

## TOWN OF NEWINGTON

### PLANNING BOARD

#### A Voter's Guide to the *PROPOSED* Workforce Housing Overlay Zoning Amendment

January 20, 2020

#### BACKGROUND:

- The Newington Planning Board voted unanimously on January 13, 2020, to hold a public hearing on a Proposed Zoning Amendment – Article XVIII – Workforce Housing Overlay Zoning District. **The Public Hearing is scheduled for January 27, 2020.**
- ALL Municipalities in New Hampshire have been required to provide “reasonable and realistic opportunities for the development of workforce housing, including rental and multi-family housing” since January 1, 2010 upon the effective date of NHRSA §674:58.
- The Newington Planning Board has been examining ways to provide for workforce housing since the Legislature passed the Housing Law, but because of the very limited size of Newington’s Residential Zoning Districts, coupled with the fact that there is no municipal sewer available in the residential zones, achieving higher densities sufficient to create affordable housing in these zones is not possible.
- In an effort to both comply with the Housing Law and provide reasonable opportunities for Workforce Housing, the Planning Board identified three parcels of land (TAX MAP 12 / LOTS 13, 15 and 16) in the Office District that are adjacent to residentially zoned land, within walking distance to the Newington Elementary School AND have the ability to be connected to municipal water and sewer to achieve densities that could make housing affordable as defined by the State of NH.
- The **PROPOSED Zoning Amendment – Article XVIII Workforce Housing Overlay Zoning Amendment** DOES NOT change or modify in ANY way, the existing permitted uses of the parcels of land contained in the Overlay District, but rather “overlays” or permits an additional permitted use – Workforce Housing. Decisions regarding the future uses of these parcels of land will be made by the owners of the land, consistent with the uses permitted in the applicable zoning district
- The adoption of this Workforce Housing Overlay Zoning Ordinance will not change or alter any other permitted uses in any of Newington’s other Zoning Districts.

A copy of the full text of the *proposed* Zoning Amendment is available at the Town office for review.

January 13, 2020

January 16, 2020 (revision #1)

## Article XVIII- Workforce Housing Overlay Zoning District – D R A F T

Section 1. Authority. This Article is adopted in accordance with RSA 674:21, Innovative Land Use Control, and RSA 675:1, II. This section of the Zoning Ordinance authorizes the Planning Board to grant a conditional use permit for Workforce Housing within the Workforce Housing Overlay Zoning District. The Planning Board shall be solely responsible for the interpretation and administration of this section, including the granting of all Conditional Use Permits relative thereto. Any decision made by the Planning Board under this Article may be appealed directly to the Superior Court as is specified in RSA 676:5, III and RSA 677:15.

Section 2. Purpose and Intent of this article is to:

- A. Provide for “workforce housing” as that term is defined in RSA 674:58;
- B. To allow for such workforce housing in multi-family dwellings at a unit density, served by municipal water and sewer, that it will support the construction of such housing, in an area of the Town that is in close proximity to the Town’s Residential Zoning District.

Section 3. The Workforce Housing Overlay Zoning District shall apply to the following lots in the Office Zoning District: the following lots bounded by Shattuck Way and Route 16 on the West side of Route 16: Tax map lot 12-15, 12-16, and 12-13. All uses permitted in the underlying zoning district shall continue to be allowed uses.

Section 4. Conditional Use Permit Criteria.

The following general criteria shall be satisfied in order for the Planning Board to grant a conditional use permit:

- A. Granting the conditional use permit application would meet some public need.
- B. Granting the conditional use permit is in the public interest.
- C. The property in question is reasonably suited for the proposed use.
- D. The project makes appropriate provision for access to the property and for pedestrian safety to ensure public safety and avoid traffic congestion.
- E. The project shall be served by municipal water and sewer.

Section 5. Criteria for Evaluating Conditional Use Permit Applications.

The following specific criteria shall be used by the Planning Board in the evaluation of Workforce Housing Conditional Use Permit applications.

- A. The design of the site, to the extent practicable, preserves natural resources, open space, does not create a hazard to surface or underwater water resources, and minimizes non-point pollution.
- B. The application demonstrates that the project for which the Conditional Use Permit is sought does not impact the health, safety, and general welfare of the Town, and is otherwise in compliance with all requirements of the Zoning Ordinance, Site Plan Regulations and Subdivision Regulations, as applicable to the proposed project.
- C. The applicant has demonstrated that an alternative design for which dimensional relief is sought better achieves the objectives and characteristics of the Overlay District, while not diminishing surrounding property values or the ability of nearby parcels to develop in according with the applicable zoning district.
- D. At least 50% of the Workforce Dwelling Units shall have at least 2 bedrooms.
- E. The project shall be designed to provide a minimum of 75% of the units meeting the definition of "workforce housing" per RSA 674:58; no more than 25% of the project units shall be market rate housing units.
- F. All workforce units must be designed in such a way as to be indistinguishable (architecturally) from any "market rate" units included in the development.
- G. All workforce housing units must be completed and made available for sale or rental before (the larger of) the final 10% or the final 3 market-rate units are approved for occupancy within the development.
- H. Permitted multi-family density shall be dictated by the amount of available land area after deducting the requisite Open Space.
- I. The number of dwelling units in each building shall be determined by current fire, safety and building codes.
- J. Dimensional requirements:
  - 1. Minimum structure setbacks from the perimeter of the development lot shall be as follows: front-40 feet; side-35 feet; rear-30 feet.
  - 2. The maximum building height shall be flexible, based on the recommendations of the building inspector and fire chief. No building shall exceed 3 stories.

3. The development shall have a minimum frontage on a state highway or a Town road of at least one hundred feet (100') in the aggregate, which may consist of two (2) fifty foot (50') rights-of-way serving as access to the development lot.
  4. The dimensional and use standards set forth in this Article shall supersede the underlying zoning districts upon the granting of a conditional use permit.
- K. Open Space. No less than the 40% of the area calculated below shall be retained as unoccupied space free of buildings, parking and pavement, including street access, drives and walks paved with impervious materials (but such unoccupied open space may include so-called nature walk areas and other recreational uses approved by the Planning Board). Open space shall be owned by undivided interests appurtenant to lot ownership. Such open space shall either be maintained in its natural state (except for walking paths or other uses approved by the Planning Board) or shall have appropriate landscaping of grass, shrubbery, trees, flowers, or suitable ground cover indigenous to the area.
- L. Road design. Internal roads shall conform to the Town standards for roads in new subdivisions as required by the most recent version of the Town Subdivision Regulations.
- M. Perimeter buffer. A perimeter buffer to separate and screen incompatible land uses shall surround the development lot except where streets enter the lot. The buffer shall include a combination of physical space and vertical elements such as plants, berms, trees, fences or walls, as approved by the Planning Board.

#### Section 6: Dimensional Relief by Conditional Use Permit for Multi-Family Workforce Housing.

- A. The Planning Board may, through the granting of a Conditional Use Permit, adjust the standards of any dimensional requirement for workforce housing (for example, building height, setbacks, frontage, roads and driveways, unit density, open space or parking). Such adjustments shall not require a variance.
- B. The conditional use permit shall set forth all conditions of approval and shall clearly list all plans, drawings and other submittals that are part of the approval. Everything shown or otherwise indicated on a plan or submittal that is listed on the conditional use permit shall be considered a condition of approval. All representations made by the applicant or its representatives during the public hearing process shall be considered to be conditions of approval if such representations are accepted or otherwise relied upon by the Planning Board. Such site or subdivision plans submitted by the applicant and approved by the Planning Board, as applicable, shall be signed by the Chairman of the Planning Board.

Section 7. Parking.

- A. Parking areas shall be designed in accordance with the parking requirements set forth in the zoning ordinance or site plan regulations, as applicable.
- B. No parking shall be located between the front lot line and the front plane of the building(s) closest to the existing Town or state road that provides access to the property.

Section 8. Conditions of Approval.

- A. Pursuant to RSA 674:21, II, the Planning Board is hereby authorized to grant Conditional Use Permits for Workforce Housing development projects as provided in this Article. In granting such permits, the Board may attach reasonable conditions, or waive or modify any of the requirements of this section, if specific circumstances relative to the proposal indicates that a waiver will properly carry out the spirit and intent of the ordinance.



# NEW HAMPSHIRE'S WORKFORCE HOUSING LAW

## RSA 674:58 through 61

### THE LAW'S CORE MEANING

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

### LAND USE BOARD PROCESS

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

### APPEALS

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

### DEFINITIONS

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

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

5.2019



### NEW HAMPSHIRE HOUSING FINANCE AUTHORITY

32 Constitution Drive, Bedford, NH 03110  
Mail: PO Box 5087 Manchester, NH 03108

603.472.8623  
NHFA.org



# 2019 Workforce Housing Purchase and Rent Limits, RSA 674:58 - 61

This is an update to information that New Hampshire Housing provided to the Legislature in 2008 as it deliberated on the Workforce Housing statute. The purpose of this table is to assist municipalities in implementing the NH Workforce Housing statute, RSA 674:58 - 61. This analysis incorporates statutory requirements, and includes reasonable market assumptions for the targeted households' income levels such as interest rate, downpayment, mortgage term, taxes, and insurance. Please note that this table provides information about the estimated maximum affordable amounts for purchase and rent.

## Ownership

100% of 2019 HUD Median Area Income  
Family of four

Income  
Estimated  
Maximum  
Affordable  
Purchase Price <sup>1</sup>

## Renters

60% of 2019 HUD Median Area Income  
Adjusted for a family of three

Income  
Estimated  
Maximum  
Affordable  
Monthly Rent <sup>2</sup>

### HUD Metropolitan Fair Market Rent Areas (HMFA):

Boston-Cambridge-Quincy MA-NH	\$113,300	\$397,000	\$61,180	\$1,530
Hillsborough Co. NH (Part)	\$89,700	\$278,500	\$48,440	\$1,210
Lawrence, MA-NH	\$102,100	\$335,000	\$55,130	\$1,380
Manchester, NH	\$88,600	\$293,000	\$47,840	\$1,200
Nashua, NH	\$102,900	\$336,500	\$55,570	\$1,390
Portsmouth-Rochester, NH	\$94,300	\$312,500	\$50,920	\$1,270
Western Rockingham Co, NH	\$109,500	\$363,000	\$59,130	\$1,480

### County Fair Market Rent Areas (Non Metro):

Belknap County	\$77,800	\$263,500	\$42,010	\$1,050
Carroll County	\$68,800	\$248,000	\$37,150	\$930
Cheshire County	\$77,300	\$233,000	\$41,740	\$1,040
Coos County	\$61,200	\$182,500	\$33,050	\$830
Grafton County	\$89,900	\$292,000	\$48,550	\$1,210
Merrimack County	\$92,700	\$293,500	\$50,060	\$1,250
Sullivan County	\$73,600	\$221,500	\$39,740	\$990

<sup>1</sup> Estimated maximum price using 30% of income, 5% down payment, 30 year mortgage at 4.31%, 0.5 points, PMI, and estimated 2019 taxes for the area and hazard insurance.

<sup>2</sup> Estimated maximum gross monthly rental cost (rent + utilities), using 30% of income.