

# TITLE LXIV

## PLANNING AND ZONING

### CHAPTER 674

#### LOCAL LAND USE PLANNING AND REGULATORY POWERS

#### Land Affected by Municipal Boundaries

##### Section 674:53

##### **674:53 Land Affected by Municipal Boundaries. –**

I. An owner of contiguous land which is located in more than one municipality may treat a municipal boundary line as an existing boundary between lots, tracts, sites or other divisions of land for purposes of this title unless the existing or proposed use of land or arrangement of structures in one of the municipalities requires and is dependent upon land or improvements located in the other municipality or municipalities in order to fulfill the land use ordinances or regulations of the first municipality with respect to such matters as lot size, density, frontage, uses or accessory uses, set-backs or access, or in order to comply with applicable state or federal regulations.

II. Upon receipt of an application for a permit or approval under this title for the subdivision, development, change of use of, or erection or alteration of any structure upon any lot, tract, site or other division of land whose boundary or portion thereof is a municipal boundary line, or whose sole street access or sole maintained street access is via a private road or class IV, V, or VI highway located in an adjoining municipality, the municipality receiving the application shall inquire in writing to the appropriate administrative officials in the adjoining municipality or municipalities as to the existence of facts or regulations which, under paragraphs I, III, or IV of this section or otherwise, would preclude or affect such subdivision, development, construction, or change of use. Response shall be made to such inquiries within the period provided by this title for approval or disapproval of the underlying application. A response which invokes an ordinance or regulation of such adjoining municipality may be appealed in that adjoining municipality in the same manner as any other administrative decision. An adjoining municipality in which is located an existing private road or class VI highway that serves as an applicant's sole means of fulfilling the street access requirements under RSA 674:41 shall have the same regulatory powers under that statute with respect to that road or highway as if the proposed building or development were located within that same municipality.

III. An owner of contiguous land in more than one municipality may treat such contiguous land as a single lot, tract, site, or other division of land for purposes of this title, notwithstanding the municipal boundary line, provided that:

(a) All uses of land, buildings, or structures shall comply with the regulations or ordinances of the municipality in which they are located.

(b) When an owner has fulfilled or proposes to fulfill the requirements of one municipality, through the inclusion of land or improvements located in an adjoining municipality, such owner or the owner's successors shall not thereafter use that land or those improvements in a manner such that those requirements of the first municipality are no longer fulfilled. This paragraph may be enforced by the municipality whose requirements are to be fulfilled.

IV. No plat or plan showing land or streets in more than one municipality in the state shall be deemed approved for purposes of this title unless it has been approved by the planning boards of all included municipalities in which the planning board has been granted authority over approval of that type of plat or plan. In addition, no plat or plan showing land whose sole street access or sole maintained street access is or is planned to be via a private road or class IV, V, or VI highway located in an adjoining municipality shall be deemed approved for purposes of this title unless it has been approved by the planning board, if any, of that adjoining municipality, provided however that the sole issue which may be addressed or regulated by the adjoining municipality shall be the adequacy of such street access, and the impact of the proposal upon it.

V. With respect to a proposal for the use of contiguous land in more than one municipality:

(a) The fact that a lot, tract, or site straddles a municipal boundary, or that the requirements of one municipality are proposed to be fulfilled by the use of land or improvements in an adjoining municipality, shall not be the sole grounds for disapproval of any application.

(b) A planning board may waive or vary its regulations with respect to access or interior roads in order to provide better harmony with the regulations of an adjoining municipality, whenever strict compliance would be unreasonable in light of the overall design of a proposal.

VI. When local land use boards from more than one municipality have jurisdiction over a proposed use, subdivision, or development of property:

(a) The applicant may petition the respective local land use boards of each such municipality to proceed with the application on a joint basis, and upon such petition, joint hearings or meetings shall be held throughout the application process. However, each board may meet separately to confer and take final action upon the application, but may not condition final approval upon the receipt of information not previously requested at a joint hearing or meeting.

(b) Not less than a quorum of each involved land use board shall attend the joint hearing or meeting, and the members who attend the joint hearing or meeting shall have the authority of the full board over that application. In the alternative, the full board may attend the joint hearing or meeting. Each land use board shall be responsible for rendering a decision on the subject matter within its jurisdiction.

(c) The board members present at such a joint meeting or hearing shall select an interim chairperson from among such members, who shall prescribe rules of procedure, subject to alteration by the members present, but consistent with RSA 676.

VII. Whenever a subdivision plat or site plan submitted to a planning board includes land whose only maintained public highway access to the Class I and II highway system is via a Class IV or V highway maintained by another municipality in the state, the local governing body and planning board, if any, of that other municipality shall be deemed "abutters" for purposes of notice under RSA 676:4. A planning board may, by regulation, set forth additional circumstances in which notice to adjoining municipalities is required. A planning board, in determining whether an application satisfies its regulations, may consider the effect of the proposal on adjoining municipalities.

**Source.** 1989, 381:1. 1995, 43:6, 7. 1998, 57:1, 2, eff. July 11, 1998.