

Implementing the Workforce Housing Law

The New Hampshire Workforce Housing law (RSA 674:58-61; Chapter 299, Laws of 2008 (SB 342)) requires all municipalities to provide “reasonable and realistic opportunities” for the development of homes that are affordable to low and moderate income families. The law is intended to address a statewide shortage of affordable housing, recognized by the Legislature as posing a threat to the state’s economic growth, presenting a barrier to the expansion of the state’s labor force, and undermining state efforts to foster a productive and self-reliant workforce.

Municipal Responses

Municipal responses to the workforce housing law have been very promising. Starting with town meetings in 2009 and continuing into this year, several dozen communities have adopted zoning provisions aimed at providing opportunities for the development of workforce housing.

Because of the Workforce Housing statute’s inherent flexibility, communities are developing different strategies to meet its requirements, given their own unique circumstances—such as the nature of the local real estate market, existing patterns of development, and peculiarities of the local land use regulations. But the approaches that are being taken can be roughly categorized.

- **Inclusionary Zoning:** Several communities have adopted density bonuses or other similar incentives for developers who are willing to allocate a particular percentage of a development toward workforce housing. At the same time, these communities also require the recording of covenants to ensure the long-term affordability of workforce housing.
- **Accessory Dwelling Units:** Many communities, particularly smaller and

more rural towns, are adopting standards for accessory apartments or modifying existing standards to make them easier to use. Accessory apartments not only provide an important supply of affordable housing, but they also make homes more affordable to their owner-occupants by providing a regular supply of income. Additionally, as homeowners age they may find that they prefer living in the accessory apartment and renting out the larger portion of the home as their living needs change.

- **Regulatory Flexibility:** In addition to inclusionary zoning, some communities have enacted flexible development standards that allow a workforce housing developer to identify the local regulatory provisions that unnecessarily add costs to a development, and that grant the local planning board the authority to waive those provisions in appropriate circumstances. Once adopted by a community, this flexibility may be exercised through existing statutory provisions for “conditional use permits” granted by planning boards.
- **Multi-family Housing:** the Workforce Housing law requires that multi-family housing of at least five units per structure be allowed in some location in each community. As a result, some municipalities have chosen to change their definitions, because they had historically not allowed multi-family housing at all or limited it to three- or four-unit structures. Some are establishing a maximum number of units in structures (such as five or eight). Generally, the standards that are being imposed seem consistent with patterns of development that would be expected in such communities. For example, very large structures would seem “out of character” in more rural communities, whereas larger towns could

more comfortably accommodate such structures, both from an aesthetic standpoint and also meeting public safety concerns, particularly local fire protection capacity.

Some communities, particularly smaller ones, have found that they have only needed to make minor changes to their regulations, such as altering their road construction standards to allow for more economical construction, and that they have not needed to amend their zoning ordinances. Others have evaluated their ordinances and regulations and concluded that they are already providing reasonable regulatory opportunities for the development of economically viable workforce housing.

Builders and developers are also beginning to understand the implications of the Workforce Housing law, and to evaluate its advantages and drawbacks. While the law does provide developers with certain tools, such as an

accelerated appeals process, it also can impose significant requirements. These include increased financial scrutiny by local land use boards and restrictions requiring long-term affordability. The law does not allow developers to circumvent the local planning process. As a result of these requirements, some developers choose not to use the law's provisions. But others are finding that their proposals for high-quality affordable housing are being approved in communities that would have previously rejected them. Progress is being made.

To date over 50 communities have made regulatory changes as a result of the Workforce Housing law. The list below is based on anecdotal reports and newspaper accounts. It is not an assessment of the *quality* of the municipalities' efforts at meeting the law's requirements, only that these communities have made some zoning and other regulatory changes in response to the law.

Local Regulatory Responses to the Workforce Housing Law

2009

1. Alton
2. Amherst
3. Atkinson
4. Auburn
5. Bedford
6. Brookfield
7. Brookline
8. East Kingston
9. Fitzwilliam
10. Freedom
11. Goffstown
12. Hampton Falls
13. Hollis
14. New London
15. North Hampton
16. Pelham
17. Rindge
18. Wolfeboro

2010

19. Barrington
20. Bennington
21. Brentwood
22. Canterbury
23. Chichester
24. Dublin
25. Effingham
26. Epping
27. Hooksett
28. Jackson
29. Kensington
30. Londonderry
31. Loudon
32. Madison
33. Mason
34. New Durham
35. Nottingham
36. Plainfield
37. Rye
38. Salem

39. Sandown
40. Sandwich
41. Sharon
42. Stratham
43. Sunapee
44. Tuftonboro
45. Warner

2011

46. Barrington
47. Dunbarton
48. Grantham
49. Nelson
50. Springfield

2012

51. Bradford
52. Windham

2013

53. Wakefield

