

**HB 410-FN - AS INTRODUCED**

2025 SESSION

25-0878

11/09

HOUSE BILL            ***410-FN***

AN ACT                relative to adding conditions to zoning boards of adjustment imposing restrictions on the building and development of residential properties.

SPONSORS:            Rep. Read, Rock. 10

COMMITTEE:          Housing

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ANALYSIS

This bill requires legislative bodies to utilize empirical, scientific evidence to support the adoption or imposition of any extraordinary restriction of residential property.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT                    relative to adding conditions to zoning boards of adjustment imposing restrictions on the building and development of residential properties.

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

1            1 New Section; Extraordinary Restrictions of Residential Property. Amend RSA 674 by  
2 inserting after section 17 the following new section:

3            674:17-a Extraordinary Restrictions of Residential Property.

4            I. Notwithstanding any other provision of law, a local legislative body shall not adopt or  
5 enforce any extraordinary restriction of residential property unless the ordinance is directly  
6 necessary for the health or safety of the community. The legislative body shall include detailed  
7 written findings of fact, based on empirical evidence published by a non-partisan source, to  
8 demonstrate direct necessity. An aggrieved person under RSA 676:5, I who believes that the  
9 evidence utilized by the legislative body does not support its findings by a preponderance, or that the  
10 evidence is not appropriate for use by the body according to the requirements of this paragraph, may  
11 appeal to the zoning board of adjustment under RSA 676:5. All enforcement or adoption actions in  
12 the matter shall be stayed pending resolution of the appeal.

13            II. For the purposes of this section, “extraordinary restriction of residential property” means  
14 any ordinance that restricts, regulates, or prohibits property used or proposed for residential  
15 purposes, whether built on or off-site, and that has:

16            (a) Any minimum square footage requirement for a dwelling or unit in excess of 200  
17 square feet or the square footage required to meet the state building code, whichever is greater.

18            (b) Lot size requirements above 5 acres per unit.

19            (c) Residential use on commercially zoned lots.

20            (d) In-home businesses use in residentially zoned lots.

21            (e) Local amendments to the state building code or state fire code regarding materials or  
22 methods of construction, which impact residential buildings of not more than 4 units.

23            (f) Fees on variance applications or building permits in excess of \$100 for owners who  
24 own no more than one other property and whose previous year household income was less than 150  
25 percent the town median household income.

26            (g) A restriction on the amount of time a property owner, or someone authorized by the  
27 owner, may camp on property, either in a vehicle or any other structure without a foundation.

28            III. A restriction on the number of persons camping when there are 4 or more persons  
29 camping per acre is not an extraordinary restriction of residential property.

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1           2 New Paragraph; Zoning; Extraordinary Restrictions On Residential Property. Amend RSA  
2 674:33 by inserting after paragraph VIII the following new paragraph:

3           IX. Notwithstanding any other provision of law, upon an appeal brought under 674:17-a, the  
4 zoning board of adjustment shall have the authority and duty to determine whether the evidence  
5 used by the legislative body is based on empirical evidence published by a non-partisan source and  
6 whether it supports the legislative body's findings of fact by a preponderance. Additionally, the  
7 board shall stay any imposition or adoption of the contested ordinance pending resolution of the  
8 appeal.

9           3 Effective Date. This act shall take effect 60 days after its passage.

**HB 410-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT relative to adding conditions to zoning boards of adjustment imposing restrictions on the building and development of residential properties.

**FISCAL IMPACT:**

<b>Estimated Political Subdivision Impact</b>				
	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>FY 2028</b>
<b>County Revenue</b>	\$0	\$0	\$0	\$0
<b>County Expenditures</b>	\$0	\$0	\$0	\$0
<b>Local Revenue</b>	\$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
<b>Local Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

**METHODOLOGY:**

This bill requires legislative bodies to utilize empirical, scientific evidence to support the adoption or imposition of any extraordinary restriction of residential property unless the legislative body of the municipality finds the ordinance is directly necessary for the health or safety of the community based on evidence published by a non-partisan source. It also includes an appeals process through the Zoning Board of Adjustment (ZBA).

The New Hampshire Municipal Association indicates that this bill will likely increase municipal expenditures related to amending zoning ordinances, as municipalities may need to hire staff or consultants to identify and review empirical evidence. Restrictions on long-term camping and limiting it to three people could also raise public health-related costs. Additionally, there may be expenses associated with determining the town median household income for variance applications or building permit fees, along with potential lost revenue due to caps on those fees. Consequently, the total impact on municipal expenditures and revenue is indeterminable.

It is assumed that any fiscal impact would occur after FY 2025.

**AGENCIES CONTACTED:**

New Hampshire Municipal Association