

**WHAT'S LEGALLY REQUIRED
EIGHTH EDITION UPDATES**

By Michael A. Zizka

As of August 3, 2023

(Includes statutory changes from the 2023 Connecticut legislative 2023 session)

1. Public Act 23-40, § 30, effective July 1, 2023, removed CGS § 14-54's requirement that a zoning board of appeals (or other official in towns without zoning regulations) issue a certificate of approval for the location of a motor vehicle dealer or repairer. Instead, a zoning enforcement officer may issue a certificate affirming that the facility complies with all applicable zoning regulations. Although it is not explicit in the statute, one may presume that no local certificate will be needed for towns without zoning regulations.

This act affects the following sections and pages of the Eighth Edition of "What's Legally Required?":

Ch. 5, Section C.2.c.2 (p.23)

Ch.11, Section A.3 (p.89)

Ch. 16, Section B.2.c (p. 145)

Ch. 16, Section G.2.k (p. 171)

2. Public Act 23-137, § 55 requires any affordable housing plan submitted to the state Office of Policy and Management after October 1, 2023, to specify how the municipality intends to improve the accessibility of affordable housing units for individuals with an intellectual disability or other developmental disabilities.

This act affects Ch.18, Section B of the Eighth Edition of "What's Legally Required?"

3. Public Act 23-137, § 65 amends CGS § 8-3e, which provides that zoning regulations may not treat certain types of group residences having certain state licenses differently from single-family residences. The facilities listed in the statute are (1) community residences for persons with intellectual disabilities; (2) child-care residential facilities for children with mental or physical disabilities; (3) community residences for persons receiving mental health or addiction services; and (4) residences that provide licensed hospice care and services. PA 23-137 increases the number of persons who may be served by each type of facility from six to eight, effective as of October 1, 2023.

This act affects Ch. 6, Section B.1.c (p. 42) of the Eighth Edition of "What's Legally Required?"

Public Act 23-137, § 66 amends CGS § 8-3f, which prohibited certain community residences and child-care residential facilities from being located within 1000 feet of

each other without zoning approval. Effective as of October 1, 2023, PA 23-137 excepts such facilities from the prohibition (i.e., the prohibition will no longer apply to such facilities) if they would serve eight or fewer persons.

This act affects Ch. 6, Section B.1.c (p. 42) of the Eighth Edition of “What’s Legally Required?”

4. Public Act 23-142 makes the following changes, all effective as of October 1, 2023 (new language is underlined; deleted language is in brackets)

- a. Section 2 amends CGS § 8-2(d)(1)(A) to state that zoning regulations shall not: “(1) (A) Prohibit the operation in a residential zone of any family child care home or group child care home [in a residential zone] located in a residence, or (B) require any special zoning permit or special zoning exception for such operation;”

This section affects Ch. 6, Section B.1.c (p. 40) of the Eighth Edition of “What’s Legally Required?” The statutes do not define the term “residential zone,” and it is not clear whether the term would be deemed to apply to zoning districts that allow at least some commercial uses in addition to residential uses.

- b. Section 1 revises CGS § 8-3j to provide “No zoning regulation shall treat any family child care home [registered] or group child care home, located in a residence and licensed by the Office of Early Childhood pursuant to [section 17b-733] chapter 368a, in a manner different from single or multifamily dwellings.”

This section affects Ch. 6, Section B.1.c (p. 42) of the Eighth Edition of “What’s Legally Required?”

- c. Section 1 also adds the following requirement to CGS § 8-3j: “Not later than December 1, 2023, and annually thereafter, each municipality shall submit to the Office of Policy and Management a sworn statement from the chief executive officer of the municipality stating (1) that the municipality's zoning ordinances are in compliance with (A) subsection (a) of this section, and (B) the provisions of subdivision (1) of subsection (d) of section 8-2, as amended by this act, or (2) the specific time frame within which the municipality will bring its zoning ordinances into compliance with subsection (a) of this section and subsection (d) of section 8-2, as amended by this act.”

This section affects Ch. 6, Section B.1.c (p. 42) of the Eighth Edition of “What’s Legally Required?” It is not clear what the penalty would be for noncompliance.

5. Public Act 23-173 has several distinct provisions, all effective as of October 1, 2023:
- a. Section 1 clarifies CGS § 8-3(e) to state that the certification requirement for zoning enforcement officers applies only to ZEOs appointed after January 1, 2024, and it allows them to achieve certification “as soon as practicable” after their appointment.

This act affects Ch. 20, Section B.1 (p. 206) of the Eighth Edition of “What’s Legally Required?”

- b. Section 2 amends CGS § 8-19a to allow alternate members of planning commissions to also serve on the zoning commission or zoning board of appeals of the municipality. However, any alternate member who holds or held such dual positions must recuse themselves from participating in any appeal before the zoning board of appeals from a decision of the planning commission if such alternate member participated in such decision.

The qualifications of commission members are not specifically discussed in the Eighth Edition of “What’s Legally Required?” This note is provided for general interest.

- c. Section 3 amends CGS § 8-4c to require members of planning commissions, zoning commissions, and zoning boards of appeal to complete a training program only once every four years after initial training, or once during every term if the member’s term of office is longer than four years, and it excuses from the training requirement any member who is either (i) a licensed Connecticut attorney-at-law with four or more years of experience on any such commission or board, or (ii) a land use enforcement officer.

This act affects Ch. 5, Section A (p. 19) of the Eighth Edition of “What’s Legally Required?”

- 6. Public Act 23-204, § 173 provides: “Notwithstanding any municipal charter, ordinance, regulation or resolution, special act or provision of title 8 of the general statutes, no municipality with a population of more than six thousand and less than eight thousand, as determined by the most recent federal decennial census, or board or commission of any such municipality authorized to regulate planning, zoning or land use, shall approve the siting, construction, permitting, operation or use of a warehousing or distribution facility exceeding an area of one hundred thousand square feet if such (1) facility is located on one or more parcels of land that are less than one hundred fifty acres in total, (2) parcels contain more than five acres of wetlands in total, and (3) parcel or parcels are located not more than two miles from an elementary school.”

This provision, included within a massive budget bill, apparently was intended to affect a particular development proposal in one municipality, but it may have unintended consequences for potential similar proposals in other towns. It is included here only to demonstrate why each municipality must make a special effort to be alert to the possibility of special, single-purpose legislation.

7. Public Act 23-204, § 198 requires municipalities seeking to establish development districts with state assistance to also establish housing growth zones that are designed “to substantially increase the production of new dwelling units necessary to meet housing demand within the region.”

Development districts are beyond the scope of “What’s Legally Required?” This information is provided for general interest.

8. Public Act 23-205 § 158 provides, “Notwithstanding any provision of any special act, municipal charter or ordinance to the contrary, a municipality, as defined in section 7-401 of the general statutes, may not modify a municipal charter in a manner that (1) modifies the manner in which any petition is filed with a local legislative body or a zoning board of appeals to challenge a decision of a planning commission, zoning commission or combined planning and zoning commission, including, but not limited to, the number of signatures required upon such petition, the manner of obtaining such signatures, or residency or location requirements concerning real property owned by persons signing any such petition, as set forth in title 7 or 8 of the general statutes; (2) modifies any regulations concerning any planning commission, zoning commission or combined planning and zoning commission set forth in title 7 or 8 of the general statutes; (3) modifies any vote requirement concerning the initiation or completion of the process of eminent domain, or otherwise modifies the public notice or hearing requirements of such process, set forth in title 7 or 8 of the general statutes; or (4) modifies any vote requirement concerning the disposition of municipal property, or otherwise modifies the public notice or hearing requirements concerning such disposition, set forth in title 7 or 8 of the general statutes.”

This provision will not directly affect the required procedures for the municipal agencies described in the Eighth Edition of “What’s Legally Required?”, but it is related to the discussion at Ch.2, Section C (pp. 8-9) of the book.