



Senate

General Assembly

File No. 181

January Session, 2021

Substitute Senate Bill No. 87

Senate, March 29, 2021

The Committee on Housing reported through SEN. LOPES of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING CERTAIN PROTECTIONS FOR GROUP AND FAMILY CHILD CARE HOMES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 8-3j of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2021*):

3 (a) No zoning regulation shall treat any family child care home
4 [registered] or group child care home located in a residence and licensed
5 by the Office of Early Childhood pursuant to [section 17b-733] chapter
6 368a, in a manner different from single or multifamily dwellings.

7 (b) Not later than December 1, 2021, and annually thereafter, each
8 municipality shall submit to the Office of Policy and Management a
9 sworn statement from the chief planning official of the municipality
10 stating (1) that the municipality's zoning ordinance is in compliance
11 with (A) subsection (a) of this section, and (B) the provision relating to
12 family child care homes and group child care homes located in a
13 residence in subsection (d) of section 8-2, as amended by this act, or (2)

14 the specific time frame within which the municipality will bring its
15 zoning ordinance into compliance with subsection (a) of this section and
16 subsection (d) of section 8-2, as amended by this act.

17 Sec. 2. Section 8-2 of the general statutes is repealed and the following
18 is substituted in lieu thereof (*Effective October 1, 2021*):

19 (a) (1) The zoning commission of each city, town or borough is
20 authorized to regulate, within the limits of such municipality: [, the] (A)
21 The height, number of stories and size of buildings and other structures;
22 (B) the percentage of the area of the lot that may be occupied; (C) the
23 size of yards, courts and other open spaces; (D) the density of
24 population and the location and use of buildings, structures and land
25 for trade, industry, residence or other purposes, including water-
26 dependent uses, as defined in section 22a-93; [,] and (E) the height, size,
27 location, brightness and illumination of advertising signs and
28 billboards. [, Such bulk regulations may allow for cluster development,
29 as defined in section 8-18] except as provided in subsection (f) of this
30 section.

31 (2) Such zoning commission may divide the municipality into
32 districts of such number, shape and area as may be best suited to carry
33 out the purposes of this chapter; and, within such districts, it may
34 regulate the erection, construction, reconstruction, alteration or use of
35 buildings or structures and the use of land. All [such] zoning regulations
36 shall be uniform for each class or kind of buildings, structures or use of
37 land throughout each district, but the regulations in one district may
38 differ from those in another district. [, and may]

39 (3) Such zoning regulations may, except as otherwise specified in this
40 section, provide that certain classes or kinds of buildings, structures or
41 uses of land are permitted only after obtaining a special permit or
42 special exception from a zoning commission, planning commission,
43 combined planning and zoning commission or zoning board of appeals,
44 whichever commission or board the regulations may, notwithstanding
45 any special act to the contrary, designate, subject to standards set forth
46 in the regulations and to conditions necessary to protect the public

47 health, safety, convenience and property values. [Such regulations shall
48 be]

49 (b) Zoning regulations adopted pursuant to subsection (a) of this
50 section shall:

51 (1) Be made in accordance with a comprehensive plan and in
52 [adopting such regulations the commission shall consider]
53 consideration of the plan of conservation and development [prepared]
54 adopted under section 8-23; [. Such regulations shall be]

55 (2) Be designed to (A) lessen congestion in the streets; [to] (B) secure
56 safety from fire, panic, flood and other dangers; [to] (C) promote health
57 and the general welfare; [to] (D) provide adequate light and air; [to] (E)
58 prevent the overcrowding of land; [to] (F) avoid undue concentration of
59 population; and [to] (G) facilitate the adequate provision for
60 transportation, water, sewerage, schools, parks and other public
61 requirements; [. Such regulations shall be]

62 (3) Be made with reasonable consideration as to the character of the
63 district and its peculiar suitability for particular uses and with a view to
64 conserving the value of buildings and encouraging the most appropriate
65 use of land throughout [such] a municipality; [. Such regulations may,
66 to the extent consistent with soil types, terrain, infrastructure capacity
67 and the plan of conservation and development for the community,
68 provide for cluster development, as defined in section 8-18, in
69 residential zones. Such regulations shall also encourage]

70 (4) Encourage the development of housing opportunities, including
71 opportunities for multifamily dwellings, consistent with soil types,
72 terrain and infrastructure capacity, for all residents of the municipality
73 and the planning region in which the municipality is located, as
74 designated by the Secretary of the Office of Policy and Management
75 under section 16a-4a; [. Such regulations shall also promote]

76 (5) Promote housing choice and economic diversity in housing,
77 including housing for both low and moderate income households; [, and

78 shall encourage]

79 (6) Encourage the development of housing which will meet the
80 housing needs identified in the state's consolidated plan for housing and
81 community development prepared pursuant to section 8-37t and in the
82 housing component and the other components of the state plan of
83 conservation and development prepared pursuant to section 16a-26; [. Zoning
84 regulations shall be made]

85 (7) Be made with reasonable consideration for their impact on
86 agriculture, as defined in subsection (q) of section 1-1; [. Zoning
87 regulations may be]

88 (8) Provide that proper provision be made for soil erosion and
89 sediment control pursuant to section 22a-329;

90 (9) Be made with reasonable consideration for the protection of
91 existing and potential public surface and ground drinking water
92 supplies; and

93 (10) In any municipality that is contiguous to Long Island Sound, (A)
94 be made with reasonable consideration for the restoration and
95 protection of the ecosystem and habitat of Long Island Sound; (B) be
96 designed to reduce hypoxia, pathogens, toxic contaminants and
97 floatable debris on Long Island Sound; and (C) provide that such
98 municipality's zoning commission consider the environmental impact
99 on Long Island Sound of any proposal for development.

100 (c) Zoning regulations adopted pursuant to subsection (a) of this
101 section may:

102 (1) To the extent consistent with soil types, terrain, infrastructure
103 capacity and the plan of conservation and development for the
104 community, provide for cluster development, as defined in section 8-18,
105 in residential zones;

106 (2) Be made with reasonable consideration for the protection of
107 historic factors; [and shall be made with reasonable consideration for

108 the protection of existing and potential public surface and ground
109 drinking water supplies. On and after July 1, 1985, the regulations shall
110 provide that proper provision be made for soil erosion and sediment
111 control pursuant to section 22a-329. Such regulations may also
112 encourage]

113 (3) Encourage energy-efficient patterns of development, the use of
114 solar and other renewable forms of energy, and energy conservation; [. The regulations may also provide]

116 (4) Provide for incentives for developers who use passive solar
117 energy techniques, as defined in subsection (b) of section 8-25, in
118 planning a residential subdivision development [. The incentives may
119 include, but not be] including, but not limited to, cluster development,
120 higher density development and performance standards for roads,
121 sidewalks and underground facilities in the subdivision; [. Such
122 regulations may provide]

123 (5) Provide for a municipal system for the creation of development
124 rights and the permanent transfer of such development rights, which
125 may include a system for the variance of density limits in connection
126 with any such transfer; [. Such regulations may also provide]

127 (6) Provide for notice requirements in addition to those required by
128 this chapter; [. Such regulations may provide]

129 (7) Provide for conditions on operations to collect spring water or
130 well water, as defined in section 21a-150, including the time, place and
131 manner of such operations; [. No such regulations shall prohibit] and

132 (8) In any municipality where a traprock ridge or an amphibolite
133 ridge is located, (A) provide for development restrictions in ridgeline
134 setback areas; and (B) restrict quarrying and clear cutting, except that
135 the following operations and uses shall be permitted in ridgeline setback
136 areas, as of right: (i) Emergency work necessary to protect life and
137 property; (ii) any nonconforming uses that were in existence and that
138 were approved on or before the effective date of regulations adopted

139 pursuant to this section; and (iii) selective timbering, grazing of
140 domesticated animals and passive recreation.

141 (d) Zoning regulations adopted pursuant to subsection (a) of this
142 section shall not:

143 (1) (A) Prohibit the operation in a residential zone of any family child
144 care home or group child care home [in a residential zone. No such
145 regulations shall prohibit] located in a residence, or (B) require any
146 special zoning permit or special zoning exception for such operation;

147 (2) (A) Prohibit the use of receptacles for the storage of items
148 designated for recycling in accordance with section 22a-241b or require
149 that such receptacles comply with provisions for bulk or lot area, or
150 similar provisions, except provisions for side yards, rear yards and front
151 yards, [No such regulations shall] or (B) unreasonably restrict access to
152 or the size of such receptacles for businesses, given the nature of the
153 business and the volume of items designated for recycling in accordance
154 with section 22a-241b, that such business produces in its normal course
155 of business, provided nothing in this section shall be construed to
156 prohibit such regulations from requiring the screening or buffering of
157 such receptacles for aesthetic reasons; [Such regulations shall not
158 impose]

159 (3) Impose conditions and requirements on manufactured homes
160 having as their narrowest dimension twenty-two feet or more and built
161 in accordance with federal manufactured home construction and safety
162 standards or on lots containing such manufactured homes which are
163 substantially different from conditions and requirements imposed on
164 single-family dwellings and lots containing single-family dwellings, [
165 Such regulations shall not impose conditions and requirements on] or
166 developments to be occupied by manufactured homes having as their
167 narrowest dimension twenty-two feet or more and built in accordance
168 with federal manufactured home construction and safety standards
169 which are substantially different from conditions and requirements
170 imposed on multifamily dwellings, lots containing multifamily
171 dwellings, cluster developments or planned unit developments; [Such

172 regulations shall not prohibit]

173 (4) (A) Prohibit the continuance of any nonconforming use, building
174 or structure existing at the time of the adoption of such regulations, [or]
175 (B) require a special permit or special exception for any such
176 continuance, [. Such regulations shall not] (C) provide for the
177 termination of any nonconforming use solely as a result of nonuse for a
178 specified period of time without regard to the intent of the property
179 owner to maintain that use, [. Such regulations shall not] or (D)
180 terminate or deem abandoned a nonconforming use, building or
181 structure unless the property owner of such use, building or structure
182 voluntarily discontinues such use, building or structure and such
183 discontinuance is accompanied by an intent to not reestablish such use,
184 building or structure. The demolition or deconstruction of a
185 nonconforming use, building or structure shall not by itself be evidence
186 of such property owner's intent to not reestablish such use, building or
187 structure; [. Unless such town opts out, in accordance with the
188 provisions of subsection (j) of section 8-1bb, such regulations shall not
189 prohibit]

190 (5) Prohibit the installation of temporary health care structures for
191 use by mentally or physically impaired persons [in accordance with the
192 provisions of section 8-1bb if such structures comply with the provisions
193 of said section] pursuant to section 8-1bb, as amended by this act, unless
194 the municipality opts out pursuant to the provisions of subsection (j) of
195 said section.

196 (e) Any city, town or borough which adopts the provisions of this
197 chapter may, by vote of its legislative body, exempt municipal property
198 from the regulations prescribed by the zoning commission of such city,
199 town or borough [;] but unless it is so voted, municipal property shall
200 be subject to such regulations.

201 [(b) In any municipality that is contiguous to Long Island Sound the
202 regulations adopted under this section shall be made with reasonable
203 consideration for restoration and protection of the ecosystem and
204 habitat of Long Island Sound and shall be designed to reduce hypoxia,

205 pathogens, toxic contaminants and floatable debris in Long Island
206 Sound. Such regulations shall provide that the commission consider the
207 environmental impact on Long Island Sound of any proposal for
208 development.

209 (c) In any municipality where a traprock ridge, as defined in section
210 8-1aa, or an amphibolite ridge, as defined in section 8-1aa, is located the
211 regulations may provide for development restrictions in ridgeline
212 setback areas, as defined in said section. The regulations may restrict
213 quarrying and clear cutting, except that the following operations and
214 uses shall be permitted in ridgeline setback areas, as of right: (1)
215 Emergency work necessary to protect life and property; (2) any
216 nonconforming uses that were in existence and that were approved on
217 or before the effective date of regulations adopted under this section;
218 and (3) selective timbering, grazing of domesticated animals and
219 passive recreation.]

220 [(d)] (f) Any advertising sign or billboard that is not equipped with
221 the ability to calibrate brightness or illumination shall be exempt from
222 any municipal ordinance or regulation regulating such brightness or
223 illumination that is adopted by a city, town or borough pursuant to
224 subsection (a) of this section after the date of installation of such
225 advertising sign or billboard. [pursuant to subsection (a) of this section.]

226 Sec. 3. Subsection (b) of section 19a-80 of the general statutes is
227 repealed and the following is substituted in lieu thereof (*Effective October*
228 *1, 2021*):

229 (b) (1) Upon receipt of an application for a license, the commissioner
230 shall issue such license if, upon inspection and investigation, [said] the
231 commissioner finds that the applicant, the facilities and the program
232 meet the health, educational and social needs of children likely to attend
233 the child care center or group child care home and comply with
234 requirements established by regulations adopted under this section and
235 sections 19a-77 to 19a-79a, inclusive, and sections 19a-82 to 19a-87a,
236 inclusive. Any such inspection under this subsection of a group child
237 care home located in a residence shall include an inspection for evident

238 sources of lead poisoning, and shall provide for a chemical analysis of
239 any paint chips found on such premises. The commissioner shall offer
240 an expedited application review process for an application submitted by
241 a municipal agency or department. A currently licensed person or
242 entity, as described in subsection (a) of this section, seeking a change of
243 operator, ownership or location shall file a new license application,
244 except such person or entity may request the commissioner to waive the
245 requirement that a new license application be filed. The commissioner
246 may grant or deny such request. Each license shall be for a term of four
247 years, shall be nontransferable, and may be renewed upon receipt by the
248 commissioner of a renewal application and accompanying licensure fee.
249 The commissioner may suspend or revoke such license after notice and
250 an opportunity for a hearing as provided in section 19a-84 for violation
251 of the regulations adopted under this section and sections 19a-77 to 19a-
252 79a, inclusive, and sections 19a-82 to 19a-87a, inclusive. In the case of an
253 application for renewal of a license that has expired, the commissioner
254 may renew such expired license within thirty days of the date of such
255 expiration upon receipt of a renewal application and accompanying
256 licensure fee.

257 (2) The commissioner shall collect from the licensee of a child care
258 center a fee of five hundred dollars prior to issuing or renewing a license
259 for a term of four years. The commissioner shall collect from the licensee
260 of a group child care home a fee of two hundred fifty dollars prior to
261 issuing or renewing a license for a term of four years. The commissioner
262 shall require only one license for a child care center operated in two or
263 more buildings, provided the same licensee provides child care services
264 in each building and the buildings are joined together by a contiguous
265 playground that is part of the licensed space.

266 (3) The commissioner, or the commissioner's designee, shall make an
267 unannounced visit, inspection or investigation of each licensed child
268 care center and group child care home at least once each year. At least
269 once every two years, the local health director, or the local health
270 director's designee, shall make an inspection of each licensed child care
271 center and group child care home.

272 (4) A municipality may not subject the operation of a licensed group
273 child care home located in a residence to any conditions, other than
274 those imposed by the commissioner pursuant to this subsection, if the
275 group child care home complies with all local codes and ordinances
276 applicable to single and multifamily dwellings.

277 Sec. 4. Section 47a-4 of the general statutes is repealed and the
278 following is substituted in lieu thereof (*Effective October 1, 2021*):

279 (a) A rental agreement shall not provide that the tenant: (1) Agrees to
280 waive or forfeit rights or remedies under this chapter and sections 47a-
281 21, 47a-23 to 47a-23b, inclusive, 47a-26 to 47a-26g, inclusive, 47a-35 to
282 47a-35b, inclusive, 47a-41a, 47a-43 and 47a-46, or under any section of
283 the general statutes or any municipal ordinance unless such section or
284 ordinance expressly states that such rights may be waived; (2)
285 authorizes the landlord to confess judgment on a claim arising out of the
286 rental agreement; (3) agrees to the exculpation or limitation of any
287 liability of the landlord arising under law or to indemnify the landlord
288 for that liability or the costs connected therewith; (4) agrees to waive his
289 right to the interest on the security deposit pursuant to section 47a-21;
290 (5) agrees to permit the landlord to dispossess him without resort to
291 court order; (6) consents to the distraint of his property for rent; (7)
292 agrees to pay the landlord's attorney's fees in excess of fifteen per cent
293 of any judgment against the tenant in any action in which money
294 damages are awarded; (8) agrees to pay a late charge prior to the
295 expiration of the grace period set forth in section 47a-15a or to pay rent
296 in a reduced amount if such rent is paid prior to the expiration of such
297 grace period; [or] (9) agrees to pay a heat or utilities surcharge if heat or
298 utilities is included in the rental agreement; or (10) in any rental
299 agreement entered into or renewed on or after October 1, 2021, is
300 prohibited from operating a licensed family child care home, as
301 described in section 19a-77, or is otherwise restricted in the operation of
302 such family child care home.

303 (b) A provision prohibited by subsection (a) of this section included
304 in a rental agreement is unenforceable.

305 Sec. 5. (NEW) (*Effective October 1, 2021*) In any renter's or
 306 homeowner's insurance policy providing coverage for the operator of a
 307 licensed family child care home or group child care home, such operator
 308 may name such operator's landlord as an additional insured on such
 309 policy. For the purposes of this section, "family child care home" and
 310 "group child care home" have the same descriptions as provided in
 311 section 19a-77 of the general statutes and "landlord" has the same
 312 meaning as provided in section 47a-1 of the general statutes.

313 Sec. 6. Subsection (j) of section 8-1bb of the general statutes is repealed
 314 and the following is substituted in lieu thereof (*Effective October 1, 2021*):

315 (j) A municipality, by vote of its legislative body or, in a municipality
 316 where the legislative body is a town meeting, by vote of the board of
 317 selectmen, may opt out of the provisions of this section and the
 318 [provision] provisions of subdivision (5) of subsection [(a)] (d) of section
 319 8-2, as amended by this act, regarding authorization for the installation
 320 of temporary health care structures, provided the zoning commission or
 321 combined planning and zoning commission of the municipality: (1) First
 322 holds a public hearing in accordance with the provisions of section 8-7d
 323 on such proposed opt-out, (2) affirmatively decides to opt out of the
 324 provisions of said sections within the period of time permitted under
 325 section 8-7d, (3) states upon its records the reasons for such decision,
 326 and (4) publishes notice of such decision in a newspaper having a
 327 substantial circulation in the municipality not later than fifteen days
 328 after such decision has been rendered.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2021</i>	8-3j
Sec. 2	<i>October 1, 2021</i>	8-2
Sec. 3	<i>October 1, 2021</i>	19a-80(b)
Sec. 4	<i>October 1, 2021</i>	47a-4
Sec. 5	<i>October 1, 2021</i>	New section
Sec. 6	<i>October 1, 2021</i>	8-1bb(j)

HSG *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill prohibits municipalities from placing special zoning or operational restrictions on group child care homes and does not result in a fiscal impact.

The bill also extends the requirement that the Office of Early Childhood inspects for evident sources of lead poisoning during licensing inspections of group child care homes that are located in residences, which is not anticipated to result in a fiscal impact to the state.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 87*****AN ACT CONCERNING CERTAIN PROTECTIONS FOR GROUP AND FAMILY CHILD CARE HOMES.*****SUMMARY**

This bill makes various changes concerning the municipal regulation of family and group child care homes (see BACKGROUND). The bill prohibits municipal zoning regulations from treating licensed group child care homes located in a residence differently than single or multifamily properties, a prohibition that already applies to the treatment of family child care homes. The bill also prohibits zoning regulations from requiring a special permit or exception to operate either a family or group child care home located in a residence within a residential zone.

Under the bill, each municipality must annually report to the Office of Policy Management (OPM) that its zoning ordinance is compliant with these requirements or give the timeframe within which it will be.

Additionally, the bill:

1. extends to group child care homes located in a residence the existing limitations on a municipality's authority to impose operational conditions on family child care homes;
2. explicitly authorizes licensed family and group home operators to add their landlord as an additional insured on their renter's or homeowner's insurance policies that provide coverage for these child care homes (§ 5);
3. extends to group child care homes located in a residence the requirement that the Office of Early Childhood (OEC) inspect for evident sources of lead poisoning during licensing inspections

- and have tested any paint chips it finds (§ 3);
4. prohibits rental agreements entered into or renewed on or after October 1, 2021, from barring or restricting tenants from operating licensed family child care homes (§ 4); and
 5. makes numerous technical and related conforming changes reorganizing provisions of the state's Zoning Enabling Act (i.e., CGS § 8-2)(§§ 2 & 6).

EFFECTIVE DATE: October 1, 2021

MUNICIPAL REPORTING REQUIREMENT

Annually, beginning by December 1, 2021, the bill requires each municipality's chief planning official to submit to OPM a sworn statement on its compliance with the laws restricting the municipal zoning regulation of licensed group and family child care homes located in a residence, as amended by the bill. The statement must either:

1. declare that its zoning regulations (a) treat licensed family child care homes and group child care homes located in a residence the same as single and multifamily dwellings and (b) do not prohibit their operation in a residential zone or require any special zoning permit or special exception for their operation or
2. give the specific time frame within which the municipality will bring its zoning regulations into compliance with these requirements.

LIMITS ON MUNICIPAL REGULATIONS

Restrictions on Family and Group Child Care Homes

By law, zoning regulations cannot prohibit family or group child care homes from operating in residential zones. The bill specifies that this restriction applies only to those located in a residence. Additionally, under the bill, zoning regulations cannot require special permits or exceptions for the operation of these child care homes. (Special permits and exceptions are synonymous; they allow recipients to use a property

in a way explicitly permitted by the zoning regulations, but subject to conditions not applicable to other uses in the same district.)

The bill also extends the existing limitations on a municipality's authority to regulate family child care homes to group child care homes located in a residence. Under existing law, (1) municipal zoning regulations may not treat family child care homes differently than single or multifamily properties and (2) municipalities may not impose any operational conditions (other than those OEC requires) on family child care homes that comply with all codes and ordinances applicable to residential properties.

BACKGROUND

Family and Group Child Care Homes

A family child care home is a private family home generally caring for up to six children, including the provider's own children not in school full-time, where a child is cared for between three and 12 hours per day on a regular basis.

A group child care home (1) offers or provides supplementary care to between seven and 12 children on a regular basis or (2) meets the definition of a family child care home, except that it operates in a facility other than a private family home.

COMMITTEE ACTION

Housing Committee

Joint Favorable Substitute

Yea 12 Nay 3 (03/11/2021)