

SB 538-LOCAL - AS INTRODUCED

2024 SESSION

24-3120

10/08

SENATE BILL

538-LOCAL

AN ACT

relative to zoning procedures concerning residential housing.

SPONSORS:

Sen. Perkins Kwoka, Dist 21; Sen. Watters, Dist 4; Sen. Soucy, Dist 18; Sen. Rosenwald, Dist 13; Sen. Fenton, Dist 10; Sen. Whitley, Dist 15; Sen. Chandley, Dist 11; Sen. Prentiss, Dist 5; Sen. Altschiller, Dist 24; Sen. D'Allesandro, Dist 20; Rep. Alexander Jr., Hills. 29; Rep. D. Paige, Carr. 1; Rep. DiLorenzo, Rock. 10

COMMITTEE:

Election Law and Municipal Affairs

ANALYSIS

This bill establishes a tax relief program for office conversion to residences; enables municipalities to allow its governing body to adopt certain zoning ordinance changes; and adds additional authority in zoning powers for parking requirements and lot size requirements related to sewer infrastructure.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~[in brackets and struckthrough.]~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to zoning procedures concerning residential housing.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Short Title. This act shall be known as "The HOMEnibus".

2 2 Community Revitalization Tax Relief Incentive; Tax Relief. Amend RSA 79-E:2, VI(a) to read
3 as follows:

4 (a) For a qualifying structure, that for a period of time determined by a local governing
5 body in accordance with this chapter, the property tax on a qualifying structure shall not increase as
6 a result of the substantial rehabilitation thereof **or conversion from office use to residential use.**

7 3 New Section; Community Revitalization Tax Relief Incentive; Office Conversion Zones Added.
8 Amend RSA 79-E by inserting after section 4-c the following new section:

9 79-E:4-d Office Conversion Zones.

10 I. A city or town may adopt the provisions of this section by vote of its legislative body,
11 according to the procedures described in RSA 79-E:3, to establish tax relief for the owners of a
12 building or structure currently being used for office use, in whole or in part, if such use is converted
13 to residential use, in whole or in part.

14 II. The governing body of a municipality shall designate the area of office use in which the
15 tax relief for qualifying structures shall apply. Municipalities may further establish criteria for the
16 public benefits, goals, and measures that will determine the eligibility of qualifying structures for
17 tax relief located within a designated office conversion zone. For the purposes of this section, "office
18 use" means buildings or structures used or intended for use in whole or in part for the practice of a
19 profession, the carrying on of a business or occupation or the conduct of a non-profit organization or
20 government entity. "Office use" also includes co-working spaces.

21 III. Municipalities may grant tax relief to the qualifying structure and property as described
22 in RSA 79-E:4 for the period of tax relief under RSA 79-E:5, provided that no property may be
23 granted tax relief under this chapter more than once in a 20 year period.

24 4 New Subparagraph; Definition of Qualifying Structure. Amend RSA 79-E:2, II by inserting
25 after subparagraph (f) the following new subparagraph:

26 (g) In a city or town that has adopted the provisions of RSA 79-E:4-d, "qualifying
27 structure" also means a building or structure being used for office use, in whole or in part, if such
28 use is converted to residential use, in whole or in part, in an office conversion zone established under
29 RSA 79-E:4-d.

30 5 Zoning; Words Defined; Local Legislative Body. Amend RSA 672:8 to read as follows:

31 672:8 Local Legislative Body.

I. "Local legislative body" means one of the following basic forms of government utilized by a municipality:

~~[I.]~~ (a) Council, whether city or town;

~~[II.]~~ (b) Mayor-council;

~~[III.]~~ (c) Mayor-board of aldermen;

~~[IV.]~~ (d) Village district or precinct;

~~[V.]~~ (e) Town meeting; or

~~[VI.]~~ (f) County convention.

II. *In non-charter towns, village districts, and counties which there are located unincorporated places that have adopted the authority provided in RSA 674:18-a for the approval of amendments to zoning ordinances or bylaws and the local zoning map, the term "local legislative body" shall mean local governing body as defined in RSA 672:6 solely for the purpose of adopting amendments to a zoning ordinance or local zoning map.*

6 New Section; Adoption of Zoning Ordinances; Alternative Procedure. Amend RSA 674 by inserting after section 18 the following new section:

674:18-a Alternative Procedure for Adoption of Zoning Ordinances.

I. Any non-charter town, village district, or county in which are located unincorporated places, may adopt the provisions of this section by placing the question on the warrant of a special or annual meeting, by the governing body or by petition pursuant to RSA 39:3, or otherwise by acting upon the question of adoption of this section in accordance with its normal procedures for passage of ordinances.

II. Upon adoption, the local governing body shall be authorized to adopt amendments to the local zoning ordinances and the local zoning map by majority vote of the governing body after at least one full public hearing that complies with RSA 675:7, without a vote by the usual local legislative body or by a vote of voters in the jurisdiction.

III. The procedure for adoption of amendments to zoning ordinances or bylaws and the zoning map under this section shall be construed to be an adoption by the local legislative body as defined in RSA 672:8.

7 Planning and Zoning; Grant of Powers; Lot Size Requirements and Sewer Infrastructure. Amend RSA 674:16, I(b) to read as follows:

(b)(I) Lot sizes, the percentage of a lot that may be occupied, and the size of yards, courts and other open spaces, *provided that:*

(A) *In a majority of land area that is zoned to permit single-family residential uses in a municipality, for lots not serviced by municipal or community sewer infrastructure no ordinance shall require lot sizes for single-family residential uses larger than is required by the department of environmental services for individual sewage disposal systems pursuant to RSA 485-A and administrative rules Env-Wq 1000. In*

1 *determining what constitutes a majority of land area zoned for residential uses, the*
2 *municipality may include areas serviced by municipal sewer infrastructure; and*

3 *(B) For lots serviced by municipal or community sewer infrastructure, no*
4 *ordinance shall require lot sizes greater than 10,000 square feet for single-family*
5 *residential uses, provided there is adequate sewage system capacity to accommodate*
6 *development on such lots.*

7 *(2) The requirements in subparagraphs (1)(A) and (B) shall not be construed*
8 *to limit the potential for development of lots created prior to July 1, 2024;*

9 8 New Section; Local Land Use and Regulatory Powers; On-site Parking Requirements. Amend
10 RSA 674 by inserting after section 16 the following new section:

11 674:16-a On-site Parking Requirements.

12 I. In this section:

13 (a) "Residential use" means lands, buildings or structures or portions thereof used,
14 designed, or intended for non-transient occupancy.

15 (b) "On-site parking requirements" means the required number of on-site parking
16 spaces, the maximum distance of the parking spaces from the proposed use, the dimensions of the
17 parking spaces, the angle of the parking spaces, and the hours of the day the parking spaces must be
18 available as required by a zoning ordinance, site plan review regulation, subdivision regulation, or
19 innovative land use control.

20 (c) "Alternative parking solution" means a proposal by an applicant to meet the parking
21 demand created by a proposed residential use which is a substitute for meeting the on site parking
22 requirements prescribed by a zoning ordinance, site plan review regulation, subdivision regulation,
23 or innovative land use control. Alternative parking solutions shall include, but not be limited to: (1)
24 an agreement for the provision of off site parking spaces with another owner of real property during
25 hours which the off site parking spaces are not in use within a quarter of a mile of the proposed
26 residential use, (2) agreement with a rideshare company to provide transportation to the occupants
27 of the proposed residential use, (3) availability of public transportation including fixed-route bus
28 service within a quarter of a mile of the proposed residential use, or (4) location in a district officially
29 designated in a municipality's master plan, or by zoning ordinance, as a downtown, town center,
30 central business district, or village center in which there is adequate walkability infrastructure.

31 (d) "Adequate walkability infrastructure" means sidewalks, density of development, bus
32 stops, bike lanes, mixed use neighborhoods, and other infrastructure that supports walkability.

33 II. If a proposed residential proposes to meet the on-site parking requirements prescribed by
34 a zoning ordinance adopted pursuant to RSA 674:16, prescribed by a site plan review regulation
35 adopted pursuant to RSA 674:44, prescribed by a subdivision regulation adopted pursuant to RSA
36 674:36, or other innovative land use control adopted pursuant to RSA 674:21, with an alternative

parking solution, in any of the above cases due to economic considerations, the planning board shall be required to consider such alternative parking solution.

III. If the applicant can demonstrate that the alternative parking solution will meet the parking demand created by the proposed residential use, a planning board shall be required to approve the alternative parking solution proposed by the applicant as a substitute for the proposed residential use meeting the on-site parking requirements.

IV. If a planning board during the review process of a subdivision plat, site plan, or other land use application for the proposed residential use doesn't agree with the applicant's determination that the alternative parking solution will meet the parking demand created by the proposed residential use, the planning board can request third-party review under RSA 676:4-b, I.

9 Innovative Land Use Controls; Inclusionary Zoning. Amend RSA 674:21, IV(a) to read as follows:

(a) "Inclusionary zoning" means land use control regulations which provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income. Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process. ***Inclusionary zoning ordinances may be utilized in conjunction with housing opportunities zones pursuant to RSA 79-E:4-c.***

(1) An inclusionary zoning ordinance may require that an economically viable percentage of the total number of housing units must be workforce housing that is deed-restricted, but no less than 10 percent of the units for 10-plus unit developments.

(2) The voluntary commitment of the property owner to provide workforce housing shall result in the property owner receiving a minimum 25 percent density bonus above the base density permitted in the zoning district or an allowance to build an extra story of housing above the height permitted in such zoning district.

(3) Such ordinances shall also enable the planning board to waive or modify in individual cases standards that are demonstrated by an applicant to affect the economic viability of a development, including, but not limited to, project cost factors related to improvements for roads, utilities, drainage, and building materials.

10 Effective Date. This act shall take effect July 1, 2024.