

HB 1195 - AS INTRODUCED

2026 SESSION

26-2755

05/06

HOUSE BILL **1195**

AN ACT relative to municipal zoning requirements for child day care providers.

SPONSORS: Rep. D. Paige, Carr. 1; Rep. Nelson, Rock. 13; Rep. Peternel, Carr. 6; Rep. Wallner, Merr. 19; Rep. Berry, Hills. 44; Rep. D. Germana, Ches. 1; Rep. D. Murphy, Ches. 11; Sen. McConkey, Dist 3; Sen. Perkins Kwoka, Dist 21; Sen. Reardon, Dist 15; Sen. Rochefort, Dist 1; Sen. Birdsell, Dist 19

COMMITTEE: Municipal and County Government

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ANALYSIS

This bill defines child care centers for purposes of local zoning requirements and provides that, with limited exception, municipalities shall allow the operation of a child care center by right on commercially zoned land provided that the center is in compliance with child care licensing requirements of the department of health and human services.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to municipal zoning requirements for child day care providers.

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

1 1 Local Land Use Planning and Regulatory Powers; Zoning; Grant of Power; Child Care  
2 Centers. Amend RSA 674:16, VI to read as follows:

3 VI. In its exercise of the powers granted under this subdivision, the local legislative body of  
4 a city, town, or county in which there are located unincorporated towns or unorganized places shall,  
5 as described in RSA 672:1, V-a, allow home-based care (family **day care home as defined in RSA**  
6 **170-E:2, IV(a)** and group family **day care home as defined in RSA 170-E:2, IV(b)**) by right ~~[or~~  
7 ~~pursuant to a conditional use permit]~~ as long as all requirements for such programs adopted in rules  
8 of the department of health and human services (He-C 4002) are met. **A city, town, or county in**  
9 **which there are unincorporated towns or unorganized places shall not adopt or enforce**  
10 **any ordinance which is different from the requirements of RSA 170-E or rules adopted**  
11 **thereunder (He-C 4002).** Family or group family child care shall be allowed **by right** as an  
12 accessory use to any primary residential use, **including in an accessory structure of not more**  
13 **than 950 square feet**, and shall not be subject to local site plan review in any zone where a primary  
14 residential use is permitted. ~~[If all requirements of the department of health and human services~~  
15 ~~are met, but an application for a conditional use permit is pending with the municipality in which~~  
16 ~~the home-based child care facility is located, an applicant may begin operation during such time~~  
17 ~~until the permit is granted or denied.]~~

18 2 New Section; Zoning; Child Care Centers. Amend RSA 674 by inserting after section 16-a the  
19 following new section:

20 674:16-b Child Care Center.

21 I. In this section:

- 22 (a) "Child care center" means any of the following types of child day care agency:  
23 (1) Group child day care center, as defined in RSA 170-E:2, IV(c);  
24 (2) Infant and toddler program, as defined in RSA 170-E:2, IV(d);  
25 (3) Night care program, as defined in RSA 170-E:2, IV(e) ;  
26 (4) Preschool program, as defined in RSA 170-E:2, IV(f);  
27 (5) School-age program, as defined in RSA 170-E:2, IV(g);  
28 (6) Small group child day care center, as defined in RSA 170-E:2, IV(i); or  
29 (7) Any combination thereof in accordance with the requirements for such programs  
30 adopted in rules of the department of health and human services.

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1 (b) "Child care center" shall not include a family day care home as defined in RSA 170-  
2 E:2, IV(a) or a family group day care home as defined in RSA 170-E:2, IV(b).

3 II. Notwithstanding any provision to the contrary, municipalities shall allow the operation  
4 of a child care center by right on commercially zoned land so long as the requirements of RSA 170-E  
5 and rules adopted thereunder, regarding licensure and operation of a child day care, are met. A city,  
6 town, or county in which there are located unincorporated towns or unorganized places shall not  
7 adopt or enforce any ordinance which is different from the requirements of RSA 170-E or rules  
8 adopted thereunder by the department of health and human services. However, nothing in this  
9 section shall be interpreted to prohibit municipalities from restricting the operation of a child care  
10 center in zones where industrial and manufacturing uses are permitted, if the use of the property for  
11 child day care is incompatible with the existing industrial and manufacturing use.

12 III. A municipality shall provide an exemption to any requirements regarding setbacks,  
13 height, or frontage of a building being converted to a child care center provided that the building's  
14 floor area, height, and setbacks do not change.

15 IV. Nothing in this section shall be interpreted to prohibit the child care center from being  
16 subject to local site plan review regulations adopted under RSA 674:44 if the proposed structure  
17 contains more than 5,000 square feet of gross floor area.

18 V. Nothing in this section shall prohibit enforcement of applicable state fire, building, water  
19 supply and sewage disposal requirements under RSA 153, RSA 155-A, and RSA 485-A.

20 3 Effective Date. This act shall take effect July 1, 2026.