

# **TITLE LXIV PLANNING AND ZONING**

## **CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS**

### **Emergency Temporary Zoning and Planning Ordinances**

#### **Section 674:30**

**674:30 Utility Structures.** – Local ordinances, codes, and regulations enacted pursuant to this title shall apply to public utility structures, provided, however, that:

I. Notwithstanding the provisions of any such local ordinance, code, or regulation, a planning board, or its designee pursuant to paragraph II, upon application by a utility, may waive any requirement contained in an ordinance, code, or regulation for any unoccupied structure which is less than 200 square feet in area, which is necessary for the furnishing of utility service for the public health, safety, or general welfare, and for which the utility's siting options are limited by virtue of said structure being a physically integrated component of the utility's transmission or distribution apparatus. Any such waiver shall terminate, without further action by the planning board, if said structure ceases to be used for provisions of utility services.

II. The planning board may adopt regulations, pursuant to RSA 675:6 to ensure that such utility structures do not adversely affect the character of the area or create a hazard to the public. Such regulations may designate the building inspector, municipal engineer, road agent, or other official as agent of the planning board for purposes of this section. Notice shall be given by the planning board to abutters and the public, according to the procedures provided for in RSA 676:4, I(d), 10 days prior to any decision to be issued under such regulations. A hearing shall be held, if requested by the applicant or the abutters at any time prior to issuance of the decision, or if the board determines that a hearing is necessary. Notice of such hearing shall be given as provided in RSA 675:7, and no decision shall be issued until after the hearing.

III. A public utility which uses or proposes to use a structure which does not fit the criteria described in paragraph I, or fits those criteria and has been denied a waiver, or has been granted a waiver with conditions unacceptable to the utility when the waiver was applied for pursuant to paragraph I, may petition the public utilities commission to be exempted from the operation of any local ordinance, code, or regulation enacted under this title. The public utilities commission, following a public hearing, may grant such an exemption if it decides that the present or proposed situation of the structure in question is reasonably necessary for the convenience or welfare of the public and, if the purpose of the structure relates to water supply withdrawal, the exemption is recommended by the department of environmental services.

IV. Except for small power production facilities, as defined in RSA 362-A:1-a, X, and cogeneration facilities, as defined in RSA 362-A:1-a, I-c, owned and operated by a New Hampshire franchised utility, small power production facilities and cogeneration facilities shall

not be considered to be public utilities under this section and may not petition the public utilities commission for an exemption from the operation of any regulation under this subdivision.

**Source.** 1983, 447:1. 1986, 147:1. 1987, 152:1. 1998, 124:5. 2006, 294:4, eff. Aug. 14, 2006.