercial District. In the Commercial/Industrial District, multi-unit housing is permitted at two units per 10,000 square feet, and single-family homes are allowed by special exception. Some of the Commercial/Industrial District already has sewer and water. Finally, the Agricultural District allows single-family residences at the same density – one unit per 10,000 square feet with sewer/water or one per acre without sewer/water. Multi-family housing is allowed by special exception at three units/acre. Most of this district relies on wells and septic systems.

The 2011 Lancaster Master Plan reported that respondents to the Master Plan Community Survey identified the lack of adequate rental housing supply – particularly for the elderly and larger families – and the poor condition of existing multi-family housing as concerns. The Master Plan goes on to state: “The current market rent does not support the provision of new, high-quality rental housing. Entrepreneurial investment in rental housing is high risk, and management of rental housing is difficult.” The North Country Council’s *Housing Needs Assessment and Fair Housing Equity Assessment*, published in December 2014, listed Lancaster as having an estimated 125 units of housing where the residents were paying 50% or more of their income for rental or purchased housing.

How the regulation is constructed: Although lack of multi-family housing was identified in the Master Plan, the overarching issue that permeated all chapters was the need for economic stimulus. In 2014/2015, assisted with a Community Planning Grant from NH Housing, Lancaster adopted “form-based codes” for the Central Business District (CBD) to enhance the vitality of the downtown area. Three sub-districts were created, and each includes allowance for residential dwellings, particularly on the upper floors of mixed-use buildings that feature commercial uses on the street-level floor. The South End Sub-District allows six units per 10,000 square feet, but no residential uses are allowed at street level. The Middle Sub-District and the North End Sub-District allow three units per 10,000 square feet and residential uses on the street level. Municipal sewer and water are available to the CBD.

4. SNAPSHOT OF PROJECTS

The Parker J. Noyes Building: The Noyes Building has an illustrious past and is listed on the New Hampshire State Register of Historic Places. This building was named for the Lancaster pharmacist and inventor whose inventions included the sugar-coated pill and the first pellet food for laboratory animals. As seen in many other examples, a public/private partnership, including the NH Preservation Alliance, Northern Border Regional Commission, and Northern Forest Center, as well as generous density allowed by Lancaster’s form-based code for the CBD, was crucial to creating an adaptive re-use of the building. Following the standards of Lancaster’s form-based code, the renovated building will feature a new place for Lancaster’s Root Seller Marketplace and restaurant on the street level, while the two upper floors will offer three 2-bedroom apartments on each floor. Apparently at some point there were three apartments on the upper floors that were later abandoned, so the net total of new residential units is only 3 units. Rob Riley, president of the Northern Forest Center, stated on the center’s website that quality development of important buildings can help communities turn a corner, and one project quickly leads to other enhancements.

5. PROS AND CONS

One might assume from the lack of new housing development in Lancaster that there is no pressing need for new housing. Unfortunately, the statistics fail to reflect the reality in the community. A prime example is PAK Solutions, a local industry that manufactures tamper-resistant packaging, such as safety-sealed packages for legal evidence and hospital patient personal effects. This company has grown from 18 employees to 90 employees in the last few years.

The Lancaster Planner has been working with the company to plan for a new warehouse in the Industrial District to accommodate their expanding production and sales. However, no discussion has occurred between the town and the business regarding their need for workforce housing. Instead, a PAK representative reached out to New Hampshire Housing to explore the possibility of developing workforce housing for its employees. According to Sharon Kopp in the PAK Solutions Human Resources Department, there is a real need for affordable, safe, clean housing in Lancaster. She reports that a significant number of employees are commuting from Berlin, Colebrook, Milan, and Lisbon (New Hampshire), and this is becoming a significant problem for recruiting employees. She mentioned that a new apartment project is scheduled to open in Whitefield in 2021, however she is concerned that the development may be overbooked by the time it opens. It is her understanding that the projected rent might be \$975 for a 2-bedroom apartment. Clearly, this expanding industry feels that there is a need for new multi-family housing in Lancaster. Additionally, the Lancaster Master Plan indicates that some existing multi-family housing is in poor repair.

An unexpected market shift from the Covid-19 pandemic is the increased demand for single-family housing in rural parts of New Hampshire, Maine, and Vermont. A number of home purchasers – employees who work from home – are seeking residences in rural portions of the northern New England states. Lancaster could be a prime target for new investment in both multi-family and single-family homes due to this demand, coupled with dramatically low interest rates for home purchases.

6. LESSONS LEARNED: Northern Forest Center Project Manager Julie Renaud Evans concedes that workforce housing was not on the center's radar when planning a re-use proposal for the Noyes Building. Their goal was to design a plan that would leverage new vibrancy into Lancaster's downtown. She anticipates that the six 2-bedroom apartments will be available beginning in September 2021 and will rent for about \$1,000 per month. Renaud Evans is aware that the median rent for an apartment in Coös County is between \$800 - \$850 per month. This figure is backed up by the November 2018 *Housing Market Report* published by New Hampshire Housing, which listed the median 2-bedroom rent in Coös County as \$861 per month. Renaud Evans points out that these will be renovated dwellings in a newly re-modeled building downtown. Therefore, she believes that the units will command higher rents.

The predicament of PAK Solutions illustrates the other side of the coin. While Lancaster recognizes that the community is in need of revitalization, PAK is a company that is trying to expand with new jobs and new residents but is stymied by the lack of workforce housing for its employees. This dichotomy between the need for revitalization and the need for housing for new residents may only get worse unless the public and private sectors recognize the problem and work together.

7. LOCAL INTERVIEWS:

Municipal: Town Manager Ben Gaetjens-Oleson points out that while there is no formal adoption of a workforce housing ordinance, the intent of the citizenry is to provide reasonably priced housing for the community through realistic options for development. He mentioned that the terms "affordable" and "workforce" housing are perceived by residents as encouraging low-income housing with the undesirable vision of "urban projects" offering huge buildings and square block arrangements. Instead, the Planning Board and the residents have tried to make affordable development attractive and cost-effective for both builders and young families who live in Lancaster. The goal is to provide reasonable density to make rental and for-sale housing feasible at moderate prices. Certainly, allowing up to 17 units per acre in the Residential Zone is a statement of intent to encourage development. The form-based code is having the intended effect of encouraging revitalization of the Central Business District, with the goal of stimulating economic development, even though workforce housing is not front and center of this initiative.

Developer: Lancaster unarguably has one of the most generous density allotments for residential housing – especially multi-family housing – of any small community in New Hampshire. The allowance of four multi-family units per 10,000 square feet in the Residential Zone, with water and sewer, totals 17 units per acre. The surprising part of this ordinance is that most of the Residential Zone already has municipal water and sewer (as opposed to the "teaser" ordinances where only a few blocks have municipal utilities). The big problem is that there is virtually no development occurring in Lancaster. The NH Office of Strategic Initiatives' 2010 -2018 update of *Current Estimates and Trends in New Hampshire's Housing Supply* shows that during those years, only 22 new single-family building permits, and only 22 new multi-family unit permits, were issued in Lancaster. Sharon Kopp of PAK Solutions points out that when any house comes on the market in Lancaster, it is usually sold within a couple of days. She feels that there is a real need for more inventory in all price ranges.

This case study illustrates that even the most generous density bonuses won't be effective if there are no developers aware of the excellent development potential in a community and the pressing need for new housing. The form-based code for Lancaster's Central Business District is one effort to address this problem. However, it turns out that there is a definite need for more affordable workforce housing throughout the community that a few apartments in the downtown simply cannot satisfy. Without some type of initiative to construct new workforce rental and for-sale housing throughout the community, along with adopting provisions to protect the new housing from unfettered escalation of housing costs, Lancaster may continue to be faced with housing demands even if the downtown revitalization takes hold.

Parker J. Noyes Building, Lancaster



Commercial—South End Sub-District

The information included in this Table represents the requirements for development in this District, see section xxx for additional requirements

Town
of
Lancaster

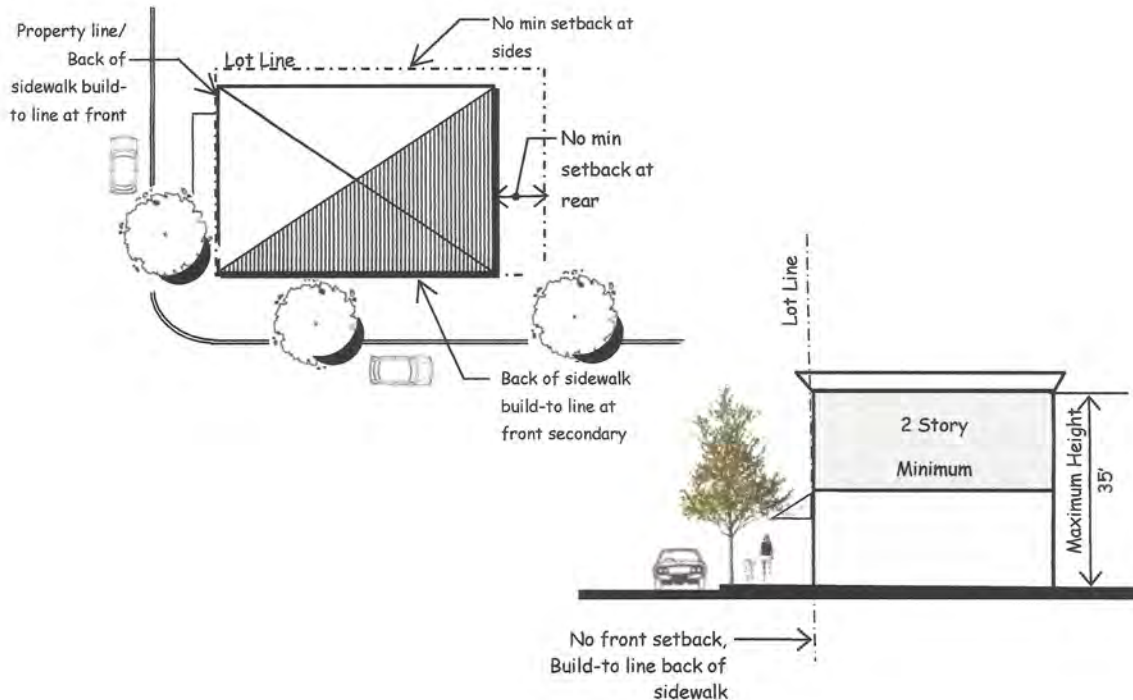
Statement of Purpose

This is the traditional commercial core for Lancaster, starting at the Town Hall and running north to Bunker Hill Street. It is characterized by multi-story, primarily 19th Century structures constructed of traditional materials, primarily brick and clapboard. There is minimal building setback from the public sidewalks. In general, structures follow their traditional pattern of ground floor retail uses and upper-story residential and/or office uses. Where on-site parking is provided, it is generally to the rear or side of the buildings. This is the historic core of the community.

Design Standards	
ARCHITECTURAL STANDARDS	Yes
LANDSCAPE STANDARDS	Yes
ACCESS MANAGEMENT STANDARDS	Yes
PARKING STANDARDS	Off site within 1,000'

Dimensional Building Table

LOT DIMENSIONS	
Density	6 Units per 10,000 sf
Min Lot Size	None
Frontage (feet)	None required
Lot Coverage	None required
PRINCIPAL BUILDING SETBACKS (Feet)	
Front Setback	Build-to at property line
Side Setback	none
Rear Setback	none
OUTBUILDING/ACCESSORY USE SETBACKS (Feet)	
Front Setback	Behind Principal Building
Side Setback	0
Rear Setback	0
BUILDING HEIGHT (Feet)	
Principal Building	35
Outbuilding	35
Minimum Stories	Two story minimum



LONDONDERRY

Ahead of the Curve

1. OVERVIEW:

Population 25,826 (2020 Census; 7.0% increase over 2010 Census of 24,129)
County: Rockingham
RPC: Southern NH Planning Commission
HUD Fair Market Rent Area: Western Rockingham County
Recommended Maximum Gross Rent (2020): \$1,510
Recommended Maximum Purchase Price (2020): \$400,000
Workforce Housing Ordinance: 2009
Workforce Housing Projects Approved: 2

2. GENERAL DESCRIPTION

Londonderry is a growing community located southeast of Manchester and enjoys a broad non-residential tax base, including a large industrial park adjacent to the Manchester Airport. The community has a wide variety of housing units; 86.1% of these units are owner-occupied.

3. REGULATION/ORDINANCE ADOPTION & STRUCTURE

Adoption: In response to Londonderry's *Housing Task Force Report* (April/2008), which outlined the significant need for affordable housing in the community as well as the Workforce Housing Law, the town moved to adopt a workforce housing ordinance in 2010. The Planning Board drafted an ordinance and forwarded it to the Town Council for approval. During the hearing process, significant opposition arose against the ordinance. As a result, a series of amendments were adopted, including the requirement that 75% of the units be workforce as well as limiting the number of units in a buildings to 16 (the Planning Board had recommended 24). There was a belief in some circles, as a result of these changes, that the adopted ordinance did not meet the requirements of the Workforce Housing Law and could be challenged.

In 2012 Wallace Farm was approved after receiving variances for a percentage of workforce units and number of units per building. In 2015 the MacGregor Cut application was required to obtain the same variance relief. Given the legal challenges the town was facing from these applications, it was clear the ordinance was not defensible and contained onerous provisions that prevented the construction of "economically viable" housing. Both workforce housing multi-family projects had to endure extensive, time consuming and costly ZBA approval processes involving months of meetings, appeals and threats of lawsuits in order to present plans to the planning board. During the approval process for the MacGregor Cut project, a significant backlash against workforce housing in the community developed. The scale of the project, along with it being a garden-style development in an area with many single family homes, exacerbated the situation. As a result of these events the workforce housing ordinance was amended. Changes included the number of units in a building and where workforce units could be located, in particular higher density garden-style buildings.

How the ordinance is constructed: Workforce housing developments are allowed through a conditional use permit (CUP) procedure, which requires at least 51% of the units be at least two bedrooms. In addition, the CUP process provides the ability to waive density, setbacks, greenspace, frontage, parking and driveway requirements. Small-scale workforce housing (1 - 4 unit buildings) are allowed in the AR-1 zone and minimum lot sizes range from 35,000 – 105,000 square feet. For all developments, a minimum of 50% of the units must be set aside for workforce housing.

Multi-family workforce housing is permitted in the AR-1 zone when adjacent to commercial/industrial properties, as well as within the R-III, C1-CIV, MUC, PUD site master plan and POD Districts for Routes 28 & 102 zones. The maximum density is 10 units per acre. Building length is limited to a maximum of

150 feet and the maximum plane of any building seen from the street is 75 feet. For all projects, the affordability requirements shall remain in place for at least 40 years.

Workforce housing monitoring procedures: For owner-occupied workforce housing units, no Certificate of Occupancy shall be issued for a workforce housing unit without written confirmation of income eligibility of the buyer and the selling price of the workforce housing unit. An executed purchase and sale agreement shall be used to document selling price. Income eligibility of the buyer shall be certified by a qualified third-party entity with expertise in determining the eligibility of the prospective owners to purchase workforce housing, and provided to the town in the form of an affidavit of compliance prior to closing on the unit. Acceptable deed restrictions must be recorded with all owner-occupied workforce housing units.

For workforce housing rental units, the property owner, successor, or assign shall be responsible for the continued affordability of rental workforce dwelling units consistent with RSA 674:58-61. The owner or a qualified third-party entity is required to certify that prospective renters qualify for the workforce housing units. Annual reports must be submitted to the Planning and Economic Development Department by December 31st of each year. These reports are required to contain all pertinent information relative to determination of gross rents and respective income qualification of tenants in accordance with the workforce housing income limits.

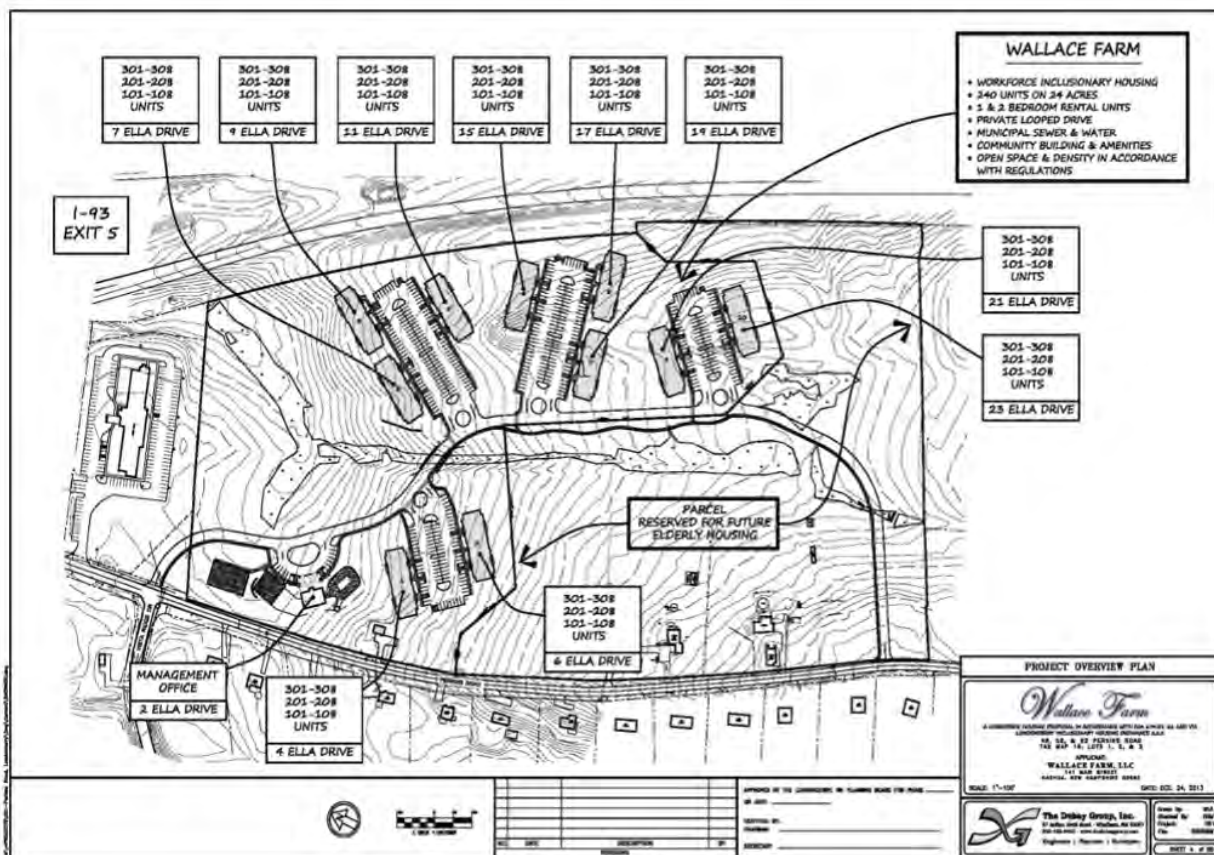
4. SNAPSHOT OF PROJECTS

Wallace Farm Apartments. Located on a 25-acre site, Wallace Farm is located on Perkins Road with easy access to Interstate 93. This 240-unit apartment complex was approved with 60 one-bedroom and 180 two-bedroom units. Fifty percent of the units are market rate and 50% are workforce. Ninety-six units have been constructed to date. The second phase of the project (72 units) is under construction.

The second phase of the project will be funded through an allocation of Low-Income Housing Tax Credits by NH Housing, requiring that 60% of the units be designated as workforce. The developer is considering using this financing vehicle for the final phase as well. The project is presently assessed for \$10,353,000. Wallace Farm has 24 school-age children (SAC) residing within the development, resulting in a per unit SAC ratio of .25 (24/96 units). The project is at 100 percent occupancy. The occupancy profile of the units to date is wide ranging, with a number of single-parent households. In most cases, those residing within workforce housing units whose income has increased above income limits have moved out at the end of their lease to avoid paying market rents. This has created challenges for the owner.



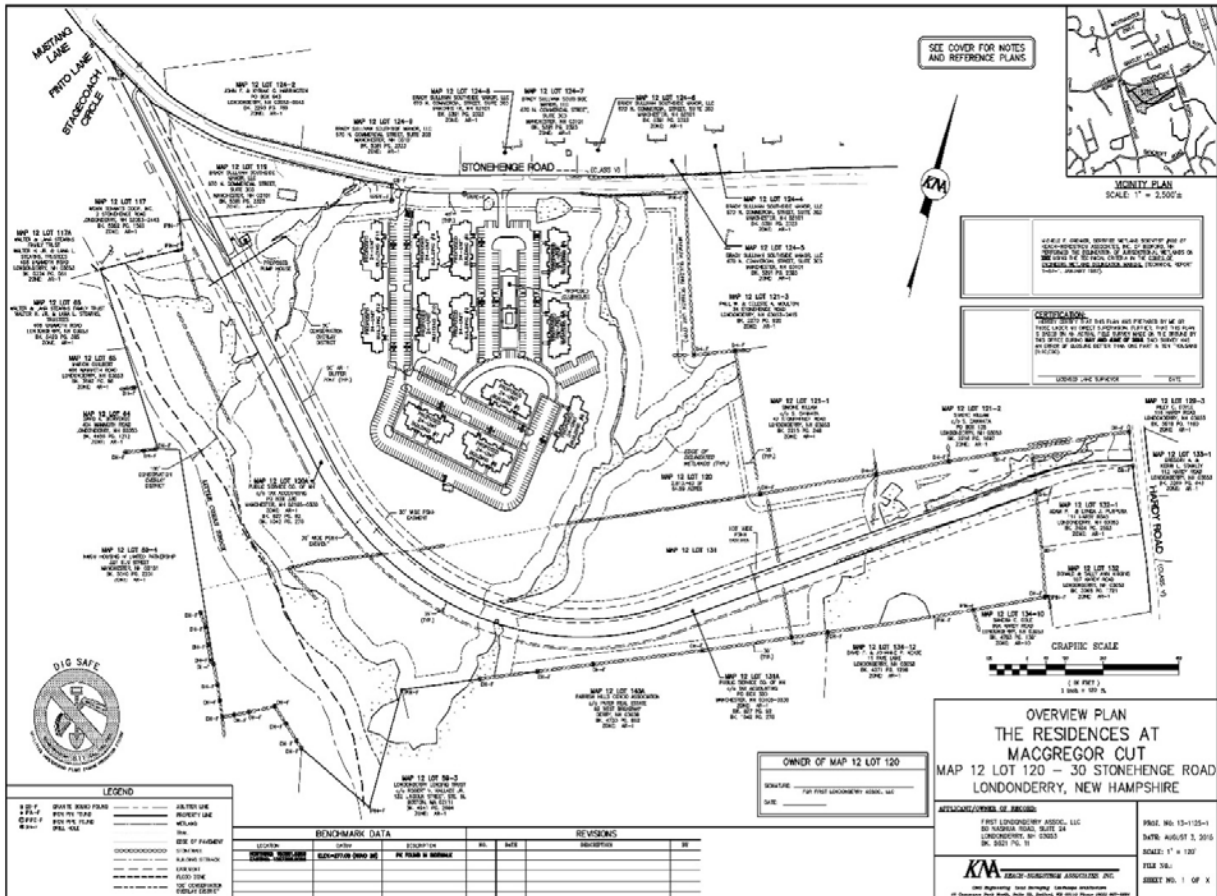
Wallace Farm Apartments, Londonderry.



The Residence at MacGregor Cut. This 65-acre site was approved for 288 apartment units and includes a mix of 35 one-bedroom units and 252 two-bedroom units. To date, 192 units have been built and the remaining 96 units are presently under construction. The present assessment of the property is \$24.5 million. At this time, 19 school-age children (SAC) reside within the development resulting in a per unit SAC ratio of .099 (19/192 units). A wide-ranging profile of residents occupy the units, with a significant number either being retired or single-parent households.

Occupancy levels are presently over 95%. The project owner certifies all workforce housing tenants prior to leasing and submits reports to the town every December. At the end of the lease term, income levels are revalidated and if they have risen above workforce income limits, their rent level is moved to market rate. This change in rent level only occurs at the end of the lease term. If a single-occupant renter expands the household (for example, boyfriend/girlfriend moves in during lease period) thereby increasing the income level, then rent levels are increased to market rate.

The Residences at MacGregor Cut, Londonderry.



5. PROS AND CONS

No workforce housing developments have been approved under the new zoning ordinance, which has raised concerns in the community. The Town Planner does not know why there has not been an appetite to build these types of units; the lack of enough incentive may be the issue. Local outreach efforts are being made to encourage owner-occupied workforce housing projects, including townhomes.

The Town Planner believes the biggest single issue seen relative to workforce housing is staying on top of income verification. Londonderry does not have the staff or expertise to deal with these matters. Londonderry requires private verification, but is concerned that if additional projects are constructed that maintaining adequate oversight may prove challenging.

6. LESSONS LEARNED

It is imperative that significant discussions and forethought take place as to where in the community workforce housing is allowed and at what density. Context is vital and efforts should be made to create opportunities for workforce housing in the least impactful way. The higher the density, especially garden-style buildings, the greater the controversy that may be created. There will always be opposition to new development, especially those labeled as “workforce.” The challenge is to locate projects appropriately that fit into neighborhoods. The potential ramifications of not adhering to this principle are significant community backlash that may hinder efforts to create meaningful workforce housing.

The crafting of workforce housing ordinances should be properly vetted to ensure it allows for the creation of economically viable workforce housing. Only after two controversial projects and the threat of a major housing lawsuit during the ZBA approval process for MacGregor Cut, did the workforce housing ordinance gain the attention necessary to address its major flaws.

7. LOCAL INTERVIEWS

Town Officials: Kevin Smith, Town Manager; Art Ruff, Planning Board Chair; Chris Davies, Planning Board; John Farrell, Town Council Chair; and Colleen Mailloux, Town Planner. Town leaders feel the state workforce statute is poorly written and handcuffs local decision-makers on how it can address workforce housing issues locally. They believe applicants have too much leverage with the threat of a “builders remedy” and that the workforce housing law should be amended to allow for applicants and towns to work together to arrive at a fair solution. The state needs to better define “fair share,” according to officials. What is it? How do you quantify? The statute does not set clear guidelines to direct a community as to when it has satisfied the “regional need.” In addition, the existing HUD standard is challenging; there should be a way to change this requirement to create more flexibility. This is especially true for senior citizens who see existing standards as not being affordable.

Developers: Because of poor decisions made during the adoption of the town’s first workforce housing ordinance, both multi-family apartment applications had to endure months of costly applications in front of the ZBA. The ordinance limited buildings to only 16 units (planning board had recommended 24), along with a requirement that 75% of the units be set aside as workforce housing. These two provisions created a huge barrier to affordability and resulted in an ordinance that did not allow for “economic viability.” Thousands of dollars in expenses were spent to build a case before the ZBA, adding needless costs and significant delays. Even at 50% market rate, the only reason the project’s pro forma was financially feasible was that Londonderry is in the Western Rockingham County HUD area with higher rent criteria. In most of the state, a 50% workforce set aside would not work. For garden-style buildings, four or more stories are imperative to save on construction costs and provide opportunity for covered parking.

One project owner believes the future of workforce housing, under the current statutory framework, is in doubt. Aside from density considerations, there is no assistance from the state or community to reduce costs. Margins are so thin or non-existent that few developers will be willing to move forward with projects given market risk. There is no restriction on communities relative to the percentage set-aside of workforce housing units and those that set high limits (50% or more) are creating a disincentive to construct units. In addition, there is no mandatory break for impact fees or utility hook up charges which can add hundreds of thousands of dollars of costs.

NORTH HAMPTON *Appearances May Be Deceiving*

1. OVERVIEW

Population 4,538 (2020 Census; 5.5% increase over 2010 Census of 4,301)
County: Rockingham
RPC: Rockingham Planning Commission
HUD Fair Market Rent Area: Portsmouth-Rochester
Recommended Maximum Gross Rent (2020): \$1,390
Recommended Maximum Purchase Price (2020): \$364,000
Workforce Housing Ordinance: Inclusionary – 2009/2013
Workforce Housing Projects: 1 (3 units)

2. GENERAL DESCRIPTION

The most identifiable attribute of North Hampton is the collection of stately residences that line Ocean Boulevard and Atlantic Avenue in the Little Boar's Head historic district. Most of these homes along North Hampton's 1.7 miles of oceanfront were built during the early 1900s, and include Georgian, Victorian, Greek Revival, and other classic architectural styles. The effect is complimented by each estate's impeccably landscaped grounds, including Fuller Gardens, which is open to the public. Although North Hampton was established as a farming community in the 1700s and reached its peak of dairy production in the 1800s (sending more than 1,000 containers of milk per day to Boston), today the agricultural tradition is mostly a memory. Eighty-four percent of North Hampton residents commute to work either out of the community or out of the state. Although some limited commercial and industrial businesses are located along Route 1, the absence of municipal water and sewer infrastructure anywhere in North Hampton is a major barrier to development.

3. ORDINANCE/REGULATION ADOPTION & STRUCTURE

Adoption: North Hampton originally adopted a Workforce Housing ordinance in 2009 – promptly after the state laws were passed – and the ordinance was later modified in March 2013. This is an inclusionary ordinance, which allows the Planning Board to grant certain density bonuses. Although 604.2, the Purpose section, identifies that North Hampton has a “legal and moral responsibility” to provide its share of the region's workforce housing, and the ordinance further states that the document should encourage and provide realistic and reasonable opportunities for workforce housing, actual implementation has been exactly the opposite.

How the ordinance is constructed: A cautionary tone is immediately invoked in the preface to the Workforce Ordinance, warning that, “This inclusionary Housing Ordinance shall be in full force and effect ... if and only if the Planning Board has found that the percentage of housing units ... that meet legal and regulatory standards for classification as workforce housing does not equal or exceed the town's “Fair Share” of workforce housing.”

The inclusionary ordinance begins with typical guidelines listing the zoning districts where workforce housing can be constructed. Single-family (including manufactured homes) and duplex workforce housing is allowed by conditional use permit in the R-1 High Density Residential District. In the Industrial-Business/Residential District (I-B/R), single-family (including manufactured housing), duplexes, and multi-family housing types – even with a mix of commercial uses – are permitted by conditional use permit. There is no municipal sewer or water service in North Hampton, so all allowable density is factored on soils-based lot sizing.

The Planning Board may grant a density bonus for single-family workforce housing to allow one unit for every one-third of an acre, where the underlying zoning requires two acres, and a reduction in frontage from 175 feet to 100 feet. Duplexes may be allowed on one-half acre of upland area where the underlying zoning requires 2.2 acres and a reduction in frontage from 175 to 100 feet.

Density bonuses for multi-family housing allow up to five multi-family units per two acres, where the underlying zoning requires five acres for five units. If multi-family units are constructed on the upper floors of buildings with different ground floor uses, the housing must provide one and a half acres for five units, plus the lot area required for the other uses.

The ordinance contains a formula that designates how many units of workforce housing must be included in any new subdivision, but only in a year when the Planning Board has determined that the town does not meet its share of the region's workforce housing. The formula is calculated as (Development Fair Share = Town's Fair Share Percentage + 1.5 x [Town's Fair Share Percentage - Town's actual percentage of workforce housing units]). The stated intention of the formula is to help reduce any deficit of workforce housing in the community; however, the actual result is minimal. For example, if the hypothetical Town Fair Share of the region's workforce housing is assumed to be 2.4%, and hypothetically the town is assumed to only be providing 0.5% of its share of workforce housing, then a 20-unit subdivision of new homes would be required to provide 1.48 workforce units. (Development share = 2.4% + 1.5 x [2.4% - 0.5%]).

Monitoring procedures: North Hampton's workforce housing ordinance specifically states that its provisions are only in effect when the Planning Board has made a finding that the town does not equal or exceed its "fair share" of workforce housing. Once a year - by April 15th - the Planning Board determines at a public meeting whether its Inclusionary Housing Ordinance is in effect for the year. The ordinance text says the decision shall be based upon the most up-to-date "Regional Housing Needs Assessment and Regional Fair Share Analysis" as prepared by the Rockingham Planning Commission. The most up-to-date Rockingham data was prepared in approximately 2014 and is displayed as a spreadsheet in the Housing Chapter, 2015 Regional Master Plan, for the Rockingham Planning Commission.

The spreadsheet prepared by the Rockingham Planning Commission in 2012 or 2014 (no date listed on the spreadsheet), entitled "Estimated Proportionate Fair Share Workforce Housing Need, Rockingham Planning Commission Region, 2010 and 2020, Preliminary Draft" shows that North Hampton's fair share was 2.4% in 2010 and is estimated to be 2.3% in 2020. This translated into 755 needed workforce units in 2010 and a drop to 743 units in 2020.

In the meantime, the Planning Board updated the "Housing Chapter" of the North Hampton Master Plan in 2011. This Housing Chapter made a finding that North Hampton had already provided its fair share of affordable housing. Page H-9 states that the Town's Assessor's data showed 793 properties with an assessed value equal to or less than \$261,000 (the 2011 affordable price cap for workforce units in North Hampton). The amount assumes a 10% downpayment and a 30-year conventional mortgage. Plus, the affordable rental price lists a gross rent equal or less than 30% of household income for 134 units. Thus, the total "maximum possible" workforce housing units equaled 927 in 2011. The footnote states that the term "Maximum Possible" is used rather than "Total" because of possible double counting between purchase and rental units, lack of information regarding seasonal units, and lack of information regarding age-restricted units.

In 2013, the North Hampton Inclusionary Ordinance was amended to include the language that would allow the ordinance to either be activated or de-activated annually, based on the existing adequacy of its share of the region's workforce housing. Again, the adequacy is to be determined by the most up-to-date information from the Rockingham Planning Commission.

North Hampton's Inclusionary Housing Ordinance addresses the issue of continuing affordability of workforce housing units in section 604.11. This portion of the ordinance lists some of the predictable constraints used by municipalities to protect against unchecked inflationary sales/rents. Developers of workforce housing must provide a third-party monitoring agent who will certify income levels of applicants and provide an annual report to the Planning Board. In addition, a lien must be provided

to the town for the difference between the market sales price and the workforce sales price of each unit. Unique in North Hampton's ordinance is language stating that the lien may only be released by application to the Planning Board if the town has fully met its fair share of workforce housing and if so, the units applying for the release are in sequence of "first-in-first out" (unless other units waive their right to return to market prices or don't apply for lien release).

4. SNAPSHOT OF PROJECTS

North Hampton does not have any prominent workforce housing projects. In 2015, the Planning Board made a finding that the Workforce Housing Ordinance was activated for that year, due to concerns by some Board members that the Town might not comply with the Workforce Housing Law. According to North Hampton Planning and Zoning Administrator Rick Milner, three rental housing units were approved as part of a site plan for a mixed-use commercial/housing development on a site in the Industrial-Business/Residential District. Milner did not offer any additional information regarding the particular development.

Between 2016 and 2020, the Planning Board made a finding in each year that the town had met its fair share of the region's workforce housing. Each year, this finding is based on the same review of the Town Assessor's data from 2011 and the same Rockingham Planning Commission spreadsheet from 2014 stating that North Hampton's fair share of regional need for workforce housing was 755 units in 2010 and 743 units in 2020.

5. PROS AND CONS

On its surface, the North Hampton Inclusionary Housing Ordinance appears to meet all of the necessary requirements of the Workforce Housing Law. A cursory review of North Hampton in the New Hampshire Municipal Association's 2020 webinar series titled *Retooling Your Zoning to Improve Housing Affordability and Supply*, makes no mention of the flaws inherent in this zoning ordinance or the fact that only three affordable units have been approved in a decade. This ordinance – coupled with limited developable land and high real estate values – has been successful in discouraging new applications for workforce housing.

A deeper analysis of the Inclusionary Housing Ordinance raises questions regarding many of the assumptions upon which the Ordinance and the yearly finding of compliance by the Planning Board are based. Most glaring is the finding of the Housing Chapter of the North Hampton Master Plan. This chapter stated that the 2011 North Hampton Town Assessor's data regarding valuation of housing indicated that 793 single homes had an assessed value equal to or less than the top dollar value of for-sale residences that could be classified as workforce housing. In addition, the same data showed that 134 units of rental housing also met the criteria for rental workforce housing established by New Hampshire Housing and the 2010 Census.

If one accepts these findings, the following issues must be considered, as follows:

- The 2010 Census listed 1,914 total units of housing in North Hampton. If 927 units of housing were valued at or under the dollar cap for workforce housing in 2011 (as listed in the Master Plan Housing Chapter), this calculation would mean that a remarkable 48% of the town's total residential units could be considered to meet the definition of workforce housing in 2011;
- The annual Assessor's data has never been re-examined to find out whether the original assumption was correct or whether this assumption could carry forward to future years;
- The Housing Chapter, 2015 Rockingham Regional Master Plan, page 12, shows that the median home price for North Hampton in 2012 was \$405,000 for all homes (it was \$390,000 for existing homes and \$449,000 for new homes). Even if the North Hampton Assessor's data was totally on-target for 2011, the value of homes had sky-rocketed by 2012; and

- Of the estimated 927 units of workforce housing that North Hampton counts as meeting its “fair share,” none of these homes has any regulatory controls to ensure that it remains affordable, so what may have been true in 2011 may not bear any correlation to what exists today.
- The town’s analysis of its “fair share” also makes the fundamental error that a municipality may meet its obligation under the Workforce Housing Law by looking solely at owner-occupied housing, as opposed to separately analyzing the municipality’s requirement to provide the opportunity for multi-family rental workforce housing. This error is compounded by lack of a similar analysis by the Rockingham Planning Commission’s regional “Fair Housing Equity Assessment,” included as part of its 2015 Regional Plan. The Workforce Housing Law requires municipalities to “provide reasonable and realistic opportunities for the development of workforce housing, including rental multi-family housing” (RSA 674:59, I). To assume that municipality may meet this obligation only with owner-occupied housing fundamentally misconstrues the purpose of the law.

6. LESSONS LEARNED

Many of the officials interviewed for these workforce housing surveys cite various difficulties in either adopting or implementing the NH workforce statutes in their communities. North Hampton is no different. The town faces challenges that include: smaller total acreage than many municipalities; the impact of federal and state coastal regulations; significant wetlands areas; and costly land and housing values. Nevertheless, the standard for ascertaining compliance in each community is its conformity with the criteria of “reasonable and realistic opportunities” for development of workforce housing.

North Hampton uses a web of complicated and questionable assumptions, plus dependence on the partnership of its regional planning commission to buttress its claim of compliance. The town ordinance states that determination of workforce housing fair share depends on the Rockingham Planning Commission’s most recent data. Discussion with the head of the Rockingham Planning Commission points out that there has been no funding for updating the regional/local share of workforce housing since 2012. Therefore, the regional planning commission is hamstrung because it cannot challenge the assumptions made by local planning boards.

While North Hampton has a full-time Planning and Zoning Administrator, its consulting Planning Director is a circuit-rider planner for the regional planning commission. Consequently, the North Hampton Planning Board asks the consulting Planning Director to present the information each year in order for the Planning Board to determine whether the Town has met its fair share of the region’s workforce housing. This determination controls whether the Inclusionary Housing Ordinance will be activated for the coming year. Year after year, the consulting Planning Director makes a finding that the town is in compliance with state law. For example, in 2017, the consulting Planning Director reported that the town was in compliance but also suggested that the Planning Board declare that the town was not in compliance in order to allow someone to submit an application; however, the Planning Board rejected that suggestion and instead voted to find the town in compliance.

Lessons learned from this town review indicate that in order for towns and regional planning commissions to correctly and legally determine whether their region’s communities meet the workforce housing criteria, more funding is needed to produce timely data for analysis. With only data available from 2012 or 2014, probably no communities and/or regional planning commissions will be able to meet a legal challenge.

7. LOCAL INTERVIEWS

Town Officials: North Hampton is served by several layers of professional planning assistance. Planning and Zoning Administrator Rick Milner pointed out that three units of workforce housing were approved in 2015 as part of a mixed-use development. When asked about the formula in the ordinance for the number of units that could be included in a new development, he pointed out that the inquiry was moot because the Planning Board has not approved any new workforce housing units since 2015. Consulting Planning Director Jennifer Rowden, who also serves as the circuit-rider for the Rockingham

Planning Commission, stated that the Planning Board has made a finding each year since 2016 that it meets its fair share of the region's workforce housing. When asked, she acknowledged that no updated studies of the town's number of housing units that meet the definition of workforce housing have been produced since 2011, yet the Planning Board continues to use outdated figures, citing the failure of the regional planning commission to produce updated statistics so that new standards can be generated.

Rockingham Planning Commission Director Tim Roache points out that dependence on regional planning commissions for up-to-date data and statistics on which to base credible workforce housing compliance is a failing link. He states that Rockingham and the other planning commissions have not received any funding for updating workforce housing data since 2012. Therefore, it is impossible to either challenge assumptions produced by local planning boards or provide data to refresh the statistics on which local boards base their decisions.

Steve Keach, the town's consulting engineer, remembers that local officials in North Hampton were worried about being suddenly besieged by applications for new workforce housing shortly after the legislation was passed in 2008. Planning Board members were concerned that the town's limited areas for development due to wetlands, coastal restrictions, and the lack of municipal water and sewer would cause harm to the community by forcing added housing units that might not be viable in the limited areas available.

Developers: No developers have submitted applications for proposals in North Hampton since 2015. In addition to the development problems listed above, the North Hampton ordinance also creates a legal stalemate through its monitoring requirements. Examples of restrictive covenants or liens discussed in the booklet *Meeting the Workforce Housing Challenge, A Guide for New Hampshire Municipalities (2010)* illustrates communities who have adopted restrictive covenants or liens to ensure that approved workforce housing will remain that way over a period of 20 or more years. The booklet states that such liens are intended to function as "secondary mortgages." A recent model ordinance created by the Mt. Washington Valley Housing Coalition and adopted by petition in Conway clearly specifies that the lien is not intended to place a municipality in the first secured position, and that in the circumstances of a foreclosure, the lien is automatically released.

A reading of North Hampton's monitoring requirements section of its ordinance by a statewide real estate attorney and a major mortgage originator reveals a significant problem. Both reviewers offered generally the same comments. In their opinion, neither a bank nor a mortgage company would lend with such a lien having priority. Any foreclosure would be subject to the town's lien and that is unacceptable. Even if the town subordinated each time a new mortgage was placed on the property, they doubt a lender would close with such a lien.



PELHAM
Two Steps Back

1. OVERVIEW

Population 14,222 (2020 Census; 10.3% increase over the 2010 Census of 12,897)
County: Hillsborough
RPC: Nashua Regional Planning Commission
HUD Fair Market Rent Area: Nashua
Recommended Maximum Gross Rent (2020): \$1,530
Recommended Maximum Purchase Price (2020): \$394,000
Workforce Housing Ordinance: None
Workforce Housing Projects: None

2. GENERAL DESCRIPTION

The Town of Pelham lies along the Massachusetts border, east of Hudson in the southern tier of New Hampshire. Pelham is a bedroom community with a majority of land uses devoted to housing; 86% of the town's housing stock is single-family homes. The recently completed Housing Needs Assessment (2019 – NRPC) noted that Pelham has a workforce housing deficit of 206 homes and that 26 workforce housing units should be constructed per year between the years 2017 – 2025.

3. ORDINANCE/REGULATION ADOPTION AND STRUCTURE

No workforce housing ordinance has been adopted in the community. At the 2020 Town Meeting, the conservation subdivision ordinance, which included provisions for the creation of workforce housing in the town's rural areas, was deleted through a zoning petition initiative. Although attacking workforce housing was not the primary goal of removing the ordinance, a lot of misinformation was spread about the ordinance which ended up carrying the day.

Multi-family units are a permitted use in the Business District, which has a minimum three acre lot area requirement that would allow up to 10 bedrooms; 10,000 square feet of lot area is required for each additional bedroom. No workforce housing provision exists. The land area within the Business District is low quality, which limits the number of properties that could take advantage of this ordinance.

Through the years numerous discussions have taken place with the Planning Board on workforce housing, but there has never been enough support to bring an ordinance to the ballot. The general feeling in the community is that it is not Pelham's responsibility to provide housing for the region or employers that have businesses in other communities.

A few Planning Board members have latched onto provisions within the Workforce Housing Law, erroneously noting the lack of sewer and water in the community as a reason workforce housing is not required. Other Board members have made the claim, without statistical evidence, that the existing housing stock meets the "regional need" and therefore an ordinance is not required.

4. SNAPSHOT OF PROJECTS

There are no approved workforce housing developments presently in the community. In December of 2020, at the close of this study, the authors became aware of a few workforce housing projects that may proceed to the town's boards for approval.

5. PROS AND CONS

There is no ordinance for workforce housing currently in effect.

6. LESSONS LEARNED

While Pelham's Planning Board has made earnest attempts to address housing affordability and even successfully advocated for voters to repeal the town's age-restricted housing ordinance, current leadership in the community does not seem to think there is a need to address workforce housing. They seem to believe that communities that serve as regional employment centers should provide such housing and not their town. In 2020, a group formed and created a citizens' petition to repeal Pelham's conservation subdivision ordinance, which was the town's only ordinance that tried to address workforce housing. At the same time, pro-housing members of the Select Board and Planning Board were replaced. The town now faces potential legal exposure for not complying with the Workforce Housing Law's requirements.

This case study illustrates the need for long term, sustained effort in housing education and advocacy. The work is iterative – often a combination of steps forward and backwards – and slow. Despite the amount of work done by some leaders in this community, those opposed to growth in Pelham won.

7. LOCAL INTERVIEWS

Town Planner. We discussed workforce housing with town's Planning Director Jeff Gowan. Although there has been dialogue in the community on workforce housing, there is a lack of consensus relative to the need and how to address it. At this time there is not the political will to address the topic. This past year the Planning Board's makeup changed substantially and a strong "anti-housing" opinion has been adopted. The town voted to eliminate density incentives for age-restricted housing, believing the community has enough of these units, as well as concerns related to the "aging" of the community.

David Hennessey (former Planning Board member). The workforce housing event held last year by the Workforce Housing Coalition of the Greater Seacoast was a great success and enlightening. Unfortunately, the event stimulated no change in attitudes in the community. Prices in the community are extremely high, with bidding wars now occurring for homes that enter the market. Workforce housing has a very bad "connotation" and is not understood. There is a fear that if a workforce housing ordinance was adopted there will be an influx of Massachusetts residents. Hennessey believes there needs to be enforcement action from the state, taking on a stronger responsibility on housing matters. There should be a scorecard noting which towns are in compliance and those that are not. A "yard stick – scorecard" should be developed that assesses how many units are needed in order to be in compliance with the law.

Workforce Housing Listening Session, Pelham



RINDGE

Small Town Success Story

1. OVERVIEW

Population 6,476 (2020 Census; 7.7% increase over 2010 Census of 6,014)

County: Cheshire

RPC: Southwest Regional Planning Commission (non-member)

HUD Fair Market Rent Area: Cheshire County

Recommended Maximum Gross Rent (2020): \$1,170

Recommended Maximum Purchase Price (2020): \$278,500

Workforce Housing Ordinance: 2009

Workforce Housing Projects: 3

2. GENERAL DESCRIPTION

Rindge is a small town located in the Monadnock region of southwest New Hampshire. The community is most identifiable as the home of Franklin Pierce University, a small liberal arts college with an enrollment of 1,710 undergraduate students. Approximately 85% of all housing units in Rindge are single-family residences.

3. REGULATION ADOPTION & STRUCTURE

Adoption: The Rindge Planning Board was one of the earliest communities to tackle the newly minted State Workforce Housing legislation. Former Planning Board member and current Planning Director Kirk Stenersen says the board felt that the criteria would best be included as part of the Planning Board's stand-alone Planned Unit Residential Development Regulation (PURD). Since this was to be a "regulation" rather than a zoning ordinance, it was discussed at public hearings but was not required to go to a vote at the annual Town Meeting.

Opposition was voiced by a group organized against the West Rindge Revitalization Plan, work on which was funded by a grant through NH Housing's Community Planning Grant program, using funds provided by the US Department of Housing and Urban Development. A meeting of this group (reviewed on videotape) featured two State Representatives from other New Hampshire districts. Workforce housing was included in their unfounded concerns that any grant money accepted from the federal government would give HUD and/or New Hampshire Housing the ability to dictate what projects must be approved. A scenario of Section 8 subsidized housing and increased crime rates was described by the speakers. Nevertheless, the Planning Board received citizen support to include the workforce housing language in the PURD regulation with the understanding that unless some measures were adopted, the town might be faced with an undesirable "builder's remedy" situation as a result of a developer's lawsuit.

How the regulation is constructed: Since adoption of the PURD regulation in 1987, Planned Unit Residential Developments are allowed in every zoning district. PURDs are treated as a Subdivision for review and hearing purposes. Multi-family developments are also subject to site plan review. In keeping with the rural character of Rindge and the lack of municipal sewer and water, the minimum tract size for a PURD is 10 contiguous acres, and utilities may be provided by on-site common wells and septic systems. These PURD developments may include single- or two-family structures and multi-family structures of up to six attached units. Density is based on the underlying zoning district, with typical lot sizes being two acres per unit. Required frontage for a PURD is 100 feet on an existing town road (standard subdivisions require 250 feet per unit).

In a Workforce PURD, the total density of land use may exceed traditional density by up to 30%. These are designated as "bonus units" that satisfy the workforce housing provisions of the PURD regulation (this is the same standard language as the state law). All bonus units shall be designated as workforce housing units. Each structure shall have no more than six units per building, and the affordability standards shall be maintained for a minimum period of 30 years through deed restrictions. Every PURD

of for-sale units is required to include a homeowners association, and a report is required to be filed with the Planning Board for each sale or re-sale. Rental projects require the owner to verify compliance with the affordability requirements to the Planning Board on an annual basis. Phased construction projects shall include a proportional share of workforce housing units to market-rate units in each phase.

4. SNAPSHOT OF PROJECTS

Robert's Landing. This was Rindge's first development to include workforce housing. Located at 1850 Rt. 119, the 10-unit project consists of two buildings of five rental units each, and two units are designated as workforce housing. The developer, Jamison Van Dyke of Rindge, also serves as manager of Robert's Landing, which has been occupied for three years.

Select Board chairperson Roberta Oeser reports that the current town assessment for this 10-unit rental project is \$768,200. School Superintendent Reuben Duncan states that the most recent enrollment data shows that there are only two school-age children in Robert's Landing, or 0.2 per unit. This low number suggests that the impact of new housing units on the Rindge school system is proving to be even fewer students than projected in a recent fiscal impact study prepared for the upcoming Navian development by Fougere Planning & Development. That fiscal study projects 0.330 school-age children per rental unit and the numbers were generated from a 2012 New Hampshire Housing study, *Housing and School Enrollment in New Hampshire: A Decade of Dramatic Change*.



Dale Farm Road. A 42.6-acre site for 27 apartments, with six workforce housing units, is finally proceeding to construction after the Zoning Board of Adjustment and Planning Board approval in March 2019, and a favorable decision by the Cheshire Superior Court in May 2020. The Dale Farm Road site plan consists of four 6-unit buildings and one tri-plex building to be constructed and owned by Barkley Enterprises, a limited liability company whose principal is Jamison Van Dyke. Using Rindge's PURD regulation, the entire development will be rental housing offering approximately 18 two-bedroom units and 9 three-bedroom units, with 30% of the units maintained as workforce housing. Per the Planning Board's request, the project will be phased over five years, with one 6-unit building constructed in each of the first four years, and the tri-plex constructed in the fifth year. The site will be served by on-site common wells and septic systems.

A legal challenge was brought by abutter Dawn Dunbar to Cheshire Superior Court, contesting the ZBA approval of a variance allowing less than 100 linear feet of Class V road frontage for the project. The ZBA found that 50 feet of frontage on a Class V road and 50 feet of frontage on a Class VI road (where 100 feet is required) met the criteria for the granting of a variance, particularly because the developer would be upgrading more than 1,200 linear feet of roadway to access the property, and the upgrades would provide safe access for the 27 units.

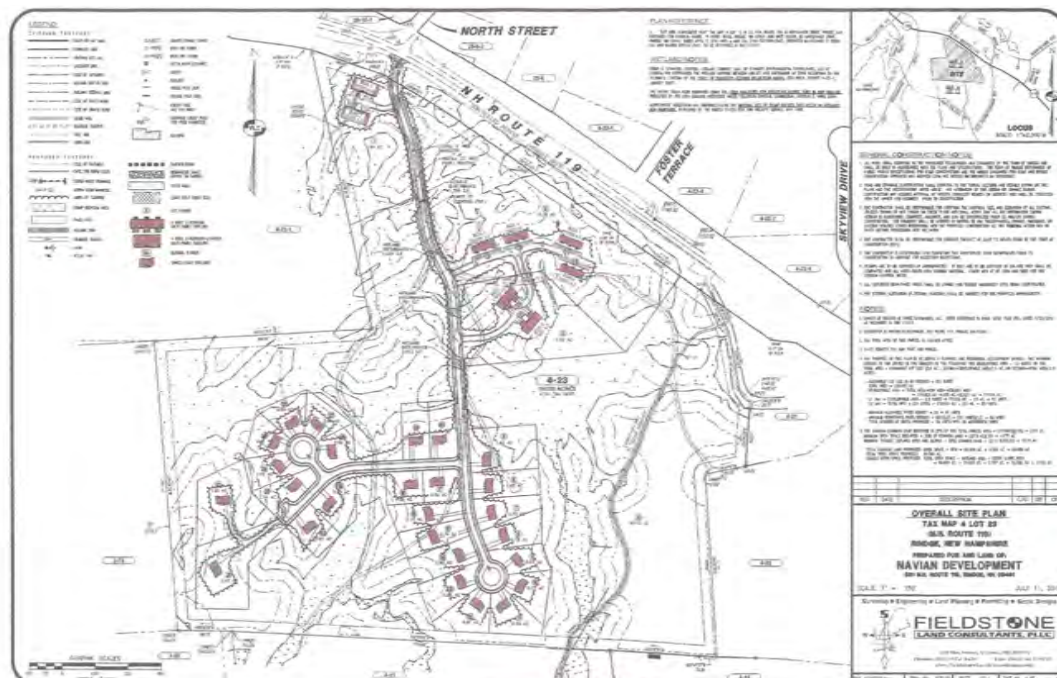
Dale Farm Site Plan, Rindge



Navian Development. The newest submission with a workforce housing component is a 66-unit development to be situated on 110 acres located on Route 119. A concept plan for 26 detached “for sale” single-family homes and 40 rental units consisting of 16 townhouses and 24 flats was reviewed by the Planning Board in October 2019. The developer, Navian Development of Rindge, is proposing six single-family homes and 10 apartment units to be designated as permanent workforce housing. A homeowners association will be created to manage all of the residences, including the workforce housing units.

A fiscal impact study for the Navian project was prepared by Fougere Planning & Development. The

Navian Development, Rindge



data calculates a school impact of 26 school-age children. The 24 apartments are anticipated to produce 7.92 students per year; the 16 rental townhouses are expected to generate 5.28 students per year, and the 26 single-family for-sale units are expected to produce 12.48 pupils per year. A yearly phasing plan is also proposed for this development.

5. PROS AND CONS

Developers: Jamison Van Dyke built and now manages Robert's Landing, the first rental project to include workforce housing, and he is also the developer of Dale Farm Road, which will be the second rental workforce housing project in Rindge. He says that the 30% density bonus looks good on paper, but the ongoing adherence to the financial requirements is proving more complicated than he originally anticipated. For example, in Robert's Landing, he has had a request for a partner to move in with a woman in a workforce housing unit. However, the increased income provided by a second wage-earner might cause problems with compliance with the financial guidelines. He also mentions that the five-year phasing plan that the Planning Board requires is diluting the economy of scale that he could achieve by building all of the housing units at once. The phasing is especially painful due to the one-year delay caused by the Superior Court suit. In this unpredictable economy and dealing with rental rather than for-sale units, he could suffer financial setbacks, since all the units will cost approximately the same amount in construction costs, but he will not be able to realize the same amount of rental income.

Town: On the municipal side, Planning Director Kirk Stenersen has his own concerns. He points out that due to the COVID crisis and related unemployment, the town is facing unanticipated debt. He worries that if any of the management contracts end up failing, then the town might become the de-facto management agency for the workforce housing units. He points out that as a small town, there simply is not any funding to create a department to manage the financial requirements of the workforce housing units.

6. LESSONS LEARNED

Citizen Concerns: Testimony presented at hearings for all three of the developments that include workforce housing have given voice to fears by abutters and town residents that the workforce housing element may result in subsidized housing controlled by HUD with little control by the town. Further, there is sincere concern that the housing will be "low-income" that will result in higher crime rates and higher police service costs. While it appears from minutes of meetings that the Planning Board, Zoning Board of Adjustment, and Select Board are knowledgeable about workforce housing, the comments brought up by the general public indicate a lack of understanding about how this type of housing differs from many people's vision of the worst of subsidized multi-family projects that can be found in larger cities. Some type of community education would be beneficial. Since workforce housing in Rindge was created by a regulation rather than an ordinance which required a vote of Town Meeting, the broader effort that has occurred elsewhere may have been overlooked. If future workforce housing is to be supported by the community, an outreach effort by the Planning Board might prove beneficial.

A major indication of concern by the general public of Rindge was reflected in two citizen petitions directly linked to workforce housing that were submitted for Town Meeting in March of 2020. The first petition requested the re-adoption of impact fees for new housing projects. This petition was partially related to the fear that new workforce housing projects would not pay their fair share of Town expenses for police, fire, and education because the rents and/or sale prices would be below market rate. The second petition proposed a re-adoption of growth management ordinances out of concern that workforce housing would create a burgeoning number of housing units that could not pay their fair share of Town costs. Both of these citizen petitions were defeated, but the fact that the petitions made it to the ballot indicates a growing concern among some residents.

On the other side of the coin, some citizens appreciate efforts to make housing more affordable. When the Navian proposal was presented as a concept, the Rindge Facebook page carried a number of favorable comments from residents who want their sons and daughters to have the ability to live in Rindge as adults. Millipore/Sigma, a large manufacturer of biopharmaceutical products in Jaffrey, recently announced plans for a major expansion. As new workers are hired, Rindge will face an even greater demand for workforce housing.

SECTION 4

New Hampshire's Workforce Housing Law

SUMMARY AND RECOMMENDATIONS

New Hampshire's Workforce Housing Law has been in effect for over a decade. In that time, many communities have responded by making changes to their land use regulations in an effort to comply with the law's obligations while many other communities have made little or no progress. Recognizing this, New Hampshire Housing conducted an analysis of the law's impacts in an effort to determine whether these changes to municipal regulations are serving the purpose of the law.

These are the key conclusions of this analysis.

- 1. It is important for state legislators and local leaders to understand the direct relationship between housing supply and statewide economic growth.** Addressing the state's aging trend is imperative to help ensure a vibrant and growing economy. Providing adequate housing opportunities for singles and young families so that they can stay in or relocate to New Hampshire is an essential part of this goal. No community should have an attitude that it is "someone else's problem." Direct involvement by State officials will be needed – ranging from providing funding to keep municipal and regional housing data updated to legislating negative consequences for communities who ignore or circumvent statutory requirements.
- 2. How does a community know when they have "crossed the finish line" and have met the Workforce Housing Law's obligations?** That is a question that was raised by a number of municipal officials. Communities are required to provide enough workforce housing to meet their fair share of their region's need, but knowing what that means can be challenging. Creating a clearer standard would be helpful, perhaps by establishing a percentage quota workforce housing relative to a community's overall housing stock. In addition, funding or technical assistance could be provided to assist individual communities in examining all of their existing housing stock to ensure that all qualifying units are counted.
- 3. There are significant challenges for the state's regional planning commissions (RPCs) to produce a regional housing needs assessment every five years** (as required by RSA 36:47, II). These challenges include: no specific funding to undertake this recurring task; different methodologies used by different RPCs; and the potential for negative political consequences when highlighting the lack of workforce housing any of their member communities (RPCs rely on member community dues for portions of their funding). Resolving these issues would help communities to accept their workforce housing statutory obligations. For example, a state agency could conduct these analyses, or a third-party consultant could be hired to produce these assessments in a timely manner and using the same methodology for every region.
- 4. Workforce housing income and rent cost/purchase price standards do not always align.** Under the Workforce Housing Law, household median income levels are measured on the basis of a community's "fair market rent area," as designated by HUD. In some communities this creates serious challenges if the local land prices are very high, yet the municipality is tied to a lower income region. The Workforce Housing Law could be amended to provide alternative standards to address these problems.

5. **Educating the public and decision makers about what is meant by “workforce housing” is a challenge.** It is helpful to continue providing information about the income groups and representative professions being targeted in the workforce housing statute, along with concrete examples of successful and well-designed workforce housing developments to help to dispel erroneous assumptions about this type of housing.
6. **Thoughtfully identifying in a community where workforce housing is permitted, especially higher density multi-family housing, is critical when zoning for this use is created.** As much as possible, unit types and densities should be appropriate for the neighborhoods where they will be permitted. If a community has never allowed for multi-family housing, introduction of higher densities calls for sensitivity to ensure the area designated is an appropriate location. Significant political backlash can occur against workforce housing when context of location is not thoroughly evaluated. This can lead to setbacks in the creation of workforce housing, creating further barriers and lack of support to address a community’s housing needs.
7. **In areas with high land values, establishing zoning that allows for the development of economically viable workforce housing can be challenging.** Incentive “thinking outside the box” can provide incentives for developers to create workforce housing. Dover has demonstrated creativity, from allowing for an additional story if affordable housing is included to providing for the transfer of development rights connected with expansion of existing business and housing units.
8. **For developers and municipal boards alike, if a workforce housing project or ordinance is being proposed, it is important to monitor local social media.** Rumors and misinformation can take on a life of their own with these platforms, and staying atop of these media posts will provide officials the ability to counter erroneous claims with facts.
9. **Any development proposal can create an adversarial environment between an applicant and a land use board, and this can be especially true for workforce housing projects.** The threat of a “builder’s remedy” can create anxiety in a community, leading to suspicions and resentment. In other states that have workforce housing laws, provisions have been created where an applicant can enter into a “friendly” application process and work with the local community to address local concerns but also allow for a project to proceed in a less threatening way. Exploring such an approach in New Hampshire may prove worthwhile to increase the acceptability of new workforce housing developments.
10. **The short-term rental market can have a negative impact on housing affordability, especially in areas that rely on tourism to support the local economy.** Weekly rentals have been a mainstay along lakefronts and near ski resorts for years, but renting out homes and accessory dwelling units in residential neighborhoods for a single night or a single week is a new trend that has the potential to remove affordable units from the long-term rental market. Also, a business model has been created with investors buying homes and turning them into what are essentially hotels. Curbing this form of operation should be explored to help protect existing affordable housing stock. Additionally, providing municipalities with the authority to levy fees on such operations would be helpful, especially if fee revenue were allocated to a local affordable housing revolving fund.
11. **The Workforce Housing Law ties the affordability of owner-occupied units to 100% of an area’s median income, which can produce unintended results.** In Western Rockingham County, for example, that means that workforce housing could sell at a price of up to \$465,000 (based on a median income of \$115,000). To most people that price is not affordable. If it is the goal of the workforce housing statute to create affordable housing for working families and individuals, the income targeting should be revisited. Reducing the requirement to 80% of a region’s median income would provide greater opportunities for home ownership. Applying this target to the Western Rockingham County example would reduce homeownership cost to \$372,500 on an income of \$92,000.

12. **Ongoing management of affordable housing units is cited as a major stumbling block by local boards and developers.** Small towns are worried that if a builder defaults on management of the units, then the burden will fall upon local government. The need to hire an additional staff person to certify financial qualifications of applicants and monitor rental rates and home sales would be a real hardship for small towns across New Hampshire. There are existing models for municipalities to use to help with management of this process; these models need to be simplified and more effectively promoted for use.
13. **Partnerships among public, private, and/or non-profit agencies are important to successful workforce housing implementation.** A significant number of the municipalities interviewed for this study give credit to their partnerships – especially with local housing authorities or non-profit housing trusts – for handling the myriad of details required for completion of a project as well as ongoing monitoring of housing costs and qualification of applicants. Some communities commented that the only housing organization in their area is overburdened and cannot accept any more properties. There is a clear need for increased capacity of these agencies for long-term management of workforce housing projects.
14. **The following are statements commonly heard from communities as issues that contribute to the inability to comply with NH’s Workforce Housing Law.**
 - **Land is just too expensive here.**

Response: A significant part of the cost of land is the impact of local regulations on the owner’s ability to use the land. If municipalities allow something to occur without excessive regulation, then the market for development will respond accordingly.
 - **It can’t be done here.**

Response: While a big portion of the problem for developers is the impact of local regulation, it’s not the municipality’s role to decide whether there is a market for development. The municipality’s obligation is to allow the market to respond to demand.
 - **It is a state, not a local, problem.**

Response: Housing affordability is a statewide problem that is shared at all levels of government. The state has responded by requiring municipalities to reduce unnecessary regulatory barriers to development. The state has also created funding sources for development. Now it is the responsibility of cities and towns to create the appropriate regulatory environment for the development of workforce housing.
 - **There is no viable land for development here.**

Response: This is a common refrain, yet developers continue to find areas suitable for development, only to be rebuffed by excessive local regulations and reactionary local permit processing barriers. There is also substantial opportunity for reuse of land that has already been developed – if suitable local regulations are in place.
 - **It’s out of character with our community.**

Response: Without clear standards of what this means, it is impossible to know whether something conforms to community “character.” Municipalities have the legal right to call for development – including workforce housing – that is architecturally consistent with neighborhood development patterns and structure types, but few cities and towns make the effort to do this.

- **There will be too much impact on our schools.**

Response: School impact is one of the common myths perpetuated by opponents to workforce housing. In fact, the number of school-age children associated with new development is substantially lower than it once was, as family sizes are steadily shifting downward (see the several studies on this issue on the NH Housing website). Also, many school districts are witnessing declining pupil populations, resulting in less state funding to support the districts' operations.

- **Businesses should pay for it.**

Response: In the face of a housing shortage, there will also be a labor shortage – this is the dynamic New Hampshire is currently experiencing. Businesses will vote with their feet and find other places in the country that are more suitable for their operations and expansion, resulting in New Hampshire's economic decline. Even if businesses were willing to pay for housing for their labor force, without suitable local regulations to allow it to be developed, business support would only heighten competition for housing, thereby increasing prices.

- **No developers/builders will propose a project because they can make a bigger profit on regular housing.**

Response: There are many developers that are in the business of creating workforce housing, and they will do it – provided there are suitable local regulations. Municipalities have the tools to make workforce housing a profitable option for developers – they only need the will to use them.

- **We don't have the staff to manage an affordable housing development.**

Response: Even with income restrictions on workforce housing occupancy required as a condition of local approval, there is no need for a municipality to have an active role in the management of a workforce housing development. This is a task that can be hired out to a third-party administrator who would report to the municipality and be paid by the developer or owner.

- **Voters won't pass a workforce housing ordinance.**

Response: Voters can and do vote for workforce housing ordinances, sometimes under threat of legal action, sometimes because it's the "right" thing to do. But one thing is certain: voters won't pass an ordinance if the municipal government fails to put the option in front of them. Planning boards need to make the effort in the first instance.

It is clear that there is a crisis of housing affordability in New Hampshire. In light of this, it is surprising to discover how little progress has been made by some municipalities to address the requirements of the workforce housing law since the legislation was enacted over 10 years ago. Implementation of new measures, education about zoning tools to solve difficult housing problems, enforcement of the statutes, and active leadership by local and state political leaders will be critical if the barriers to workforce housing are to be overcome.

APPENDIX A
Assessment of Compliance with the Workforce Housing Law
in 33 Municipalities

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area ALTON / BELKNAP / LRPC / BELKNAP COUNTY

2020 CENSUS POPULATION: 5,894

CONTACT PERSON/TITLE

Jessica Call – Planner

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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:
COMMUNITY WITH WORKFORCE HOUSING ORDINANCE

1. Workforce Housing Ordinance? YES
2. Inclusionary zoning or bonuses in Planning Board regs? YES, Inclusionary
3. Workforce housing projects approved or denied? NO
4. Status

Inclusionary zoning and adoption of the workforce housing legislation by reference was added to Alton’s zoning ordinance in March, 2014. Workforce housing is allowed by a conditional use permit in the Rural and Residential Rural zoning districts, and density bonuses and reduction in dimensional regulations are allowed when the applicant guarantees that a minimum of 20% and a maximum of 50% of the units will be preserved as workforce housing. There are no published or anecdotal guidelines as to how much could be granted by the Planning Board in density or dimensional bonuses.

Planner Jessica Call says that in the 4 years she has been involved with the department, she is not aware of any applications that have been submitted for workforce housing. When asked, she did not seem to have a firm opinion as to any reasons why there have been no applications, although she points out that the residents of Alton are not very amenable to change, and it took until 2020 for the residents to vote in favor of an ordinance amendment to allow townhouses as a form of housing.

Building Code Official/Health Officer John Dever has worked for Alton for 10 years. He is not aware of any workforce housing plans that have been submitted during his term. When asked why there have been no applications, he surmises that the lack of interest may be due to Alton’s existing stock of housing that meets the income guidelines outlined in the State legislation. He says that there have been several studies done since the legislation passed in 2009, and each study has shown that Alton continues to meet its fair share.

In order for the Planning Board to grant a conditional use permit for a workforce housing plan, the developer is required to demonstrate that there is a need for this type of housing that is not

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currently being met (**which is NOT a requirement of the law**). If, as the Building Code Official believes, Alton is already meeting its fair share of workforce housing (**which it would need to prove under the law**), the Board could not vote to approve a Conditional Use Permit.

A review of Alton's zoning raises serious questions as to whether the Town is meeting its fair share of workforce housing. (It is incumbent on the town to either determine they are providing "reasonable and realistic opportunities" for the development of workforce housing or be prepared to defend that it meets its "fair share" as defined in the law). Conditional Use Permit is allowed in 2 zones – the Rural Residential Zone and the Rural Zone. A quick review of the zoning requirements indicate that Alton has a very restrictive allowance in these zones as follows:

Residential Rural Zone

Single-fam., duplex, multi-fam. = 1 acre per unit (so a duplex requires 2 acres)

Single-fam., duplex, multi-fam. = 150 feet of frontage (corner lots have 2 frontages)

Rural Zone

Single-fam., duplex, multi-fam. = 2 acres per unit (so a duplex requires 4 acres)

Single-fam., duplex, multi-fam. = 200 feet of frontage (corner lots have 2 frontages)

Given the zoning requirements for large lots with generous frontage and a high median income in the community, it seems highly unlikely that Alton is able to continually meet its fair share of the region's workforce housing.

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COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area AMHERST / ROCKINGHAM / NRPC / NASHUA

2020 CENSUS POPULATION: 11,753

CONTACT PERSON/TITLE

Mike Del Orfano – Planning Board Chair

O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:
COMMUNITY WITH WORKFORCE HOUSING ORDINANCE

1. Workforce Housing Ordinance? YES
2. Inclusionary zoning or bonuses in Planning Board regs? YES, Inclusionary
3. Workforce housing projects approved? YES

Prior to the adoption of the workforce housing statute, Amherst’s zoning permitted the development of affordable housing with a maximum size limit attached to the homes. There were no restrictive covenants recorded for these projects. A number of projects were approved under this zoning provision, including:

- a) Balsam Lane-Aspen Court-Sycamore Court: 25 single family homes.
- b) Mulberry Lane: 15 townhouses.
- c) Belleview Drive: 8 duplex units and 16 townhome units.
- d) Peacock Brook Lane: 19 single family homes.
- e) Brighams Way: 10 duplex units.
- f) Island View Court: 28 affordable apartment units in Historic District.

Although restrictive covenants do not restrict pricing of the owner-occupied units, most sales have been near or under the affordability limits set by the statute.

4. Status:

In 2015 a new workforce housing ordinance was adopted and to date, no projects have been approved under this language. The ordinance provides significant flexibility to the planning board to waive density, setbacks, open space, and minimum lot area requirements (in any zoning district) if the applicant can demonstrate that additional density is necessary in order to create workforce housing units and therefore make the project economically viable. Although not specifically noted, projects are expected to be a mix of market rate and workforce housing units. All workforce housing units are required to remain affordable for at least 25 years through the recording of a restrictive covenant. The ordinance requires the release of detailed financial information which may be the reason no applications have been submitted.

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Within the zoning ordinance a provision called the Integrated Innovative Housing Ordinance was in place that also allowed for the creation of workforce housing without the requirement for in-depth financial disclosure. This ordinance was seen as an alternative tool to create a variety of housing types. Because of anti-housing sentiment in the community, this ordinance was repealed through a petition zoning amendment in 2020.

In January of 2020, the NRPC completed a housing needs assessment for the community. The evaluation noted that Amherst has a 379-unit shortfall of workforce housing units in the community.

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WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES**

**COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area
BEDFORD / HILLSBOROUGH / SNHPC / MANCHESTER**

2020 CENSUS POPULATION: 23,322

CONTACT PERSON/TITLE

Ms. Becky Hebert, AICP – Planning Director

**O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:
COMMUNITY WITH WORKFORCE HOUSING ORDINANCE**

1. Workforce Housing Ordinance? YES
2. Inclusionary zoning or bonuses in Planning Board regs? YES

Inclusionary 25% set aside, Workforce Housing ordinance adopted in 2009, amended in 2019.

3. Workforce housing projects approved or denied? YES
 - Bedford Hills, 144 rental units 25% workforce.
 - Bedford Green, 83 rental units, 25% workforce
 - Bow Lane, 93 rental units, 25% workforce (this % may have increased)
 - Dakota Properties, 46 rental units, 100% workforce.

4. Status:

The community adopted a workforce housing ordinance in 2009 which was amended in 2019 through a petition zoning amendment against the recommendation of the Planning Board. The ordinance requires a 25% set aside of workforce housing units with a 30-year restrictive covenant. Multi-family developments are allowed in the AR, PZ, CO-2, SI and GR zones at a density of 12 units an acre (net developable area). Within the AR, PZ, and GR zones the maximum number of units allowed per building is limited to 12. In the RA and GR zones, owner occupied developments are allowed up to four-unit buildings. Single-family lots can be reduced to 1/3 of the required minimum lot area and frontage. NHDES septic loading criteria determines allowable density.

Planning Director Becky Hebert provided information about workforce housing developments in the community. To date, three projects have been developed and few major issues were raised during the approval process. In 2019, a 93-unit apartment proposal was proposed (Bow Lane) in the downtown area and adjacent to the high school. This project drew a significant amount of opposition and reaction within the community. Although the project was approved, the fallout from this project led to a petition zoning amendment that removed workforce housing from areas along NH Route 101, reduced building sizes to a maximum of 12 units in three zones and other changes. The Planning Board did not support this petition article, but Bedford voters

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approved the measures. A significant amount of misinformation was spread about the topic prior to the vote including the belief among some residents that if the petition was adopted the Bow Lane development would be stopped. This was erroneous as the development project was already before the Board and as such, the project was “vested” from any zoning amendments. The Planning Board is in the process of updating their Master Plan and they intend to highlight facts about workforce housing with the hope that residents become enlightened. It is the hope that after update process is complete, the Planning Board can review alternative housing options in the community supported by a strong bases of facts detailed in the Plan.

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COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area CHESTER / ROCKINGHAM / SNHPC / LAWRENCE MA-NH PORTION

2020 CENSUS POPULATION: 4,935

CONTACT PERSON/TITLE

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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:
COMMUNITY WITH WORKFORCE HOUSING ORDINANCE

1. Workforce Housing Ordinance? YES
2. Inclusionary zoning or bonuses in Planning Board regs? YES, Inclusionary
3. Workforce housing projects approved?

A few units were constructed prior to the adoption of the workforce housing statute. A few units were rental which were encumbered by with an affordable restriction for 15 years, which has expired.

4. Status:

The Open Space Subdivision ordinance is the primary vehicle for the creation of workforce housing in the community, although to date no units have been constructed. The ordinance provides for a 25% density bonus with a requirement that 20% of the total project units be designated as workforce. Single-family, duplex and multi-family (3-6 unit buildings) are allowed. Workforce housing units carry a 30-year covenant restriction for owner-occupied units and 15 years for rentals. Rental property owners are required to monitor workforce units yearly and provide a yearly report certifying that the unit occupants meet income criteria. The density bonus may be increased to 75% if the applicant includes senior housing, with the breakdown of unit types negotiated with the planning board.

At the 2020 town vote, the planning board sponsored an amendment to remove the 25% open space density bonus (within the Open Space ordinance) and increase the density bonus for workforce housing to 50%. There was some confusion with voters as to the intent of the amendment and it failed. The planning board may reintroduce the amendment in 2021.

In 2019, an Age-Friendly ordinance was adopted in the community geared towards seniors and families. Although the ordinance does not specifically note “workforce housing”, the intent was to encourage smaller homes, limited to two-bedroom units arranged on smaller lots. No applications have been submitted under this provision.

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COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area
CONWAY / CARROLL / NORTH COUNTRY COUNCIL / CARROLL COUNTY

2020 CENSUS POPULATION: 9,822

CONTACT PERSON/TITLE

Thomas Irving – Planning Director
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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:

COMMUNITY WITH WORKFORCE HOUSING ORDINANCE (will be on the warrant in April, 2020)

1. Workforce Housing Ordinance? NO
2. Inclusionary zoning or bonuses in Planning Board regs? NO
3. Workforce housing projects approved or denied? NO
4. Status

In 2019, the Mt. Washington Valley Housing Coalition, an advocacy group, drafted a proposed Workforce Housing Ordinance for the Town of Conway through a grant from the NH Housing Finance Authority. After public hearings, the ordinance has received wide support from the Conway Planning Board and Zoning Board of Adjustment. Planning Director Tom Irving expects the warrant article to pass on the April 2020 ballot.

Conway is aware of the need for affordable housing, and almost a decade before the State legislation creating workforce housing was passed, Conway amended its density provisions to allow -- by special exception -- up to 12 dwelling units per acre where sewer & water were available, including the Conway Village Commercial District; the North Conway Village Commercial District; the Highway Commercial District for Conway Village and North Conway; and 8 units per acre in the Center Conway Village Commercial District (w/o water and sewer, only 8 units/acre.)

Standards required to be used by the ZBA when granting a special exception state that for dwellings at 12 units per acre, there must be a deed requirement that “not less than 25% of all dwelling units shall be designated as full-time rental apartments, and the rental units must be shown on the Site Plan. These units shall remain as full-time rental units for 20 years by a deed restriction.” Tom Irving explained that the Planning Board has been reluctant to impose financial restrictions for workforce housing that might require continual monitoring by the Planning Board or creating an additional municipal agency to enforce financial caps.

The local boards have made heroic efforts to encourage affordable housing options. In 2019, the ZBA approved a variance to allow a project with 20 residential units on 1.1 acres (where 12

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units/acre are allowed by Special Exception), plus a fast-food restaurant with 45 seats and a drive-thru window. After debating over density and the welfare of Conway, the ZBA granted the variance. Yet, the developer then decided that the proposal was not profit-oriented and withdrew his application from the Planning Board.

Short-term rentals are a big concern in Conway because of the town's status as a resort destination. The proposed Workforce Housing Ordinance specifically prohibits the use or conversion of any units from full-time housing to rentals for the short-term market.

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COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area DOVER / STRAFFORD / SRPC / PORTSMOUTH-ROCHESTER

2020 CENSUS POPULATION: 32,741

CONTACT PERSON/TITLE

Chris Parker – Assistant City Manager, Director of Planning & Strategic Initiatives
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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:

COMMUNITY WITH WORKFORCE HOUSING ORDINANCE

1. Workforce Housing Ordinance? NO, given the diverse housing stock Dover’s median rents and owner-occupied unit costs are below workforce housing statutory requirements.
2. Inclusionary zoning or bonuses in Planning Board Regulations? – A host of ordinances are in place to provide opportunities for workforce housing including Inclusionary Zoning ordinance and Transfer of Development Rights.
3. Workforce housing projects approved? 2
4. Status:
There are numerous opportunities for higher density development in Dover, especially in the Central Business District (CBD), Little Bay & Cochecho Waterfront. Other Districts (Suburban, Low & Urban Density) allow for duplex and multi-family units. In addition, some Districts allow for the conversion of homes into multi-family properties. Based upon the New Hampshire Housing data base, the median rent for the community is \$1,347 which is below the statutory requirement of \$1,390 and the median owner-occupied value is \$286,000 which is below the requirement of \$364,000.

Chris Parker provided information about workforce housing conditions in the community. Dover has taken the position that it meets the regional need and therefore no specific workforce housing ordinance is required. Approximately 48% of the community is rental and 52% owner-occupied, creating a very diverse housing stock. Even with these conditions, there continues to be strong support in the community to encourage the construction of affordable housing and their zoning reflects that. Two innovative housing ordinances are presently before the Planning Board which involve amendments to the existing Transfer of Development Rights (TDR) ordinance. The first, although there is no affordable provision, will allow an industrial use owner to accumulate one housing unit “right” for every 2,000 square feet of industrial building constructed for buildings larger than 40,000 square feet. These housing “units” may be sold and used elsewhere in the community. Another provision being considered would allow for the waiver of TDR transfer fees (\$13,000/unit) if the proposed units meet HUD median income criteria. This proposal would be allowed in the multifamily zone which permits attached single-family units, duplex and 3 + unit buildings.

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COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area DURHAM / STRAFFORD / SRPC / PORTSMOUTH-ROCHESTER

2020 CENSUS POPULATION: 15,490

CONTACT PERSON/TITLE

Michael Behrendt – Town Planner
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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:

COMMUNITY WITH WORKFORCE HOUSING ORDINANCE

1. Workforce Housing Ordinance? YES
2. Inclusionary zoning or bonuses in Planning Board regs? YES, a Workforce Housing Option Ordinance (Section 175-107.1) was adopted that provides for an inclusionary provision within a Conservation Subdivision. Density bonuses are provided. Multi-family development is a permitted use, but there are no provisions related to creating multi-family workforce housing.
3. Workforce housing projects approved? NO
4. Status:

To address workforce housing requirements, the community adopted a Workforce Housing Option ordinance under a Conservation Subdivision form of development. The ordinance provides for a 20% density bonus for market rate units if 20% of the units are designated as workforce housing. This is a conditional use permit procedure and is permitted in the Residential zone, Residential A, Residential B and Office Research. Lot sizes are controlled by NHDES septic standards. Units must remain affordable for 30 years. Single-family, duplex and 3- and 4-unit buildings are permitted.

Multi-family developments that are mixed use are permitted in the downtown area through a CUP process.

Town Planner Michael Behrendt, provided information relative to workforce housing in Durham. Michael noted the unique college housing market that exists in the community and that this certainly “colors” many facets of it. The town supports a diverse population along with a wide variety of income levels. However, managing the undergraduate student population is an ongoing challenge. A majority of multi-family housing is undergraduate student housing including a significant number of new projects constructed over the last ten years. Attempting to create “family only” housing would prove very challenging. In addition, he noted the strict zoning that exists in the community, particularly as it relates to wetlands and their associated buffers. In addition, there are a limited number of large parcels in the community that can be developed. No projects have been approved under the Workforce Housing Ordinance.

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COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area
ENFIELD / GRAFTON / UVLSRPC / GRAFTON COUNTY

2020 CENSUS POPULATION: 4,465

CONTACT PERSON/TITLE

Rob Taylor – Land Use & Community Dev. Administrator
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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:
COMMUNITY WITHOUT WORKFORCE HOUSING ORDINANCE

1. Community already met its obligation/fair share analysis? NO
2. Defeat of Workforce Housing Ordinance? NO
3. Citizen petitions? NO
4. Other Issues

Community Development Administrator Rob Taylor reports that Enfield is just now embarking on its first town master plan since 1995. His office will be opening bids this week (March 16-20) for a team to lead the process.

He anticipates that there will be a new push from local residents to include some type of inclusionary zoning for workforce housing, and Rob hopes to have representatives from NHHFA attend one or more design charrettes to speak to the issue.

Currently, no workforce housing exists in Enfield. There is a project operated by “Visions for Creative Housing” that provides subsidized housing for 20-25 adults with developmental disabilities. Visions is an organization founded by Sylvia Dow and based on her success in Enfield she is proposing a similar housing project for the disabled in Lebanon and another one in Hanover.

Enfield’s R1 and R3 zones are generously sized districts that allow single-family, multi-family, and manufactured homes; however the R3 zone requires 3 acres per dwelling unit, and the R1 zone requires 1 acre per dwelling unit unless municipal sewer and water are available, in which case the lot size may be reduced to ½ acre. The Route 4 District is a very small mixed-use zone in which single- and multi-family dwellings are allowed at a density of 12 units per acre; however, residential uses must be located on the upper floors of buildings, or – if at ground level – be set back at least 600 feet from Route 4.

Rob Taylor did not offer any specific reasons why neither a workforce housing ordinance nor any inclusionary zoning mechanisms have been adopted to-date.

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COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area EXETER / ROCKINGHAM / RPC / PORTSMOUTH-ROCHESTER

2020 CENSUS POPULATION: 16,049

CONTACT PERSON/TITLE

Dave Sharples – Town Planner
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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:
COMMUNITY WITH WORKFORCE HOUSING ORDINANCE

1. Workforce Housing Ordinance? YES
2. Inclusionary zoning or bonuses in Planning Board Regulations? YES, Density bonus
3. Workforce housing projects approved? YES

Watson Woods: approved prior to workforce housing statute (2004), owner-occupied units. As part of a single-family home development, 30 townhouse units were constructed with 20 designated as affordable. If these units are held by the same owner for 30 years, they may be sold as market rate units; otherwise after each sale the 30-year clock is reset to 0.

Rose Farm with 47 units, 9 affordable (2 at 80% of median income and 7 at 120% of area median income). This project is in court, as an appeal was brought by the abutters. The town is expected to be successful in defending their decision.

Although allowed for in zoning, no other workforce housing units have been built. The town planner is not sure why more units have not been created.

4. Status:

Given the diversity of housing presently existing in the community, the Town Planner believes Exeter has its “fair share” of the region’s need. Reviewing the RPC’s Regional Housing Needs Assessment noted that Exeter had a surplus of 22 units; although it should be noted that the analysis was completed in 2012.

Within the Open Space Development ordinance provisions exist for affordable housing. Within the R1-R4 Districts, 15% bonus is allowed above the yield plan with the requirement that 20% of the units are affordable (15% at 120% of area median income and 5% at 80%). Affordability must be in place for 30 years. Type of home allowed is dependent on the district. Large scale multi-family developments (minimum lot area 25 acres) are allowed in the R1-R4 with approval of a special exception (ZBA). Maximum unit numbers range from 6 – 12 units, with the planning board provided with a waiver for increase building unit count with the addition of open space. If

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there is a provision of “rent to buy”, then there is a 15% density bonus, with 20% of the total units being affordable (15% at 100% of the area median income and 5% at 80% of area income). For rental properties, a 20% density bonus will be provided, with 15% of the units at 100% of area median income and 5% at 60%.

In 2020 a new zoning provision was adopted, Mixed Use Neighborhood Development. This ordinance removes all density requirements within the C1 and WC zones (downtown), increases height limits as well as other provisions. A minimum of 10% of these units (at least one) must be affordable (rental 60% of area median income and 80% for owner-occupied).

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COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area HANOVER / GRAFTON / UVLSRPC / GRAFTON COUNTY

2020 CENSUS POPULATION: 11,870

CONTACT PERSON/TITLE

Rob Houseman – Planning & Zoning Director
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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:
COMMUNITY WITH WORKFORCE HOUSING ORDINANCE

1. Workforce Housing Ordinance? YES
2. Inclusionary zoning or bonuses in Planning Board regs? YES
3. Workforce housing projects approved or denied? APPROVED
4. Status

Hanover is in a unique bubble. Most of the land in downtown Hanover is owned or controlled by Dartmouth College or Dartmouth-Hitchcock Medical Center; however, neither of these corporations have “stepped up to the plate” to try to provide their share of workforce housing. In fact, the two affordable housing projects that currently exist were originally begun with land donated by the Town of Hanover.

At Dartmouth College, there is a severe lack of on-campus beds for students, but the college needs to rehabilitate 700 existing beds before putting new beds into availability. Therefore, even if the college builds 700 new dorm units today, students will be transferred into the new housing until the older dorms are renovated, so there will be a lag time of several years before new dorm beds are truly available.

The Tuck School of Business is a major draw of post-graduate students to Hanover. Many of these students receive financial support from their corporations, and consequently a majority of apartments within the Hanover area command rents of \$3,000 or more per month.

Dartmouth-Hitchcock Medical Center is a major employer in this area. All residents/doctors at the Medical Center are required to live within a 15-minute commute from the hospital. This puts an enormous strain on housing availability, and landlords can demand out-of-scale rents. The Medical Center is not stepping up to the plate to create new housing to meet the demand created by their operation.

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The existing baseline rent in Hanover equals \$1,000 per bedroom, and some properties charge as much as \$3,000 per bedroom due to the cash infusion of post-graduate candidates from the Tuck Business School.

The Town of Hanover has an official Affordable Housing Commission that meets on a regular basis, demonstrating that there is a sincere interest on the part of the local community to find creative ways to provide workforce housing.

The Twin Pines Housing Trust and Habitat for Humanity have helped to manage the continuing affordability requirements for approved projects, i.e. Gile Hill and Summer Park. The Twin Pines Housing Trust owns both developments.

The Gile Hill development has 76 rental units, of which 61 units (1, 2, & 3 bdrm.) are affordable at 50 – 60% of Grafton County median income, and 15 units are rented at market rate. The development is managed by Maloney Properties, and the affordable units are approved for eligibility by Twin Pines Housing Trust.

Summer Park is an elderly affordable rental development of 24 units that was built in the 1970's. Owned and managed by the Twin Pines Housing Trust, the building is slated for major upgrades this year.

Hanover's Affordable Housing Ordinance has adapted to the unique financial situation created by Dartmouth College and Dartmouth-Hitchcock Medical Center. Instead of requiring housing at the workforce housing law statute's standards of 100% median for purchase units and 60% for rentals, Hanover requires applicants to meet 120% of the median income for purchase units, and rentals must meet 80% of median income.

Planning Director Houseman points out that the 2020 proposed legislation to prohibit towns from regulating short-term rentals will be damaging to the Hanover area, because suddenly the Accessory Dwelling Units can be converted to high-income short-term rentals, thus reducing the volume of available long-term rental housing.

Another concern is that the "tiny house" legislation might allow sub-standard building codes, which could result in ineffective construction requirements and reduced heating/cooling and water/sewer standards. Rob Houseman points out that low-income applicants are the ones most at risk for long-term damage if substandard housing codes are allowed.

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COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area HOLLIS / HILLSBOROUGH / NRPC / NASHUA

2020 CENSUS POPULATION: 8,342

CONTACT PERSON/TITLE

Mark Fougere – AICP Town Planner
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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:
COMMUNITY WITH WORKFORCE HOUSING ORDINANCE

1. Workforce Housing Ordinance? YES
2. Inclusionary zoning or bonuses in Planning Board regs? YES
Inclusionary & conditional use permit, approved in 2009.
3. Workforce housing projects approved? YES

A 32-unit owner occupied townhome development (Bella Meadows) was approved in the fall of 2019 with 30% (10 units) of the units set aside for workforce housing. A restrictive covenant will be in place for 30 years for the workforce housing units. Construction is anticipated to start in the spring of 2020. This is the only project that has been approved under the workforce housing ordinance. The approval of this project was extremely controversial and involved numerous meetings; many were standing room only.

Apple Lane: Approved in the 1980's, this 28-unit triples-fourplex, owner occupied project, was approved as a Planned Residential Development. Although the project does not have restrictive covenants in place to limit sale prices, the price of units are well within what is considered as affordable in the region.

4. Status:

The workforce housing ordinance included several provisions to meet the statutory provisions. In the largest zoning district, for cluster housing projects, a 30% density bonus was provided for affordable units. Other provisions of the town's open space/cluster ordinance were waived to accommodate such housing. In addition, provisions were in place to allow workforce housing units within mixed use centers in two commercial zones. Also, within the Town Center zoning district, the conversion of older homes into four units was allowed provided that one of the units was allocated as workforce unit. A multi-family overlay zone was adopted in the southeast area of the community, along the Nashua border. This area has access to town water and up to four units per acre are allowed with the requirement that 30% of owner-occupied units are workforce or 25% of rental units. All workforce housing units must include a 30-year restrictive covenant.

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As a result of the approval of Bella Meadows, three petition zoning changes were submitted for town vote. Against the recommendation of the planning board, they were adopted in 2020. These zoning changes gutted the workforce housing ordinances in the community and based on an opinion from the town's attorney, the community is no longer in compliance with the workforce housing statutory requirements. The Planning Board intends to offer amendments at next year's vote to propose changes to bring the community back into compliance. It should be noted that the zoning ballots were very confusing, and many members of the Board believe voters may have been misunderstood their meaning and intent. In addition, the proponent of the zoning changes initiated an aggressive advocacy campaign to gain support for the petition changes, including a deceptive town wide mailing and a strong social media presence.

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COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area HOOKSETT / MERRIMACK / SNHPC / MERRIMACK COUNTY

2020 CENSUS POPULATION: 14,871

CONTACT PERSON/TITLE

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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:
COMMUNITY WITH WORKFORCE HOUSING ORDINANCE

1. Workforce Housing Ordinance? YES
2. Inclusionary zoning or bonuses in Planning Board regs? YES
Innovative Land Use Ordinance, Conditional Use Permit process.
3. Workforce housing projects approved? Mallard Landing was the first WH development approved by a planning board after the law took effect in 2010.
4. Status:

In May of 2010 the Town adopted Article 16-A Workforce Housing ordinance, which is an Innovative Land Use regulation with a CUP approval process. The use is allowed within the High/Medium/Urban Residential Districts along with Mixed Use Districts 2 & 5. The Planning Board has the authority to relax dimensional and density requirements if it can be demonstrated that exiting requirements frustrate the ability to construct workforce housing. No specific density or dimensional requirements are noted.

The specific workforce housing Conditional Use Permit criteria are:

- a) The Workforce Housing proposal in question is not and cannot otherwise be modified so as to be made economically viable without the specific relief sought.
- b) The lack of economic viability of the Workforce Housing proposal is not the result of economic conditions beyond the control of the Town.
- c) The Workforce Housing proposal in question will be made economically viable should the relief sought be provided.
- d) The Workforce Housing proposal in question is needed in order to assist the Town in satisfying its obligations under RSA 674:59; and 5. Appropriate controls will be provided in order to ensure that each dwelling unit developed as a direct result of the granting of a Conditional Use Permit under authority of this Article will remain Affordable for a period of not less than 30-years.

Town Planner Nicholas Williams provided information about the workforce housing ordinance and workforce housing in general. Nicholas has been with the community for three years. No projects

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

have been approved under the workforce housing ordinance. A number of multi-family projects were approved prior to the Great Recession, with many still under construction today. A large commercial development was planned for Exit 11, but fell through. The Planning Board has had general discussions about rezoning the area to mixed use including adding in a provision requiring workforce housing, but no decisions have been made. The Planning Board is also looking at the Route 3 corridor (Performance Zone) to see if regulatory changes may be appropriate in this area of the community, including the possibility of workforce housing. NeighborWorks did construct a project in 2011 which is 100% affordable (16 units, eight two beds and eight three-bedroom apartments).

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area HUDSON / HILLSBOROUGH / NRPC / NASHUA

2020 CENSUS POPULATION: 25,394

CONTACT PERSON/TITLE

Brian Groth – Town Planning
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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:
COMMUNITY WITHOUT WORKFORCE HOUSING ORDINACE

1. Community already met its obligation/fair share analysis?

No formal position has been taken by the community that they have met their “fair share”, but the existing housing stock has a great variety of unit types including rental and multi-family housing units. In addition, there are a variety of zoning districts offering a range of minimum lot area requirements including 10,000 square foot minimum lot areas.

2. Defeat of Workforce Housing Ordinance? NO
3. Citizen petitions? NO
4. Other?

Inclusionary zoning and adoption of the workforce housing legislation by reference was added multi-family is allowed within the Business District with a minimum lot area requirement of 53,560 square feet which allows for 3 units, each additional unit requires a minimum of 5,000 square feet of buildable land.

An 81-unit multi-family rental development was approved in 2019 that included 12 market rate units and 69 affordable units (60% of area median income). These units were approved in the Business District and no zoning relief was required.

No discussions have taken place at the planning board level noting the need to create workforce housing in the community.

The Town Planner is exploring reviewing downtown zoning districts in order to match existing lot areas/density to the zoning to reduce the number of non-conforming structures in the older areas of the community.

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area JACKSON / CARROLL / NCC / CARROLL COUNTY

2020 CENSUS POPULATION: 1,028

CONTACT PERSON/TITLE

Scott Badger – Vice Chair Jackson Planning Board
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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:
COMMUNITY WITH WORKFORCE HOUSING ORDINANCE

1. Workforce Housing Ordinance? YES
2. Inclusionary zoning or bonuses in Planning Board regs? YES
3. Workforce housing projects approved or denied? NO *(2-3 singles approved)
4. Status

Planning Board Vice-Chair Scott Badger grew up in Jackson, and he says that affordable housing is a serious concern for many in the community. In 2019, the town secured a Municipal Technical Assistance Grant (MTAG) to try to improve on its existing workforce housing ordinance. He says there is a “perfect storm” of difficulties in trying to provide diverse housing, especially for young families. National forests comprise 75% of the land area of Jackson and most of Jackson has very rocky soils. At the same time, Jackson is a historical summer resort area, and many of the dwellings are only occupied during the summer months. Land costs are very high, and it is typical for “bidding wars” to occur when a property comes on the market. During the MTAG process, the Committee realized that the Town would have to be more aggressive in its efforts to create housing opportunities. The end results were the creation of a housing trust and adoption of short-term rentals.

Scott Badger says he personally knows of three restaurants that have had to close all or parts of their dining areas because they cannot find employees who are willing to drive the long distances from other areas to work there. He is also worried about the possibility of losing the elementary school if the town cannot attract young families.

The short-term rental ordinance was adopted in the hope that young families would be able to afford to finance homes by building an ADU and putting it on the short-term rental market. These rentals might also provide seasonal housing for restaurant workers.

Jackson adopted Workforce Housing as an ordinance in 2010. The town also created bonuses consistent with inclusionary housing. These bonuses include:

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

- a) A reduction of frontage from 200 ft. to 150 ft. or 100' on a cul-de-sac. Planning Board Vice-Chair Scott Badger says this is a VERY important bonus in Jackson, because there are few roads that extend beyond developed property lines, and the cost per linear foot is so expensive that obtaining Workforce Housing units is a big financial bonus. Scott Badger says that the "number one" impact for all new subdivisions at Planning Board hearings is the cost of providing required frontage on an approved road.
- b) Developments that provide workforce housing only have to provide 25% open space as opposed to the general requirement of 50% open space.
- c) No more than 12 units of housing in a development shall be developed in any one year. Each collection of 4 building permits shall include 1 "affordable (80% AMI)" unit per 4 units approved. Each collection of 8 building permits shall include 1 "workforce housing (100% AMI)" unit per 4 units approved. A maximum of 12 units per year shall be approved to avoid overtaxing of Town services.
- d) Soils-based lot sizing includes 1 accessory dwelling unit in addition to a 4-bedroom home.

**ASSESSMENT OF COMPLIANCE
WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES**

COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area
JAFFREY / CHESHIRE / SWRPC / CHESHIRE COUNTY

2020 CENSUS POPULATION: 5,320

CONTACT PERSON/TITLE

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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:
COMMUNITY WITHOUT WORKFORCE HOUSING ORDINANCE

1. Community already met its obligation/fair share analysis? NO
2. Defeat of Workforce Housing Ordinance? NO
3. Citizen petitions? NO
4. Other?

Planner Jo Anne Carr says the Planning Board and Economic Development Council are aware of the workforce housing issue, but both boards have been overwhelmed and understaffed due to lack of alternates for the boards. That should be corrected after Town Meeting this year.

In the past 5 years, there have been 47 new single-family homes built, plus 42 renovations of apartments, 7 ADU's, 2 mobile homes, 2 duplexes, and 4 cabin rehabs. She said that all of the construction meets the affordability index, so the Town is adding workforce housing incrementally, but she doesn't think they are meeting the demand.

With Millipore's announcement of a plan for major expansion, Carr has been proactive in mapping water/sewer availability with vacant parcel locations. So far, no developers with appropriate knowledge and experience have come forward. (A local developer told me that one problem is the high property tax rate of \$34.83. This is a real disadvantage for trying to meet the affordability index for new home buyers.)

The Town did get an expansion of the downtown district – mixed use and multi-family allowed by right with relaxed setbacks and lot sizes. To-date, there has been only limited interest because developers and townspeople are waiting for the final decision by the NH DOT on whether to build a major roundabout in the center of Town. The proposed design would require significant takings of land and buildings.

Zoning in the residential districts is restrictive on multi-family units. One zone requires a total of 2 acres for a 6-unit building. Both the Planning Board and Economic Development Council see an issue, but so far, she hasn't been able to get volunteers to serve on a committee to tackle the problem. A unique factor with Jaffrey is the protectiveness the citizenry feels towards protecting Mt. Monadnock. A previous proposal to allow two-family dwellings in the Mountain Zone generated serious opposition from both townspeople and residents of neighboring towns.

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WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES**

COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area
KEENE / CHESHIRE / SWRPC / CHESHIRE COUNTY

2020 CENSUS POPULATION: 23,047

CONTACT PERSON/TITLE

John Rogers – Zoning Administrator/Building & Health Official
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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:
COMMUNITY WITHOUT WORKFORCE HOUSING

1. Community already met its obligation/fair share analysis? NO
2. Defeat of Workforce Housing Ordinance? NO
3. Citizen petitions? NO
4. Other?

John Rogers says that there are density bonuses in their ordinances, but these bonuses are tied to “green building” rather than workforce housing. Currently, there are no inclusionary zoning bonuses or planning board development bonuses for affordable housing.

There was a multi-family workforce housing project back in 2011, where a 24-unit building – City Side Housing – was constructed.

Keene has been approving quite a bit of multi-family housing, approximately 200 units per year, but it is not targeted as “affordable” housing. Rogers estimates that 5 – 6 single-family houses per year meet the affordability index for the region.

Workforce housing is a goal for the city, but it is not a priority currently.

The Keene Housing Authority is a potential resource for managing affordable units.

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area LANCASTER / COOS / NCC / COÖS COUNTY

2020 CENSUS POPULATION: 3,218

CONTACT PERSON/TITLE

Ben Gaetjens-Oleson – Planning & Zoning Coordinator
(603) 788-3391 | planning@lancasternh.org

O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:
COMMUNITY WITHOUT WORKFORCE HOUSING ORDINANCE

1. Community already met its obligation/fair share analysis? NOT SURE
2. Defeat of Workforce Housing Ordinance? NO
3. Citizen petitions? NO
4. Other?

Lancaster adopted a form-based code for its downtown in 2014, following the work of a consultant hired with assistance from a Community Planning Grant from New Hampshire Housing.

Although there is no formally adopted workforce housing ordinance in Lancaster, Planner Ben Gaetjens-Oleson points out that the intent of the citizenry is to provide reasonably priced housing for the community by providing realistic options for development. Throughout Lancaster, the minimum lot size with municipal water and sewer is 10,000 square feet for every use (1 acre is required for lots without utilities). For example, the Residential District allows 1 single-family unit per 10,000 square feet and allows 4 multi-family units per 10,000 square feet with 1 parking space per unit. This translates into a potential of 17 multi-family units per acre.

The Commercial District allows 1 single-family home per 10,000 square feet and allows 2 dwellings per 10,000 square feet. The form-based code, adopted for the Central Business District (CBD) in 2014, increases this density to 3 - 6 units per 10,000 square feet with the stipulation that there be no dwellings on the ground floor of any building. The Code envisions the CBD as a vibrant, multi-use district allowing a variety of uses in proximity to each other.

In the Commercial/Industrial District, multi-family housing is allowed at 2 units per 10,000 square feet. (Single-family homes are allowed only by Special Exception). Again, this density is predicated on availability of municipal sewer and water.

Mr. Gaetjens-Oleson questions whether there is a requirement to adopt a formal workforce housing ordinance if the clear intent of the community is to allow reasonably- priced housing.

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

He began his position in Lancaster in 2009, and he mentions that the residents are quite resistant to some zoning changes. He points out that citizens perceive adoption of “workforce housing” as encouragement of low-income housing, and this term conjures up undesirable visions of public housing “projects” with huge buildings and square block arrangements.

Because of the generous density allowed in most of the zoning districts, Mr. Gaetjens-Oleson was asked whether Lancaster already meets the Town’s fair share of the region’s workforce housing. He stated that he did not know, but he would contact the North Country Council to find out.

**ASSESSMENT OF COMPLIANCE
WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES**

COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area
LEBANON / GRAFTON / UVLSRPC / GRAFTON COUNTY

2020 CENSUS POPULATION: 14,282

CONTACT PERSON/TITLE

David Brooks – Planning & Zoning Director
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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:
COMMUNITY WITHOUT WORKFORCE HOUSING

1. Community already met its obligation/fair share analysis? Maybe
2. Defeat of Workforce Housing Ordinance? NO
3. Citizen petitions? NO
4. Other? - Many extenuating circumstances

Lebanon has a very flexible set of ordinances which basically allow whatever density can be put on the lot where the units fit – i.e. not in wetlands or steep slopes.

There are currently 250 housing units under construction and another 750 units on the drawing board.

The highest density allowed is 13-14 units per acre. Steep slopes and wetlands are currently calculated on a sliding scale. (Former approvals have allowed 94-96 units per acre.)

The Twin Pines Housing Trust administers client approvals for affordable units. However, this Housing Trust cannot accept any further applications.

There is no monitoring system set up to track workforce housing units. The existing density is so huge that it has been too volatile to monitor.

Planning Director David Brooks has had several conversations with NH Housing's George Reagan about this dilemma of categorizing workforce housing units.

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area

LONDONDERRY / ROCKINGHAM / SNHPC / WESTERN ROCKINGHAM COUNTY

2020 CENSUS POPULATION: 25,826

CONTACT PERSON/TITLE

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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:

COMMUNITY WITH WORKFORCE HOUSING ORDINANCE

1. Workforce Housing Ordinance? YES
2. Inclusionary zoning or bonuses in Planning Board regs? YES
Inclusionary, Conditional Use Permit (CUP) process
3. Workforce housing projects approved or denied? YES

Wallace Farm: 240 apartment units; 60 one bedroom & 180 two bedrooms 50% market-rate and 50% workforce housing. 96 units constructed; project was paused for a few years but construction has begun again.

The Residence at MacGregor Cut: 288 apartment units; 35 one bedroom & 252 two bedrooms. 192 units constructed, 24 additional units should be online by the end of March/2020.

4. Status:

In response Londonderry's Housing Task Force Report, (April/2008) as well as the workforce housing statute, the town adopted an inclusionary housing ordinance. The ordinance addressed owner occupied and multi-family housing. The main drawback to the adopted ordinances included: no multi-family buildings larger than 16 units, 75% of the units had to be workforce, and a growth control limit of 3 buildings or 48 units a year. Because of these onerous provisions the construction of "economically viable" housing was not feasible. Therefore, both multi-family cases noted above had to endure an extensive, time consuming and costly ZBA approval process involving months of meetings, appeals and threats of lawsuits in order to obtain approval to move forward.

During the approval process for MacGregor Cut project (2015), a significant backlash against workforce housing in the community developed and the local ordinance were significantly altered. Specific language was added to these amendments that "grandfathered" the MacGregor project, as ZBA approvals were in place, but the applicant was still in front of the planning board. The applicant had pushed for these provisions to make it clear that the project could proceed.

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

The new ordinances allows workforce housing through a CUP procedure. The CUP process requires 51% of the units to be at least two bedrooms, provides the ability to waive density, setbacks, green space, frontage, parking and driveway requirements. Small scale workforce housing (1-4 unit buildings) are allowed in the AR-1 zone. Minimum lot sizes range from 35,000 – 105,000 square feet and depend on utility access. This provision also allows for the conversion of existing structures into 2-4 unit buildings. Multi-family workforce housing is permitted in AR-1 zone when adjacent to commercial/industrial properties, R-III, C1-CIV, MUC, PUD master plan size, & PUD districts. Maximum density is 10 units per acre. The maximum building length is 150 feet and the maximum plane of any building seen from the street is 75 feet.

No workforce housing developments have been approved in the community under the new zoning. No owner-occupied units have been constructed, which has raised concerns in the community. The Town Planner does not know why there has not been an appetite to build these types of units; the lack of enough incentive may be the issue. The biggest single issue she sees relative to workforce housing is staying on top of income verification. Londonderry does not have the staff or expertise to deal with these matters. Londonderry requires private verification but is concerned that if additional projects are constructed that maintaining good oversight may prove challenging.

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area MEREDITH / BELKNAP / LRPC / BELKNAP COUNTY

2020 CENSUS POPULATION: 6,662

CONTACT PERSON/TITLE

John Edgar – Community Development Director
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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:
COMMUNITY WITHOUT WORKFORCE HOUSING ORDINANCE

1. Community already met its obligation/fair share analysis? NO
2. Defeat of Workforce Housing Ordinance? NO
3. Citizen petitions? NO
4. Other?

There are 4 affordable housing rental communities totaling 139 apartments in Meredith, NH. Of these, 82 units are “income-based” apartments where the rent + utilities is no more than 30% of personal income. All of the 139 rental units are subsidized through programs such as HUD Section 8, Low-Income Housing Tax Credit Program through New Hampshire Housing, or some other federal program.

John Edgar, the Community Development Director, says that 3 out of the 4 affordable housing developments were built during the 1970’s, before his tenure began. The Pinecrest Apartments – 32 units – were built in 2009 because the developer, Lakes Region Community Developers, was able to secure funding from New Hampshire Housing for this income-targeted project. In the early 1990’s, there was community pressure to develop workforce housing. Meredith had a taskforce that proposed a set of recommendations, including: density that now allows 10,000 sq. ft. (with water/sewer) per unit in the Residential and Central Business districts; a waiver of increased lot area on single-family lots so that a second unit can be created; a 1-unit density bonus for the Village; and, no cap on the number of multi-family units per building allowed by Special Exception.

The construction market has not responded to the concept of workforce housing. The high cost of land in this resort area has been a major stumbling block. In addition, by using the multi-family zoning requirements, a developer will take the density bonuses and then sell the units as condos – freeing themselves from the ongoing burden of financial management for workforce housing mandates. At this time, there is not any type of housing authority available to accept

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

this responsibility on a long-term basis.

Currently, the Town of Meredith is developing an updated Economic Plan, including a fresh look at workforce housing. A “short-term rental” subcommittee of the Planning Board is studying the impact of Air B&B type rentals in proposed legislation by the NH General Court, and the first Town committee hearing was held on Jan. 25, 2020. The Planning Board feels that lawmakers are sending “mixed messages” to the municipalities by advocating workforce housing on one hand while also proposing to de-regulate short-term rentals. There is a sentiment among committee members that if the short-term rental legislation is passed, it would completely devastate any hope of providing stable, long-term workforce housing for residents.

John Edgar has been exploring the idea of requiring a donation from all market-rate developments to be pooled in order to create a non-profit agency to manage the workforce housing developments, i.e., review all potential sales of single-family units and to review/approve rates for rental units. A separate agency that would accept the challenge of monitoring sales/rental prices might tempt developers to enter the workforce housing development market.

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area NEW LONDON / MERRIMACK / UVLSRPC / MERRIMACK COUNTY

2020 CENSUS POPULATION: 4,400

CONTACT PERSON/TITLE

Adam Ricker – Planner
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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:
COMMUNITY WITH WORKFORCE HOUSING ORDINANCE

1. Workforce Housing Ordinance? YES
2. Inclusionary zoning or bonuses in Plan Bd. regs? YES
3. Workforce housing projects approved or denied? NO
4. Status

Planner Adam Ricker points out several reasons for the lack of built workforce housing projects, even though the Town has adopted a workforce ordinance. He offers some observations, as follows:

- a) Developers are very skeptical of the requirement for a third-party administrator – paid by the developer – to monitor and manage the housing costs for a period of 30 years. There is no housing authority or housing trust in New London. The Twin Pines Housing Trust is the nearest non-profit, but this agency is busy with other projects.
- b) Development bonuses are only available by negotiation with the Planning Board IF the applicant can prove during the Conditional Use Permit process that the adherence to the regular ordinances produces a cost-prohibitive process. There are no automatic density or dimensional bonus incentives available for providing workforce housing units.
- c) Multi-family developments require a 100-foot buffer around the perimeter of the project. This requirement is specific in the zoning ordinance and is not listed as a negotiable item by the Planning Board; however, the Town’s attorney has reviewed it and said that the Planning Board could waive the requirement.
- d) Multi-family housing is only allowed in the R-1 and Commercial zones. Neither zone has much available land, and both zones are almost at maximum development. The remaining available land is cost-prohibitive for workforce housing.

One developer has been working for several years on a design for an integrated market rate and workforce housing project. The developer specializes in graduated-care elderly housing

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

communities with single cottages, attached apartments, and short-term nursing facilities. He wants to provide some workforce housing for the employees needed to staff this large elderly project. After several years of conceptual proposals, a public hearing got a major backlash from a neighboring condo development. The primary objection to the whole project was the inclusion of “subsidized” housing on the campus. Neighbors testified that “that type of people” won’t fit in with New London. The developer has withdrawn his application but hopes to come back in the future.

Adam recommends that all subdivision/site plan legislation in New Hampshire should have some workforce housing as a mandatory requirement in EVERY development. Absent those “teeth” he fears that workforce housing may never gain a foothold.

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area NEWINGTON / ROCKINGHAM / RPC / PORTSMOUTH-ROCHESTER

2020 CENSUS POPULATION: 811

CONTACT PERSON/TITLE

John Krebs – Town Planner
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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:
COMMUNITY WITH WORKFORCE HOUSING ORDINANCE

1. Workforce Housing Ordinance? YES and NO
2. Inclusionary zoning or bonuses in Planning Board Regulations? Multi-family Workforce housing overlay district adopted at the 2020 Town Meeting, Conditional Use Permit (CUP) process.
3. Workforce housing projects approved? NO
4. Status:

In March of 2020 the community adopted a multi-family overlay district that encompasses three properties in town. The Planning Board has the authority to waive height, setbacks, frontage, density, open space and roads. Density is flexible, but 40% of the lot must be open space. 75% of the units are required to be designated as workforce housing. Only three lots are within the district, one owned by the NHDOT.

Sewer is available within the community and primarily serves the commercial & industrial district on the east side of the Turnpike. In 2010, a Town Meeting vote clarified the Sewer District to a specific area of the community.

Given its proximity to Pease, there is groundwater contamination concerns, and all new residential uses must be connected to a public water supply.

Although ADU's are allowed within the R Residential District, no provision exists within zoning to allow for the creation of workforce housing in the largest zoning area.

Planning Board Chair Denis Hebert a noted that land costs in the community are very high and building affordable housing is very challenging. He suggested that if a state agency or non-profit could purchase the land, then maybe units could be added. The issue is too big for the town to address on its own, it is really a regional problem. He also noted a concern relative to impacts to schools. To date, housing is not allowed on Pease and if that restriction could be removed, he believes affordable units could be located there. In addition, the NHDOT has been approached about moving their proposed use to Pease property which is very close to the former drive-in that they recently purchased; this would free up the drive-in property for multi-family development. To date they have not been receptive to this idea.

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area NORTH HAMPTON / ROCKINGHAM / RPC / PORTSMOUTH-ROCHESTER

2020 CENSUS POPULATION: 4,538

CONTACT PERSON/TITLE

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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:

COMMUNITY WITH WORKFORCE HOUSING ORDINANCE

1. Workforce Housing Ordinance? YES
2. Inclusionary zoning or bonuses in Planning Board regs? YES - Inclusionary
3. Workforce housing projects approved or denied? YES (3 units)
4. Status

North Hampton has adopted an Inclusionary Housing Ordinance for workforce housing that is begrudging from its first paragraph. The Preface (Section 604) states that the inclusionary housing ordinance **“shall be in force and effect if and only if the Planning Board has found ... that the housing stock does not equal or exceed the Town’s ‘Fair Share’ of workforce housing.”**

Each year, by April 15th, the Planning Board must make a determination as to whether the town meets or exceeds its fair percentage of the region’s workforce housing. In 2015, North Hampton approved a site plan that allowed 3 units of workforce housing in a stand-alone building in a mixed-use commercial development at 52 Lafayette Road.

The Inclusionary Zoning Ordinance contains a formula to calculate how many workforce housing units must be included in any development invoking this ordinance. When asked about the formula, Planner Rick Milner said he felt it was a moot exercise because the Planning Board has voted that the town meets or exceeds its fair share of workforce housing every year since 2016.

Single-family (including manufactured homes) and duplex workforce housing is allowed by Conditional Use Permit from the Planning Board in the Residential-1 District and the Industrial – Business/Residential District (if municipal sewer available). The Planning Board may grant a density bonus for single-family to allow 1 unit for every 1/3 of an acre, where the underlying zoning requires 2 acres and a reduction in frontage from 175 feet to 100 feet. Duplexes may be allowed on ½ acre of uplands where the underlying zoning requires 2.2 acres and allows for a reduction in frontage from 175 feet to 100 feet.

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

The Planning Board may allow up to 5 multi-family units per 2 acres, where the underlying zoning requires 5 acres for 5 units. If multi-family is constructed on the upper floors of buildings with different ground floor uses, the housing must provide 1-½ acres for 5 units plus the lot area required for the other uses.

A “monitoring agent” must be selected as part of any approval, and the monitoring agent is responsible for certifying income levels and other documentation for workforce housing applicants. This agent shall make an annual written report to the Planning Board.

Applications for workforce housing units for sale must provide a lien for each unit to the Town of North Hampton. Applications for workforce housing multi-family units for rent must also provide a lien for each building to the Town of North Hampton. The initial value of the liens shall be equal to the difference between the fair market value of the unit, as determined by a certified appraiser, and its reduced affordable sale price under this Section 604, which is indexed according to the qualifying income standards.

The Town’s lien shall be increased over its term at a compound rate equal to the Consumer Price Index for Shelter in the Boston metropolitan area.

Future maximum resale values shall be limited to the then current affordability standards for workforce housing. Liens can only be released by petition to the Planning Board.

A review of the Estimated Proportionate Fair Share Workforce Housing Need prepared by the Rockingham Regional Planning Commission for 2010 to 2020 (published in 2012) shows that North Hampton had a deficit of 755 units in 2010. The projection was that that number would drop by 12 units to 743 by 2020 because the Town adopted the workforce housing legislation in 2009. Instead, the North Hampton Planning Board has made several yearly findings that the Town exceeds its fair share.

Jennifer Rowden, a planner with Rockingham RPC and the circuit rider planner serving North Hampton (603) 658-0521, explained that when the North Hampton Planning Board updated their Master Plan, they made a finding that the town already had the requisite number of workforce units (755 from 2010) due to the large numbers of manufactured homes in North Hampton. In fact, the Board felt that there were actually about 900 units of affordable housing, so that North Hampton actually has a surplus (*There is also a 26-unit Section 8 housing development in North Hampton).

Jennifer Rowden points out that the Regional Planning Commission has not updated the information in the spreadsheet in 10 years, and there is no funding available to generate new data. Therefore, the RPC cannot verify North Hampton’s claim to a surplus of workforce housing. Tim Roache, Executive Director, hopes that the task may be funded after the 2020 Census data is available.

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area PELHAM / HILLSBOROUGH / NRPC / NASHUA

2020 CENSUS POPULATION: 14,222

CONTACT PERSON/TITLE

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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:
COMMUNITY WITHOUT WORKFORCE HOUSING ORDINANCE

1. Community already met its obligation/fair share analysis? NO
2. Defeat of Workforce Housing Ordinance? NO (ordinance has never been proposed)
3. Citizen petitions? At the 2020 town vote, the town’s conservation subdivision ordinance, which included provisions for the creation of workforce housing in the town’s rural areas, was deleted through a zoning petition initiative. Although attacking workforce housing was not the primary goal of removing the ordinance, a lot of misinformation was spread about the ordinance which ended up carrying the day.
4. Other Points:
Multi-family units are a permitted use in the Business District, 3-acre minimum lot area which allows for 10 bedrooms. 10,000 square feet of lot area is required for each additional bedroom. No workforce housing provision exists. The land area within the Business District is low quality which limits the number of properties that could take advantage of this ordinance.

Through the years numerous discussions have taken place with the planning board on workforce housing, but there has never been enough support to bring an ordinance to the ballot. The general feeling in the community is that it is not Pelham’s responsibility to provide housing for the region or employers that have businesses in other communities.

A few Planning Board members have latched onto provisions within the Statute, noting the lack of sewer and water in the community as a reason workforce housing is not required. Other Board members have made the claim, without statistical evidence, that the existing housing stock meets the “regional need” and therefore an ordinance is not required.

Within the last few years, a mixed-use proposal was submitted to the Board that include 6 townhome units. The idea was rejected by the Planning Board.

At this time the town is not in compliance with the workforce housing statute and is susceptible to a legal challenge and builder’s remedy.

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area

PETERBOROUGH / HILLSBOROUGH / SWRPC / HILLSBOROUGH COUNTY

2020 CENSUS POPULATION: 6,418

CONTACT PERSON/TITLE

Peter Throop – Community Development Director
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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:

COMMUNITY WITH WORKFORCE HOUSING ORDINANCE

1. Workforce Housing Ordinance? YES
2. Inclusionary zoning or bonuses in Planning Board regs? NO
3. Workforce housing projects approved or denied? NO
4. Status

Director Peter Throop states that any developer is free to building affordable housing in the residential zones, but there seems to be no interest. He said that there is definitely a need for 2-bedroom rental apartments, especially if Millipore expands.

Peterborough's Workforce Housing Ordinance is allowed in all the underlying districts that allow residential housing. Multi-family workforce housing is restricted to those zones that specifically allow multi-family housing, plus the Rural District, where only 1 building per lot is allowed. In the General Residential District, a minimum of 10,000 sq. ft. of lot area per unit is required plus service by public sewer.

The Planning Board may grant a Conditional Use Permit to allow waivers or modifications of a site plan for Workforce Housing, but no specific incentives or bonuses are listed.

The Zoning Ordinance also has a specific section that requires a Special Exception for "low and moderate-income housing". The definition for this is families earning between 50% and 80% of median income for Hillsborough County, so it is separate and distinct from Workforce Housing. This housing is only allowed in 3 zoning districts.

Fiscal impact studies or other requirements for fiscal impacts are not required; however, there is a widespread suspicion by residents over costs of high-density development.

Throop states that the only non-profit in the area to manage workforce housing is the Contoocook Housing Trust, and this housing authority is at capacity. He says that Contoocook has not taken on a new project in 10 years.

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

Traditional Neighborhood Overlay Zone I (TNOZ I) – in 2014, the Peterborough Planning Board adopted the TNOZ I after Plan NH funded, through the Municipal Technical Assistance Grant Program (MTAG), a citizen committee to identify desired development. This overlay allows listed higher density bonuses and reduced setbacks for infill in the downtown areas served by water and sewer. The goals include “creating opportunity for smaller, more energy efficient, and thus more affordable housing.” There is no specific provision to keep this housing affordable.

Traditional Neighborhood Overlay Zone II (TNOZ II) – In 2017, the Planning Board adopted this spin-off of TNOZ I, which would allow reduced residential lot sizes and small-scale neighborhood commercial developments as fill-in developments where sewer is available or can be extended. Like TNOZ I, incentive bonuses are allowed, but no connection to Workforce Housing or affordable housing is required.

Since 2019, there has been a hot debate by some residents get rid of the TNOZ I and TNOZ II ordinances. Citizens objected to such generous density bonuses, such as 2-foot front yard setbacks and allowing commercial businesses mixed with residences. In 2019, a citizen petition was submitted to eliminate TNOZ II and revise TNOZ I. The petition won a simple majority vote at Town Meeting, but a protest petition was filed just before the vote and the petition failed to get a 2/3 majority vote. The sponsors of the original petition filed a lawsuit in Superior Court, and then the Planning Board filed a countersuit. In November 2019, Superior Court ruled that the TNOZ II is now deleted from the zoning ordinance.

For 2020, a citizen petition has been received to eliminate the TNOZ I ordinance. Planning Board members have argued that some Town members just want to stop development, while petition signers argue that the density bonuses are too generous and don't reflect the types of existing housing in the district.

Plan NH, through the MTAG program, is funding a citizen committee over the next 18 months to discuss housing in Peterborough and to draft new ordinances based on continued community engagement and from guidance of the newly revised housing chapter of the Peterborough Master Plan. Peter Throop has resigned and will be leaving at the end of March 2020.

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area PLAINFIELD / SULLIVAN / UVLSRPC / SULLIVAN COUNTY

2020 CENSUS POPULATION: 2,459

CONTACT PERSON/TITLE

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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:
COMMUNITY WITHOUT WORKFORCE HOUSING ORDINANCE

1. Community already met its obligation/fair share analysis? Unknown
2. Defeat of Workforce Housing Ordinance? NO
3. Citizen petitions? NO
4. Other? Using ADUs as Workforce Housing
Plainfield has not adopted a workforce housing ordinance, yet Town Administrator/Zoning Administrator Stephen Halleran maintains that the Town is fulfilling its requirements to provide realistic opportunities for workforce housing through Accessory Dwelling Units.

Mr. Halleran states that the Town's zoning ordinance allows 1 attached ADU per lot by right or 1 detached ADU by Special Exception in four out of five zoning districts.

He also points out that multi-family housing is allowed by Special Exception in 3 out of 5 zoning districts. A review of Plainfield's zoning ordinance describes multi-family housing as a structure consisting of two or more dwelling units. Multi-family development – as part of a PRD approved by the Planning Board – is allowed by Special Exception in 3 zoning districts, but there are no density bonuses or other incentives. The challenge presented to development of multi-family housing is the required minimum lot size, as listed below:

Village Res. = 20,000 sq. ft. w/sewer & water or 40,000 sq. ft. w/out.
1+ residences requires 20,000 sq. ft. per unit. PRD min. = 5 acres.
Rural Res. = 3.5 acres. 2+ residences require 1 added acre per unit. PRD min. = 10 acres.
RC I = 7 acres. 2+ residences require 1 added acre per unit. PRD min. = 10 acres.
RC II = 15 acres. 2+ residences require 1 added acre per unit. PRD min. = 10 acres.

Large lot sizes, no financial criteria, and lack of incentive bonuses make it difficult to acknowledge Plainfield as providing reasonable opportunities for workforce housing.

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area PORTSMOUTH / ROCKINGHAM / RPC / PORTSMOUTH-ROCHESTER

2020 CENSUS POPULATION: 21,956

CONTACT PERSON/TITLE

Juliet Walker – Planning Director
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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:

COMMUNITY WITH WORKFORCE HOUSING ORDINANCE

1. Workforce Housing Ordinance? YES
2. Inclusionary zoning or bonuses in Planning Board regs? YES
3. Workforce housing projects approved or denied? 160 Court Street (in litigation) West End Yards
4. Status

Portsmouth adopted workforce housing language in the Definitions section of the city zoning ordinance in 2015.

The City of Portsmouth has 30 zoning districts/sub-districts plus 8 overlay districts. There are 4 districts that allow workforce housing, including: 2 Gateway Districts and 2 Character Districts. In these districts, where there is an “incentive overlay district”, density bonuses may be granted by the Planning Board as part of a conditional use permit for incorporating either community open space **OR** workforce housing.

The Gateway Corridor Districts allow density to increase from 20 to 36 units per acre. In the Character Districts, certain portions of these districts that fall within the Incentive Overlay Districts (North End Incentive or West End Incentive) are eligible for bonuses. Within these areas, increases in maximum building coverage, minimum lot area, and maximum building height may be granted by the Planning Board for developments that either provide community space **OR** workforce housing. In addition, Article 7 of the zoning ordinance also allows Planned Unit Developments (PUDs) that either feature open space (OS-PUD) density bonuses **OR** workforce housing density and dimensional bonuses.

The West End Yards development was approved in September 2019 and is within the “West End Incentive Overlay District” of the Character 4 District. The project will be located on 12 acres off the Rt. 1 Bypass. Developed by Waterstone Properties, the complex will include 250 loft-style 1, 2, and 3-bedroom apartments, of which 27 units will be workforce housing units. There will also be 20,000 square feet of retail space and 20,000 square feet of office space.

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

The 160 Court Street project is a 64-unit housing complex developed by the Portsmouth Housing Authority in 2017. The development consists of 64 apartments – all of which would qualify as workforce housing. There are 48 one-bedroom units and 16 two-bedroom units. Funding will come from Low-Income Housing Tax Credit Program, New Hampshire Housing grants and loans, and an equity investment on the part of the PHA. Planning Director Juliet Walker points out that this development does NOT meet the Portsmouth incentive bonus standards, and therefore did not receive any incentive bonuses from the Planning Board. Nevertheless, she notes that the city is grateful for any increases in workforce housing. A challenge to the approval was filed in Rockingham Superior Court. The suit alleges that 2 Planning Board members are not actually residents of Portsmouth, and therefore their votes cannot be counted. Superior Court ruled in favor of the Planning Board approval, and the lawsuit proceeded to the NH Supreme Court. On March 9, 2020, the NH Supreme Court ruled in favor of the Planning Board, so the development is now officially approved. Portsmouth Housing Authority Director Craig Welch notes that the delay in time has created a cost increase in materials, and the lawsuit has generated unanticipated legal expenses, so the cost of the project has increased by at least \$1 million.

Discussion with Planning Director Juliet Walker reflects the Planning Department's experience with trying to implement workforce housing. She mentions that in hindsight, she would have emphasized selection of workforce housing instead of a choice of community open space OR workforce housing in developments eligible for density bonuses. She points out that while the 160 Court Street housing project did not qualify for density bonuses under the zoning criteria because of the definitions of workforce housing that were adopted per the State legislation, the city is thrilled to have workforce housing in any capacity. In the PUD ordinance, there have been NO applications for a workforce housing development, despite generous bonuses. Ms. Walker points out that there are almost no large parcels of land remaining available for development in Portsmouth. She also mentions that it would be helpful for municipal planners if the state legislation has some enforcement "teeth" and some funding.

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area RINDGE / CHESHIRE / SWRPC / CHESHIRE COUNTY

2020 CENSUS POPULATION: 6,476

CONTACT PERSON/TITLE

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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:
COMMUNITY WITH WORKFORCE HOUSING ORDINANCE

1. Workforce Housing Ordinance? YES
2. Inclusionary zoning or bonuses in Planning Board regs? YES
3. Workforce housing projects approved or denied? YES
4. Status

The Planning Board in Rindge responded promptly to the workforce housing legislation by incorporating this statute into its Planned Unit Residential Development Regulations (PURD) in 2009.

The PURD regulations include workforce housing for both rental and ownership options, and the workforce dwellings are blended with the market rate units.

In keeping with the rural character of Rindge and the lack of municipal water and sewer, the minimum PURD tract size is 10 acres, and the maximum density is 2.0 acres per residence, regardless of whether the units are in single or multi-unit buildings. However, a 30% density bonus is allowed when workforce housing is included, and all the bonus units must be designated as workforce units.

Planning Director Kirk Stenersen reports that there have been two approved developments under the PURD regulations with workforce housing, plus a new concept plan was submitted in October 2019 for a third development.

The approved “Roberts Landing” project has 10 units in 2 buildings, of which 2 units are workforce housing.

A 27-unit PURD with workforce housing has also been approved; however, an abutter filed an appeal in Superior Court. The issue being litigated was the proposed upgrading of a Class VI road to Class V, which the abutter said denied his expectation of a low traffic impact. The

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

Planning Director says that the Court has ruled in favor of the Planning Board, so he expects this development to begin construction in the spring.

A new proposal by Navian Development of Rindge, NH was submitted for conceptual review in October of 2019. Planning Director Stenersen cautions that this proposal for 66 housing units has only received a conceptual review, and that no formal application has been accepted. The plan for a 110-acre tract offers 66 housing units, of which 40 will be rental units (24 flats and 16 townhouses), and 26 will be single-family residences. A further breakdown identifies 6 single-family residences and 10 multi-family units designated as workforce housing. A mandatory Homeowner Association (HOA) is required to manage and support continued affordability of the workforce units for 30 years.

The Planning Director has expressed his concerns about the ability of the small town of Rindge to monitor rents and sale prices to make sure that the workforce units remain affordable without creating a whole new town department to manage and enforce the Planning Board's financial restrictions.

The Planning Board will be reviewing the PURD regulations to decide whether these regulations will be allowed in all residential zones or just designated districts.

A news article in the October 5, 2019 Keene Sentinel notes that there was a flurry of Facebook entries (more than 200) from local residents after the Navian presentation. It appears that local resident sentiment was mixed – some residents wanted housing where their children could afford to live, while other residents felt that the development might compromise their rural lifestyle. The proposed expansion of Millipore Sigma in nearby Jaffrey was also mentioned.

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area ROCHESTER / STRAFFORD / SRPC / PORTSMOUTH-ROCHESTER

2020 CENSUS POPULATION: 32,492

CONTACT PERSON/TITLE

Jim Campbell – Planning Director
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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:
COMMUNITY WITHOUT WORKFORCE HOUSING ORDINANCE

1. Workforce Housing Ordinance? NO
Given the diverse housing stock the community's median rents (\$1,200 median rent levels – max level \$1,390) and owner-occupied unit costs (\$213,000 median – max \$364,000) are below workforce housing statutory requirements, workforce housing zoning initiatives are not required.
2. Inclusionary zoning or bonuses in Planning Board regs? NO
3. Workforce housing projects approved? NO
4. Status

Rochester provides for a variety of density zoning provisions within its zoning scheme. Four zones allow for multi-family mixed uses, three multi-family zones, six zones that allow for duplexes and a single-family zoning neighborhood that allows for a minimum lot area of 6,000 square feet.

City Planning Director Jim Campbell said the community believes that their housing stock more than provides affordable housing opportunities. Zoning changes have not been amended to “encourage” workforce housing; existing ordinances provide those opportunities. A new zoning amendment is being proposed that eliminates all density requirements within the downtown area with some street sections requiring mixed use developments, but side street areas can be exclusively housing. The goal of this zoning amendment is to expand housing opportunities in the downtown area to support local merchants. In addition, the city recently sold (\$1) a downtown property which will be redeveloped into 52 units of apartments (1 & 2 bedrooms).

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area RYE / ROCKINGHAM / RPC / PORTSMOUTH-ROCHESTER

2020 CENSUS POPULATION: 5,543

CONTACT PERSON/TITLE

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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:

COMMUNITY WITH WORKFORCE HOUSING ORDINANCE

1. Workforce Housing Ordinance? YES
2. Inclusionary zoning or bonuses in Planning Board regs? YES
3. Workforce housing projects approved or denied? YES
2 developments approved

4. Issues

Workforce housing was adopted in 2011 in Rye. There are two districts where workforce housing is allowed – the Multi-family Overlay District and the Conservation Land Development Overlay District.

The language of the Workforce Housing ordinance is found in Section 190-4.2 (6). The section requires at least 20% but not more than 51% of the dwellings in a multi-family development shall be workforce housing (WF) units. In addition, the same ratio shall apply to the number of dwelling units in a multi-family dwelling on a single lot.

A density bonus from 6 units per contiguous upland acre to 8 units per upland acre may be granted by the Planning Board in the Multi-family Overlay District.

The Conservation Land Development Overlay District requires workforce housing. The minimum lot size is 20 acres, and the density is 4 units per acre. A minimum of 20%, and a maximum of 40% of the units are required to be designated as workforce housing (with all the requisite controls for maintenance of the workforce housing price controls). Conservation Land Developments may allow a variety of housing types, including single-family detached dwellings, duplexes, and townhouse-style multifamily units. The Planning Board may award a density bonus of 3-5 dwelling units/acre for excellence in design.

Kimberly Reed, the Planning and Zoning Administrator for Rye, says that to date, there are 2 developments that include workforce housing that have been approved as follows: 1 development has 40 units with 8 workforce housing units. This development is in the process of fulfilling its Planning Board requirements for conditional approval and is expected to begin construction in the spring of 2020. The second approved development has 20 approved units with 4 workforce housing units. This development tried to extend municipal sewer but negotiations were unsuccessful, so the developer has applied for D.E.S. septic system approval. Construction is anticipated for fall 2020.

Ms. Reed comments that land in Rye is too expensive to encourage workforce housing and local developers have urged for it to be kept to a minimum.

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area SALEM / ROCKINGHAM / RPC / LAWRENCE, MA-NH PORTION

2020 CENSUS POPULATION: 30,089

CONTACT PERSON/TITLE

Ross Moldoff – Planning Director
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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:
COMMUNITY WITH WORKFORCE HOUSING ORDINANCE

1. Workforce Housing Ordinance? YES
2. Inclusionary zoning or bonuses in Planning Board Regs? Inclusionary Condition Use Permit process, adopted in 2010.
3. Workforce housing projects approved or denied? YES

Three projects have been approved since the adoption of the workforce housing ordinance. The ordinance was written through a grant obtained from NHHFA, which modified an existing affordable housing ordinance adopted in the 1980's. Two multi-family tax credit projects were approved, phase I was 32 units and phase II were 38 units; all the units were affordable. In addition, two single-family homes from an 8-lot subdivision were set aside as affordable, both homes have a 40-year affordable covenant restriction.

4. Status:

No real push for additional workforce housing in the community. Developers believe it is not worth the hassle. Developers want to build market rate units.

The Planning Board was not in favor of advocating for workforce housing as part of the Rockingham racetrack redevelopment project. When staff raised adding workforce housing as an option, significant push back from the development team occurred.

The Planning Director believes the incentives must be higher to persuade developers to build workforce housing.

Coordinating the oversight and management of the restrictive covenants has been a struggle, the community does not have the staff to deal with this. This is a significant issue that needs to be addressed, communities do not have the resources or staff to properly monitor affordable units.

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area WINDHAM / ROCKINGHAM / SNHPC / LAWRENCE, MA-NH PORTION

2020 CENSUS POPULATION: 15,817

CONTACT PERSON/TITLE

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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances: **COMMUNITY WITH WORKFORCE HOUSING ORDINANCE**

1. Workforce Housing Ordinance? YES
2. Inclusionary zoning or bonuses in Planning Board regs? YES
Inclusionary, Innovative Land Use, Condition Use Permit process, adopted in 2010
3. Workforce housing projects approved or denied? YES

Wentworth Circle: A 10-unit (5 duplexes) project was approved through the Workforce Housing Statute builder's remedy clause, court action. 50% (five) of the units are workforce. ZBA had denied a variance for the property. There was no Workforce Housing Ordinance adopted at the time; efforts to put forth an ordinance were rejected by voters on two occasions.

Cricket Ridge: 12 lot single family home with three homes designated as workforce adopted under the Town's workforce housing ordinance.

New project: 64 Mammoth Road: 10 duplex units, 21 total unit development presently in front of the planning board. Applicant is asking for a waiver to construct duplex units as well as having 30% of the unit's workforce instead of the required 50%.

4. Status:

The community has a Workforce Housing Overlay District (Section 619) zoning provision. This Ordinance is an inclusionary ordinance adopted under the Innovative Land Use statute RSA 674:21 along with a (CUP) conditional use procedure that provides waiver abilities. Within the Residential B, C & Village Center District single family, duplex and multi-family units are allowed. In the Rural District a single-family home or a duplex are allowed on a lot; this can be waived through the Conditional Use Permit process. Fifty percent of all units must be workforce housing, but a waiver provision exists if a financial burden is created. All workforce housing applications must go through a conceptual, design review and final application review process. Any waiver to provisions within the Ordinance can be obtained through the CUP process but the applicant must include "a justification of their necessity and effectiveness in contributing to affordability." Workforce housing units must remain affordable for a 30 period and a third party

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

is required to review/certify affordable owners or renters. Density for workforce housing developments is controlled by NHDES lot sizing requirements.

Community Development Director Rex Norman noted that to date, 8 workforce housing units have been created under the workforce ordinance with another development presently in front of the Planning Board. The Board has had discussions about barriers that may be in still in place that encumber the creation of workforce housing in the community. There is also a stigma in the community as to what workforce housing is, with many people believing it is low-income housing. The Town is presently in court with a landowner over workforce housing with the owner making a claim that the present zoning does not allow for the creation of workforce housing. As a result of questions raised in the community that they may already have their “fair share” of the region’s workforce housing, the Regional Planning Commission has been hired to undertake fair share study which should be completed in April/May 2020. Only a small area of the community has access to public water, although a new water line is being installed along Route 20 which may create housing opportunities.

A local civil engineer about workforce housing in Windham believes a number of barriers exist with the town located in the “Lawrence, MA” HUD metro area which suppresses workforce sale/rent prices within a market where land and construction costs are very high. Finding suitable land is also challenging.

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

COMMUNITY/COUNTY/RPC/HUD Fair Market Rent Area WOLFEBORO / CARROLL / LRPC / CARROLL COUNTY

2020 CENSUS POPULATION: 6,416

CONTACT PERSON/TITLE

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O.S.I. Land Use Regulation Survey- Workforce Housing Ordinances:
COMMUNITY WITH WORKFORCE HOUSING ORDINANCE

1. Workforce Housing Ordinance? YES
2. Inclusionary zoning or bonuses in Planning Board regs? YES
3. Workforce housing projects approved or denied? YES (approved)
4. Status

Wolfeboro has created several initiatives to address affordable housing. There is an “Affordable Non-Profit for Elderly Housing” ordinance, an “Affordable Non-Profit for Workforce Housing” ordinance, and “Inclusionary Density Bonuses”. The elderly housing and workforce housing ordinances allow 4 units per acre by Special Exception with municipal water and sewer. The density bonuses are specific to various financial categories such as low-income rental, moderate-income rental, low-income owner-occupied, and moderate-income owner-occupied dwellings. There are 5 bonus designations, with an average of 15% density bonus available in most categories.

Planning Director Matt Sullivan is pleased with the success of the Harriman Hill workforce housing project. He points out that it was begun by his predecessor, Rob Houseman, and he has benefited from the coalition that Rob built. To date, two phases of rental workforce housing, totaling 48 units, have been built. The apartments are a mixture of 1, 2, and 3-bedroom apartments, which are quite attractive.

There is community excitement about the upcoming Phase III of Harriman Hill. This phase will go before the Planning Board in May and will contain 20 single-family homes for sale under the pricing criteria of the Workforce Housing Ordinance. Each home will offer approximately 1,250 square feet plus a 1-car attached garage, and the units will be detached condominiums.

Matt Sullivan points out that Wolfeboro has been fortunate that various community agencies have recognized the need for affordable housing and have stepped up to the plate. The developer of Harriman Hill is currently a non-profit group named Lakes Region Community Developers. The Harriman Hill project was originally started by the Eastern Lakes Region

ASSESSMENT OF COMPLIANCE WITH THE WORKFORCE HOUSING LAW IN 33 MUNICIPALITIES

Housing Coalition in the mid-2000s. During the planning process (and prior to construction), they partnered with Lakes Region Community Developers. Matt Sullivan points out that that the partnership was based on Lakes Region Community Developer's expertise in development and funding for non-profit housing.

Phase II of Harriman Hill included funding from CDBG, LIHTC, HOME, and CDIP, in addition to traditional financing. Matt Sullivan points out that the margin for being able to produce these units is so slim that he doubts that any for-profit developer can achieve such a result. The Hodges Companies serve as the rental management company and this group verifies the eligibility criteria of applicants.

Other than Harriman Hill, almost no workforce housing units have been submitted for approval. Matt Sullivan states that the roughly 15% density bonuses have not been enough of an incentive to bring developers to the table.

Community leaders have accepted the fact that many Town employees will never be able to afford to live in Wolfeboro. It is simply a fact of life, as it is in other high-income communities such as Conway, Hanover, and Bedford.

A "Short-Term Rental Committee" has been created by the Planning Board. Matt Sullivan points out that short-term rentals are already occurring, and he doesn't see much change even if the State legislation is passed. He points out that the prime short-term rentals are expansive houses on waterfront property, and these same homes have historically been summer rentals.

APPENDIX B

Summary of New Hampshire's Workforce Housing Law: RSA 674:58 - 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

NEW HAMPSHIRE'S WORKFORCE HOUSING LAW

CHAPTER 299, LAWS OF 2008 (SB 342)

AN ACT establishing a mechanism for expediting relief from municipal actions which deny, impede, or delay qualified proposals for workforce housing.

LANGUAGE OF THE LAW AS ADOPTED	EXPLANATION
299:1 Findings and Statement of Purpose.	Section 1 of the law is not codified, but serves as an important purpose statement—a message of the Legislature's reasoning and intent in enacting the law.
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.	The rapid escalation of land and housing costs—particularly since 1995—has been felt by NH businesses as a constraint on growth as they have had difficulty both hiring and retaining qualified employees. Although that is not the exclusive cause of this difficulty, it is one aspect that can be partly mitigated through modification of local land use ordinances to allow for an appropriate level of housing development that is affordable to families of low and moderate incomes.
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.	New Hampshire's housing supply is presently imbalanced—there is an inadequate supply to meet the current and future demand, which has contributed to the rapid increase in housing costs, especially for those families wishing to purchase a home.
III. The purpose of this act is to clarify the requirements of <i>Britton v. Chester</i> (134 N.H. 439 (1991)) and to provide additional guidance for complying with those requirements to local officials and the public.	Codification, but not expansion, of the court's <i>Britton</i> decision has been a policy position of the NHMA for several years. While some of the provisions of this law seem new, they are actually intended to provide definition and clarity that <i>Britton</i> lacked in many respects.
IV. Section 2 of this act 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.	The approach taken in this law is consistent with the general precepts of 'local control' that are important to New Hampshire's municipalities. Instead of imposing a rigid numerical or formulaic standard with specific steps that must be undertaken, the law leaves it up to each individual community to determine how it should meet its general obligation. Some states have chosen to go in other, more prescriptive, directions—New Hampshire's approach keeps it in the hands of its cities and towns.

<p>299:2 New Subdivision; Workforce Housing Opportunities. Amend RSA 674 by inserting after section 57 the following new subdivision:</p>	<p>Section 2 of the law adds four new sections to Chapter 674.</p>
<p>Workforce Housing</p>	
<p>674:58 Definitions. In this subdivision:</p>	
<p>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.</p>	<p>The 30% cost burden (expense/income) is a commonly-used indicator of housing affordability; this was specifically recognized in <i>Britton v. Chester</i>. This should not be confused with the indices use by mortgage lenders to qualify prospective borrowers.</p>
<p>II. “Multi-family housing” for the purpose of workforce housing developments, means a building or structure containing 5 or more dwelling units, each designed for occupancy by an individual household.</p>	<p>This is different from the jurisdictional threshold of 3 units per structure, which serves as the basis for planning board review of multi-family structures for purposes of site plan review (see RSA 674:43)—this definition only means that for purposes of meeting its workforce housing obligation, a municipality may not restrict multi-family structures to 3 or 4 units.</p>
<p>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 feasible the development of sufficient workforce housing to satisfy the municipality’s obligation under RSA 674:59, 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</p>	<p>This term is derived from the <i>Britton v. Chester</i> case. It identifies the factors that should go into a municipality’s analysis of whether it is complying with the law:</p> <p>Can workforce housing be profitably developed in the municipality; i.e., is it “economically viable”?</p> <p>Look at the “collective impact” of all of the land use regulations, including any ordinance adopted under the zoning power (including a growth management ordinance or temporary development moratoria), as well as historic district ordinances, building codes, and subdivision and site plan regulations.</p> <p>Municipalities will not be held responsible for things that are beyond their control, such as the overall real estate market, existing “built out” conditions (note that developed parcels can be redeveloped, but municipalities can only partly control the cost of land), or natural features of the land</p>

<p>affect the economic viability of workforce housing development.</p>	<p>that may preclude development of workforce housing (e.g., steep slopes). To the degree that municipal regulations prevent the development of workforce housing in a setting that would otherwise allow for it, then reasonable and realistic opportunities are not being provided.</p> <p>Note that this is not just a “facial” test, but is also an “as applied” test. This means that municipalities must consider the practical implications of their ordinances and regulations.</p>
<p>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.</p>	<p>This definition recognizes the important differences between the renter and purchaser markets. Those who are ready to enter the purchaser market typically can afford “more house” than a renter can. But by the same token, renter households tend to be smaller—thus, these target standards: ownership housing affordable at 100% area median income (AMI) for a family of four; renter housing affordable at 60% of AMI for a family of three.</p> <p>The geographical areas that are most likely to be useful are the HUD Fair Market Rental Areas (HMFA), for which median incomes indexed by family size are published on an annual basis.</p> <p>“Housing for older persons” permitted under federal and state law does not fall within the definition of “workforce housing”; this law is intended to encourage the development of family housing.</p> <p>Similarly, developments where a majority of the units have fewer than two bedrooms will not qualify—however, a mix of unit sizes may be beneficial by encouraging the creation of neighborhoods with diverse populations.</p> <p>This provision would also count accessory dwelling units (ADU) as workforce housing, even if the ADU had only one bedroom, provided that the primary dwelling had at least two bedrooms.</p>

674:59 Workforce Housing Opportunities.	
<p>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 rental multi-family housing. In order to provide such opportunities, lot size and overall density requirements for workforce housing shall be reasonable. A municipality that adopts land use ordinances and regulations shall allow workforce housing to be located in a majority, but not necessarily all, of the land area that is zoned to permit residential uses within the municipality. Such a municipality shall have the discretion to determine what land areas are appropriate to meet this obligation. This obligation may be satisfied by the adoption of inclusionary zoning as defined in RSA 674:21, IV(a). This paragraph shall not be construed to require a municipality to allow for the development of multifamily housing in a majority of its land zoned to permit residential uses.</p>	<p>This paragraph contains the operative requirement of the law, and relies upon the terms defined above. It applies to any municipality that adopts land use ordinances and regulations pursuant to RSA Chapter 674.</p> <p>Both owner- and renter-occupied housing must be reasonably permitted in the municipality, and this specifically includes renter-occupied multi-family housing.</p> <p>Lot size and density are two of the most critical issues to consider when formulating appropriate ordinance amendments.</p> <p>Workforce housing must be allowed in a majority of the municipality’s land area that is zoned to permit residential uses. Where and how this is to be accomplished is up to the municipality to decide, but inclusionary zoning is specifically recognized as an appropriate tool.</p> <p>Note that even while workforce housing must be allowed in a majority of residentially-zoned areas, multi-family housing need not be so widely allowed—but a municipality must make some reasonable provision for the development of multi-family housing.</p> <p>See paragraph IV for a limitation on this requirement.</p>
<p>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.</p>	<p>For a municipality to validly meet its workforce housing requirement using inclusionary zoning, the provisions of such an ordinance must be economically practicable by a developer. That is, the quid pro quo offered by the municipality in its ordinance must be a bona fide inducement to build workforce housing that is at least equal to the added economic burden carried by the developer by building lower cost housing.</p>
<p>III. A municipality’s existing housing stock shall be taken into consideration in determining its compliance with this section.</p>	<p>Although it is not required to do so, a municipality may wish to undertake a “fair share analysis” to determine whether it has</p>

<p>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, the municipality shall be deemed to be in compliance with this subdivision and RSA 672:1, III-e.</p>	<p>met its obligation under this law. The term “fair share” is taken from the <i>Britton</i> case.</p> <p>But remember that “fair share” considerations are not relevant if a community is providing a reasonable and realistic opportunity for the development of workforce housing. Demonstration that a community has met its fair share is only an affirmative defense—that is, a justified admission that reasonable and realistic opportunities for the development of workforce housing are not being provided in that particular community. A court would view such a claim as rebuttable by evidence presented by an applicant.</p> <p>As enacted here, “fair share” takes both a present and prospective view of the demand for housing in a <i>region</i>. What type of region is appropriate may vary from one community to another: for one, it might be the regional planning commission; for another it might be the labor market area; for yet another, it might be the HUD fair market rental area.</p>
<p>IV. 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.</p>	<p>Even with the enactment of this law, municipalities are still fully able to protect important natural resources, to address septic disposal issues, to make decisions that call for appropriate transportation improvements because of safety considerations, and to impose and enforce necessary codes related to public safety. Workforce housing does not trump environmental and public safety concerns.</p>
<p>674:60 Procedure.</p>	
<p>I. Any person who applies to a land use board for approval of a development that is intended to qualify as workforce housing under this subdivision shall file a written statement of such intent as part of the application. The failure to file such a statement shall constitute a waiver of the applicant’s rights under RSA 674:61, but shall not preclude an appeal under other</p>	<p>This paragraph requires an applicant before any local land use board (planning board, ZBA, historic district commission, agriculture commission, housing commission, building inspector) to file a written statement as part of the application, invoking this workforce housing statute. To be legally effective, this must be done at the outset of filing the application. The practical effect of such a filing is that the developer puts the land use</p>

<p>applicable laws. In any appeal where the applicant has failed to file the statement required by this paragraph, the applicant shall not be entitled to a judgment on appeal that allows construction of the proposed development, or otherwise permits the proposed workforce housing development to proceed despite its nonconformance with the municipality’s ordinances or regulations.</p>	<p>board on notice that it needs to fully examine the effect of its process and conditions of approval on the economic viability of the proposal as a workforce housing development (this is an “as applied” consideration).</p> <p>Failure to file such a declaration means that (1) the applicant is not entitled to the accelerated appeals mechanism in RSA 674:61, II, and (2) the applicant is not entitled to “the builder’s remedy.”</p>
<p>II. If a land use board approves an application to develop workforce housing subject to conditions or restrictions, it shall notify the applicant in writing of such conditions and restrictions and give the applicant an opportunity to establish the cost of complying with the conditions and restrictions and the effect of compliance on the economic viability of the proposed development. The board’s notice to the applicant of the conditions and restrictions shall constitute a conditional approval solely for the purpose of complying with the requirements of RSA 676:4, I(c)(1). It shall not constitute a final decision for any other purpose, including the commencement of any applicable appeal period.</p>	<p>At the end of the approval process, the land use board must give the applicant an opportunity to evaluate the cost of the conditions as a means of demonstrating their impact on the economic viability of the proposed workforce housing development.</p> <p>The period during which an appeal may be filed does not commence at this time, but only after the applicant has been able to evaluate the conditions for their cost implications and to present such findings to the land use board, and the land use board has made a response.</p>
<p>III. Upon receiving notice of conditions and restrictions under paragraph II, the applicant may submit evidence to establish the cost of complying with the conditions and restrictions and the effect on economic viability within the period directed by the board, which shall not be less than 30 days.</p>	<p>The applicant may take at least thirty days to conduct a cost-impact analysis and to respond to the land use board’s conditions; or the applicant may accept the conditions and waive the review period (see III(d) below).</p>
<p>(a) Upon receipt of such evidence from the applicant, the board shall allow the applicant to review the evidence at the board’s next meeting for which 10 days’ notice can be given, and shall give written notice of the meeting to the applicant at least 10 days in advance. At such meeting, the board may also receive and consider evidence from other sources.</p>	<p>The land use board must formally consider the applicant’s response and must give the applicant notice of the meeting at which such consideration will be made. Although not addressed here, it is probably also advisable to give notice to those who were entitled to notice of the application’s initial public hearing. This can be accomplished by continuation from an earlier meeting, provided the applicant’s 30 day review period and the 10 day notice period can be</p>

	accommodated. But in all cases, the applicant must be notified in writing.
(b) The board may affirm, alter, or rescind any or all of the conditions or restrictions of approval after such meeting.	After considering the cost implications of the conditions of approval, the land use board may wish to make changes to allow for the development's economic viability. Any decision should be based on facts that are stated in the board's record.
(c) Subject to subparagraph (d), the board shall not issue its final decision on the application before such meeting, unless the applicant fails to submit the required evidence within the period designated by the board, in which case it may issue its final decision any time after the expiration of the period.	The applicant's failure to submit additional information to the land use board is tantamount to an acceptance of the conditions imposed by the board. There should be no further grounds for appeal on the basis that the conditions render the development economically unviable.
(d) If an applicant notifies the board in writing at any time that the applicant accepts the conditions and restrictions of approval, the board may issue its final decision without further action under this paragraph.	The applicant may accept the conditions imposed by the board, and thereby waive the 30-day review period and also the need for further consideration of the application before rendering a final approval.
674:61 Appeals.	
I. Any person who has filed the written notice required by RSA 674:60, and 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.	At the end of the local process, an applicant proposing a workforce housing development may appeal to superior court, alleging either that the collective impact of the municipality's land use regulations preclude proposed workforce housing development, or that the conditions imposed by the land use board would render it economically unviable. The burden of proof is upon the applicant filing the appeal. If a municipality has determined that it has provided its "fair share" of workforce housing, then it may assert this as an affirmative defense.
II. A hearing on the merits of the appeal shall be held within 6 months of the date on	Unlike other appeals, here the superior court is obliged to hold a hearing on the

<p>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.</p>	<p>merits within 6 months. If the court is unable to do so, it must appoint an impartial referee qualified on the basis of experience in planning and zoning.</p>
<p>III. In the event the decision of the court or referee grants the petitioner a judgment that allows construction of the proposed development or otherwise orders that the proposed development may proceed despite its nonconformance with local regulations, conditions, or restrictions, the court or referee shall direct the parties to negotiate in good faith over assurances that the project will be maintained for the long term as workforce housing. The court or referee shall retain jurisdiction and upon motion of either party affirming that negotiations are deadlocked, the court or referee shall hold a further hearing on the appropriate term and form of use restrictions to be applied to the project.</p>	<p>The “builder’s remedy” may be awarded in certain circumstances (as was done in <i>Britton</i>).</p> <p>If the builder’s remedy is awarded, the parties must work together to determine an appropriate means of ensuring the affordability of the housing units proposed as workforce housing.</p> <p>Failure of the parties to reach accord will cause the court to intervene and find a solution.</p>
<p>299:3 Planning and Zoning; Declaration of Purpose. Amend RSA 672:1, III-e to read as follows:</p>	
<p>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</p>	<p>This amendment to the fundamental statement of purpose for local land use regulation in New Hampshire identifies an important focus—that providing an opportunity for the development of affordable housing is a clear obligation of every municipality. Thus the change of “should” to “shall.” The inclusion of the term “unreasonably” indicates that there are circumstances in which affordable housing development may be discouraged by appropriate use of local regulatory powers (e.g., important natural resource considerations).</p>

<p>prohibited or <i>unreasonably</i> discouraged by use of municipal planning and zoning powers or by unreasonable interpretation of such powers;</p>	<p>The deletion of reference to multi-family structures is intended to avoid confusion between two different definitions of that term: 3 units per structure as a basis for planning board jurisdiction as a site plan under RSA 674:43; and 5 units per structure as workforce housing under RSA 674:58.</p> <p>The deletion of reference to cluster development reflects the contemporary understanding that such types of development are not inherently affordable—they can have certain attributes that help to reduce development costs, but that is not necessarily the case.</p>
<p>299:4 Effective Date. This act shall take effect July 1, 2009.</p>	<p>* This was extended to January 1, 2010 by Chapter 157, Laws of 2009 (HB 321). The later effective date gave municipalities an additional town meeting cycle in which to make necessary changes to their zoning ordinances.</p>

This commentary was prepared by Ben Frost of New Hampshire Housing as a service to New Hampshire’s municipalities. If you have questions about this commentary, please email him at bfrost@nhhfa.org.

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