

# TITLE LXIV

## PLANNING AND ZONING

### CHAPTER 672

### GENERAL PROVISIONS

#### Purpose

#### Section 672:1

##### **672:1 Declaration of Purpose. –**

The general court hereby finds and declares that:

- I. Planning, zoning and related regulations have been and should continue to be the responsibility of municipal government;
- II. Zoning, subdivision regulations and related regulations are a legislative tool that enables municipal government to meet more effectively the demands of evolving and growing communities;
- III. Proper regulations enhance the public health, safety and general welfare and encourage the appropriate and wise use of land;
- III-a. Proper regulations encourage energy efficient patterns of development, the use of solar energy, including adequate access to direct sunlight for solar energy uses, and the use of other renewable forms of energy, and energy conservation. Therefore, the installation of solar, wind, or other renewable energy systems or the building of structures that facilitate the collection of renewable energy shall not be unreasonably limited by use of municipal zoning powers or by the unreasonable interpretation of such powers except where necessary to protect the public health, safety, and welfare;
- III-b. Agriculture makes vital and significant contributions to the food supply, the economy, the environment and the aesthetic features of the state of New Hampshire, and the tradition of using the land resource for agricultural production is an essential factor in providing for the favorable quality of life in the state. Natural features, terrain and the pattern of geography of the state frequently place agricultural land in close proximity to other forms of development and commonly in small parcels. Agricultural activities are a beneficial and worthwhile feature of the New Hampshire landscape. Agritourism, as defined in RSA 21:34-a, is undertaken by farmers to contribute to both the economic viability and the long-term sustainability of the primary agricultural activities of New Hampshire farms. Agricultural activities and agritourism shall not be unreasonably limited by use of municipal planning and zoning powers or by the unreasonable interpretation of such powers;
- III-c. Forestry, when practiced in accordance with accepted silvicultural principles, constitutes a beneficial and desirable use of New Hampshire's forest resource. Forestry contributes greatly to the economy of the state through a vital forest products industry; and to the health of the state's forest and wildlife resources through sustained forest productivity, and through improvement of wildlife habitats. New Hampshire's forests are an essential component of the landscape and add immeasurably to the quality of life for the state's citizens. Because New Hampshire is a heavily forested state, forestry activities, including the harvest and transport of forest products, are often carried out in close proximity to populated areas. Further, the harvesting of timber often represents the only income that can be derived from property without resorting to development of the property for more intensive uses, and, pursuant to RSA 79-A:1, the state of New Hampshire has declared that it is in the public interest to encourage preservation of open space by conserving forest and other natural resources. Therefore, forestry activities, including the harvest and transport of forest products, shall

not be unreasonably limited by use of municipal planning and zoning powers or by the unreasonable interpretation of such powers;  
III-d. For purposes of paragraphs III-a, III-b, III-c, and III-e, "unreasonable interpretation" includes the failure of local land use authorities to recognize that agriculture and agritourism operations or activities as defined in RSA 21:34-a, forestry, renewable energy systems, and commercial and recreational fisheries, when practiced in accordance with applicable laws and regulations, are traditional, fundamental and accessory uses of land throughout New Hampshire, and that a prohibition upon these uses cannot necessarily be inferred from the failure of an ordinance or regulation to address them;

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 shall not be prohibited or unreasonably discouraged by use of municipal planning and zoning powers or by unreasonable interpretation of such powers;

III-f. New Hampshire commercial and recreational fisheries make vital and significant contributions to the food supply, the economy, the environment, and the aesthetic features of the state of New Hampshire, and the tradition of using marine resources for fisheries production is an essential factor in providing for economic stability and a favorable quality of life in the state. Many traditional commercial and recreational fisheries in New Hampshire's rivers and estuarine systems are located in close proximity to coastal development. Such fisheries are a beneficial and worthwhile feature of the New Hampshire landscape and tradition and should not be discouraged or eliminated by use of municipal planning and zoning powers or the unreasonable interpretation of such powers.

[Paragraph III-g effective July 1, 2025.]

III-g. The state receives many economic and social benefits from its post-secondary educational institutions. Post-secondary students rely on a balanced and diverse supply of housing in settings conducive to each student's needs. Establishment of student housing which is safe and affordable is in the best interests of certain communities and the state of New Hampshire.

IV. The citizens of a municipality should be actively involved in directing the growth of their community;

V. The state should provide a workable framework for the fair and reasonable treatment of individuals;

V-a. All families of the state benefit from a balanced and diverse supply of affordable child care in a setting conducive to each child's and family's needs. Establishment of child care which is safe and affordable is in the best interests of each community and the state of New Hampshire and serves a vital public need. Opportunity for development of all types of home-based care (family care and group family care) shall be allowed as long as all requirements for such programs adopted in rules of the department of health and human services (He-C 4002) are met. Family or group family child care shall be allowed as an accessory use to any primary residential use and shall not be subject to local site plan review regulations in any zone where a residential use is permitted; and

VI. It is the policy of this state that competition and enterprise may be so displaced or limited by municipalities in the exercise of the powers and authority provided in this title as may be necessary to carry out the purposes of this title.

**Source.** 1983, 447:1. 1985, 68:1; 335:3; 369:1. 1989, 42:1; 170:1. 1990, 174:1; 180:1, 2. 1991, 198:1. 2002, 73:1. 2008, 299:3, eff. Jan. 1, 2010; 357:2, 3, eff. July 11, 2009. 2016, 267:2, 3, eff. June 16, 2016. 2019, 338:4, eff. Sept. 5, 2019. 2024, 260:1, eff. July 1, 2025; 271:1, eff. Sept. 24, 2024.

# TITLE LXIV

## PLANNING AND ZONING

### CHAPTER 674

### LOCAL LAND USE PLANNING AND REGULATORY POWERS

#### Zoning

#### Section 674:16

##### **674:16 Grant of Power. –**

I. For the purpose of promoting the health, safety, or the general welfare of the community, the local legislative body of any city, town, or county in which there are located unincorporated towns or unorganized places is authorized to adopt or amend a zoning ordinance under the ordinance enactment procedures of RSA 675:2-5. The zoning ordinance shall be designed to regulate and restrict:

- (a) The height, number of stories and size of buildings and other structures;
- (b) Lot sizes, the percentage of a lot that may be occupied, and the size of yards, courts and other open spaces;
- (c) The density of population in the municipality; and
- (d) The location and use of buildings, structures and land used for business, industrial, residential, or other purposes.

II. The power to adopt a zoning ordinance under this subdivision expressly includes the power to adopt innovative land use controls which may include, but which are not limited to, the methods contained in RSA 674:21.

III. In its exercise of the powers granted under this subdivision, the local legislative body of a city, town, or county in which there are located unincorporated towns or unorganized places may regulate and control the timing of development as provided in RSA 674:22.

IV. Except as provided in RSA 424:5 or RSA 422-B or in any other provision of Title XXXIX, no city, town, or county in which there are located unincorporated towns or unorganized places shall adopt or amend a zoning ordinance or regulation with respect to antennas used exclusively in the amateur radio services that fails to conform to the limited federal preemption entitled Amateur Radio Preemption, 101 FCC 2nd 952 (1985) issued by the Federal Communications Commission.

V. In its exercise of the powers granted under this subdivision, the local legislative body of a city, town, or county in which there are located unincorporated towns or unorganized places may regulate and control accessory uses on private land. Unless specifically proscribed by local land use regulation, aircraft take offs and landings on private land by the owner of such land or by a person who resides on such land shall be considered a valid and permitted accessory use.

VI. In its exercise of the powers granted under this subdivision, the local legislative body of a city, town, or county in which there are located unincorporated towns or unorganized places shall, as described in RSA 672:1, V-a, allow home-based care (family care and group family care) by right or pursuant to a conditional use permit as long as all requirements for such programs adopted in rules of the department of health and human services (He-C 4002) are met. Family or group family child care shall be allowed as an accessory use to any primary residential use and shall not be subject to local site plan review in any zone where a primary residential use is permitted. If all requirements of the department of health and human services are met, but an application for a conditional use permit is pending with the municipality in which the home-based child care facility is

located, an applicant may begin operation during such time until the permit is granted or denied.

[Paragraph VII effective January 1, 2025.]

VII. In its exercise of the powers granted under this subdivision, the local legislative body of a city, town, or county in which there are located unincorporated towns or unorganized places may regulate accessory parking for vehicles, but shall not require more than 1.5 residential parking spaces per unit for studio and one bedroom units under 1000 square feet that meet the requirements for workforce housing under RSA 674:58, IV, and shall not require more than 1.5 residential parking spaces per unit for multi-family developments of 10 units or more.

**Source.** 1983, 447:1. 1985, 103:19. 1989, 266:14, 15. 1995, 176:1. 1996, 218:1, eff. Aug. 9, 1996. 2024, 271:2, eff. Sept. 24, 2024; 370:1, eff. Jan. 1, 2025.