



Model Ordinance Guide

FOR FAMILY CHILD CARE AND GROUP FAMILY DAY CARE HOMES

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Background

In 2024, the NH General Court passed [HB 1567](#), *relative to municipal zoning requirements for family and group family child care programs*, where these are to be allowed by right or pursuant to a Conditional Use Permit as an accessory use to any primary residential use under local zoning and planning regulations provided that all requirements for such programs adopted in rules of the Department of Health and Human Services (He-C 4002) are met. Importantly, family and group family child care shall not be subject to local Site Plan Review by the Planning Board and shall not be subject to a Special Exception from the Zoning Board of Adjustment. Furthermore, family and group family child care can no longer be limited to only single-family residences and must be allowed in other housing types.

Effective Date

HB 1567 was signed by Governor Chris Sununu on July 26, 2024, and became effective as of September 24, 2024.

Purpose of HB 1567

This bill aims to:

- Help increase the supply of affordable child care in New Hampshire.
- Support more diverse and flexible supply of child care than what is available through traditional day care centers (e.g. extended hours, weekend child care, etc.).
- Reduce the administrative burden on municipalities by removing the local Site Plan Review process and the requirement to seek Special Exception from the ZBA.
- Reduce the administrative burden and costs for child care providers, which can include application fees, abutter notification fees, legal fees, and surveyor/wetland scientist fees.

Purpose of Model Ordinance Language

The purpose of the model ordinance developed is to provide communities with guiding language that can be used to help municipalities modify their Zoning

Regulations to ensure they are in compliance with [RSA 674:16, VI](#) as amended by HB 1567 in 2024.

Based on the findings of the Saint Anselm College *Zoning of Home-Based Childcare in NH*¹ report, the following municipalities in the Strafford region have been identified as needing one or more updates to achieve compliance with HB 1567 as of March 2026:

1. Barrington
2. Dover
3. Durham
4. Farmington
5. Lee
6. Madbury
7. Middleton
8. Newmarket
9. Rochester
10. Rollinsford
11. Somersworth

Several municipalities that may not have previously been compliant at the time of the development of the Saint Anselm College *Zoning of Home-Based Childcare in NH* tool have recently adopted ordinance amendments that bring them into alignment with state legislation. Strafford region municipalities who recently passed ordinance amendments include Nottingham, Wakefield, Brookfield, and Strafford.

Issues to be addressed vary in complexity, with some of the most common barriers including:

- Prohibition of home-based care in mixed-use districts (where residential is the primary use).
- Restricting home-based care to single-family only.
- Outdated, inaccurate, conflicting, or incomplete definitions.
- Permitted Use tables that do not explicitly list home-based childcare as allowed in residential districts

¹ [Saint Anselm College *Zoning of Home-Based Childcare in NH*](#)

- Requirement of Site Plan Review or Special Exception or for home-based childcare (municipalities cannot requirement SPR or SE, which for many will mean needing amendments).
- Not explicitly mentioning home-based child care in zoning.

Best Practices and Recommendations

The NH Office of Planning and Development (NHOPD) has developed best practices and recommendations to guide communities that want to make their zoning more childcare friendly. These recommendations go beyond the minimum requirements of HB 1567 and are intended for municipalities looking to take additional steps to reduce barriers to homebased child care. These include:

- Permit child care *by right* as an accessory use in all zoning districts where residential use(s) are allowed (where now, HB 1567 gives municipalities the option to allow home-based child care by right or by conditional use permit).
- Do not impose additional off-street parking requirements beyond what is required for the primary residential use.
- Make sure that definitions of family child care and group family child care are the same as in RSA 170-E:2, especially as it relates to the number of children allowed.
- Do not cap the percentage or total square footage of the home dedicated to child care, as the Department of Health and Human Services He-C 4002 rules (state child care licensing rules) already contain minimum square footage requirements (35 feet of net floor area per child).
- Do not impose additional requirements on outdoor play space or storage requirements beyond what is required for the primary residential use, as the Department of Health and Human Services He-C 4002 rules already contain minimum outdoor play area requirements (50 feet of outdoor play area per child with exceptions including if the program is located within a 1/8 of a mile of a publicly accessible outdoor play space).
- Designate a single municipal point of contact where current and prospective family child care providers can reach out to for guidance about the local permitting/zoning approval process.

- Avoid regulating family and group family child care programs as home occupations/businesses (more on this below).

While HB 1567 does not prohibit municipalities from regulating family and group family child care programs from being regulated as a home business, doing so may create unnecessary barriers for prospective child care providers. Therefore, it is recommended that family child care and group family child care be recognized as uses permitted by right as an accessory use to any primary residential use, and be regulated separately from home occupations. With this, a community may:

- List family and group family child care programs as permitted uses, separate from their home occupations, and establish guidance specific to those uses; and
- Include a cross-reference in the Home Occupation section clarifying that child care uses are excluded from home occupation standards and are instead regulated under the provisions applicable to for family and group family child care programs.

This approach minimizes the application for additional requirements - such as limits on signage, parking, storage, floor area, etc., that may be appropriate for home occupations but not well-suited to child care programs, while still allowing municipalities to apply clear, child care-specific standards.

Municipal Oversight

Compliance with zoning, public health regulations, building codes, and fire codes are still applicable (and required as part of the NH Department of Health and Human Services Child Care Licensing Rules He-C 4002), allowing municipalities to still have oversight.

Licensing

Child care program licensing, processed by the NH Department of Health and Human Services Child Care Licensing Unit, is required and means that other regulations must still be followed. These include, but are not limited to, regulations around:

- Health and safety
- Staffing requirements
- Water testing and sewage disposal
- Requirements around indoor and outdoor spaces
- Sanitation
- Space requirements
- Lead safety (Lead Safe Certificates must be obtained for newly licensed child care facilities that plan to be in pre-1978 structures)
- Noise and hours

NH Department of Health And Human Services Child Care Program Licensing Rules, He-C 4002, can be found [here](#).

Resources

[SRPC Municipal Zoning Audit \(Appendix 5\)](#) for a list of SRPC municipalities that are in compliance with HB 1567 as of February 2025.

[NH OPD August 2025 PLAN webinar recording, Supporting Family Child Care Through Zoning Changes](#) for an overview of the local regulatory barriers to family child care and ways they can be addressed/minimized through zoning.

[St. Anselm College Home Based Child Care Zoning in NH](#) for an analysis of all the zoning regulations that govern home-based child care in all communities in NH.

Model Ordinance Language

Disclaimer

This model ordinance reflects recommendations from the NH Office of Planning and Development and is intended to support municipalities seeking to create more child care-friendly regulatory environments. While it incorporates the minimum requirements of HB 1567, codified in RSA 674:16 VI, it also includes additional provisions that go beyond minimum statutory compliance. Specifically, in addition to the requirements of RSA 674:16 VI, this model ordinance recognizes family day care homes and group family day care homes as **principal permitted uses**, rather than home occupations, thereby exempting them from the home-occupation standards and requirements set forth elsewhere in the ordinance.

Additionally, please note there is some inconsistency with terminology, where RSA 170-E:2 (Public Safety and Welfare: Child Day Care, Residential Care, and Child-Placing Agencies Section) defines the terms **Family Day Care Home and Group Family Day Care Home**, while RSA 674:16 (Planning and Zoning: Local Land Use Planning and Regulatory Powers, Grant of Power Section) uses the terminology **home-based care (family care and group family care)**. For the purpose of the Model Ordinance, these terms are treated as synonymous.

RSA 674:16, VI states:

*In its exercise of the powers granted under this subdivision, the local legislative body of a city, town, or county in which there are located unincorporated towns or unorganized places shall, as described in RSA 672:1, V-a, allow **home-based care (family care and group family care)** by right or pursuant to a conditional use permit as long as all requirements for such programs adopted in rules of the department of health and human services (He-C 4002) are met. **Family or group family child care** shall be allowed as an accessory use to any primary residential use and shall not be subject to local Site Plan Review in any zone where a primary residential use is permitted. If all requirements of the department of health and human services are met, but an application for a conditional use permit is pending with the municipality in which the home-based child care facility is located, an applicant may begin operation during such time until the permit is granted or denied.*

Family and Group Family Day Care Homes

Purpose

This section is enacted to bring the [Town/City] of _____ into compliance with New Hampshire House Bill 1567, codified in RSA 674:16, VI and effective as of September 24, 2024, which requires municipalities to permit **home-based care (family care and group family care)** as accessory uses to a primary residential use in any zoning district where a primary residential use is permitted.

Consistent with RSA 674:16, these uses shall not be subject to local Site Plan review.

Definitions

In accordance with the definitions in RSA 170-E:2 (a) and (b), as amended:

Family Day Care Home: means an occupied residence in which child day care is provided for less than 24 hours per day, except in emergencies, for up to 6 children from one or more unrelated families. The 6 children shall include any foster children residing in the home and all children who are related to the caregiver except children who are 10 years of age or older. In addition to the 6 children, up to 3 children attending a full day school program may also be cared for up to 5 hours per day on school days and all day during school holidays.

Family Group Day Care Home: means an occupied residence in which child day care is provided for less than 24 hours per day, except in emergencies, for 7 to 12 children from one or more unrelated families. The 12 children shall include all children related to the caregiver and any foster children residing in the home, except children who are 10 years of age or older. In addition to the 12 children, up to 5 children attending a full day school program may also be cared for up to 5 hours per day on school days and all day during school holidays, provided that the after school and holiday increase in capacity is permitted by the state fire code and in compliance with any local ordinance.

Accessory Use: A use incidental and subordinate to the principal residential use of a property.

Applicability and Permitted Uses

Family day care home and family group day care home, as defined by RSA 170-E:2 (a) and (b), shall be allowed by right *[or pursuant to a Conditional Use Permit, subject to demonstration that all conditions have been met]* as an accessory use in all zoning districts where residential uses are allowed, including single-family, two-family, and multi-family residential, subject to the requirements set forth in subsection. This includes the following zoning districts: *[Insert list of all districts where residential uses are allowed]*.

Conditions

State Licensing

- i. Family child care homes and group family child care homes must obtain and maintain a valid license from the New Hampshire Department of Health and Human Services and comply with all applicable state licensing requirements under [RSA 170-E \(Child Day Care Licensing\)](#) and [He-C 4002](#) (NH Child Care Program Licensing Rules). Proof of licensing shall be provided to the municipality upon request.
- ii. Municipalities must defer to He-C 4002 (NH Child Care Program Licensing Rules) for operational standards.

Building and Safety Codes

- iii. Family child care homes and group family child care homes must comply with applicable building, fire, and health codes.
- iv. Any modifications to the residence to accommodate child care must meet the New Hampshire state building code and local building permit requirements.

Parking, Pick-up, and Drop-off

- v. Family child care homes and group family child care homes shall not be subject to additional parking requirements beyond those required for the principal residential use of the property.
- vi. At least one off-street or on-street parking space shall be available for employees who work at a family child care home or group family child care home and do not reside on the premises. This space may be met through an existing driveway, lawful on-street parking, or in another legally permitted parking area.

- vii. Operators are encouraged to schedule drop-off and pick-up times in a manner that minimizes congestion.
- viii. A safe and accessible area for short-term vehicle standing during child pick-up and drop-off shall be provided. This area may be satisfied by an existing driveway, designated curbside space, or other lawful on street parking adjacent to the property.

Signage

- ix. Display of one non-illuminated sign of up to [___] sq. ft. mounted on or directly adjacent to the primary entrance of the residence shall be allowed without requiring a sign permit. The sign allowed pursuant to this subsection shall be allowed in addition to any other signage that may be allowed pursuant to Section [*reference the municipalities appropriate sign regulations*].

Effective Date

This ordinance shall take effect upon passage.