

Childcare Near You Staff Report

Councilmember Dan Strauss is proposing the Childcare Near You package of legislation to amend the Seattle Land Use Code (Title 23 of the Seattle Municipal Code (SMC)) to remove regulatory hurdles that discourage the creation of new child care centers in Seattle. The legislation amends multiple zoning designations to:

- Allow child care centers as a use permitted outright in all zones without size limits or dispersal requirements;
- Exempt all floor area in child care centers to from floor area ratio (FAR) limits in areas where preschools are currently exempt; and
- Exempt all floor area in child care centers from FAR limits in some commercial and multifamily zones.

The proposed legislation is intended to encourage the creation of new child care centers across Seattle.

This memorandum (1) describes the City's current land use regulations that apply to child care centers; (2) describes the current state of child care in Seattle and the need for additional child care centers, (and (3) describes the proposed legislation.

Current child care regulations and policies

The primary licensing authority for child care centers in Washington State is the Washington Department of Children, Youth and Families (DCYF). They DCYF license two primary categories of child care centers: child day care centers and family day care providers. Family day care providers provide day care within a home for less than 24 hours a day and are limited to no more than twelve children. Child day care centers also provide care for less than 24 hours a day. Child day care centers have but limits on the number of children permitted in the center are based on the age of the children, the amount of space available within the center, and the staffing provided.

DCYF does not license some categories of child care providers including: (1) family and neighbors providing care, (2) cooperative child care exchanges, (3) drop-in centers where children receive care by the day, and (4) centers providing education for less than four hours a day. The last three categories (of child care would be considered a "child care center" under the Seattle Municipal Code, therefore, land use regulations for child care centers apply to both those facilities that are licensed by DCYF and those that are not.

Child care centers are allowed in all of Seattle's zoning districts. However, the use is not treated the same across all zones. In single family zones, except for a family day care provider operating as a home occupation, opening a new child care center requires a "conditional use" permit, that adds a time and expense to opening a child care center. In Downtown and some Seattle Mixed zones, on the other hand, the zoning regulations provide incentives to add child care centers to projects. This section describes the different regulations by zone.

Definition (SMC Section 23.84A.018)

“Child care center” is defined in the Land Use Code as an institutional use, “that regularly provides care to a group of children for less than twenty-four (24) hours a day, whether for compensation or not. Preschools [are] considered to be child care centers.” Institutions are the structures and grounds used by an organization to provide “educational, medical, cultural, social or recreational services to the community.”

Home Occupations (SMC Section 23.42.050)

For any zone that allows residential uses, SMC 23.42.050 allows child care centers as a home occupation associated with a residential unit. These centers are permitted as accessory uses and do not need to receive any additional permits, provided that they comply with the limits set.

Requirements for home occupation uses include:

- a. The child care center must be “clearly incidental” to the use of the dwelling unit as a dwelling;
- b. Customer visits must be by appointment;
- c. The occupation can only be conducted within a principal building or accessory dwelling unit;
- d. There can be no outdoor evidence of the home occupation, except that outdoor play areas and any alterations required to comply with licensing requirements are permitted;
- e. There cannot be an increase on-street parking or traffic congestion as a result of the facility;
- f. Noise, odor, smoke, dust, light and glare, and electrical interference and other similar impacts may not be detectable beyond the property line;
- g. Child care centers are limited to 12 children a day, including the operator’s children.

Regulations a and g are also requirements of State licensing requirements for family day care providers.

Single Family zones (SMC Chapter 23.44)

Like most institutional uses, most child care centers are treated as a “conditional use” in single family zones. This means that there is a special review of the potential impacts of child care centers. Uses that are permitted outright, like single-family homes, public schools or nursing homes, are not subject to this review.

Child care centers must meet the following criteria to be permitted in single-family zones:

- Located 600 feet or more from the lot line of any other institution;
- Does not demolish a structure in order to provide parking;
- Noise and odor impacts are considered, and mitigation measures may be applied;
- For child care centers that are larger than 4,000 square feet, landscaping under the green factor program is provided;
- Exterior lighting does not shine on abutting properties;
- Yards are provided, and structures are not located more than 10 feet from abutting properties;
- The Director may require that appearance of bulk for building facades longer than 30 feet may be mitigated;
- Parking must be provided, but the Director may modify the parking requirements on a case-by-case basis; and
- Child care centers that will be over 4,000 square feet must prepare a transportation plan.

Decisions by the Seattle Department of Construction and Inspections to approve a child care center can be appealed to the Seattle Hearing Examiner.

In clustered housing developments and planned residential developments, additional dwelling units may be provided if the project includes a child care center.

Multifamily zones (CMC Chapter 23.45)

Child care centers are permitted outright as long as they meet the development standards of the zone. There is a dispersion requirement, prohibiting child care centers from locating within 600 feet of another institution, unless there are topographical features or other elements that provide substantial separation from other institutions. Child care centers that would not meet the development standards of the zone may be permitted as a conditional use.

Commercial zones (SMC Chapter 23.47A)

Child care centers are permitted outright, with maximum size limits in the Neighborhood Commercial 1 zone (10,000 square feet) and Neighborhood Commercial 2 zone (25,000 square feet).

Along “principal pedestrian streets” in pedestrian districts, structures, or portions of structures, are normally limited to a width of 250 feet. That limit does not apply to floors within a structure where at least 50 percent of the floor is occupied by a child care center. Similarly, structures with 5,000 square feet of street-level commercial space in pedestrian districts along a principal pedestrian street are required to provide one or more small commercial spaces. This requirement is waived for structures with more than 50 percent of the street level floor area occupied by a child care center.

Seattle Mixed zones (SMC Chapter 23.48)

Child care centers are permitted outright.

Additional floor area is allowed for projects that provide or contribute toward the creation of child care space alongside contributions toward affordable housing. In South Lake Union, Uptown and the University District, additional incentives are provided for projects that include child care space. Some of these incentives are limited to the provision of space for a preschool.

Downtown zones (SMC Chapter 23.49)

Child care centers are permitted outright.

Additional floor area is allowed for projects that provide or contribute toward the creation of child care space alongside contributions toward affordable housing.

Industrial zones (SMC Chapter 23.50)

Child care centers are permitted outright.

In certain Industrial Commercial zones, child care centers are exempt from floor area limits.

Public facilities in single family zones (SMC Section 23.51A.004)

Child care centers are permitted in existing or former public schools.

Public schools in residential zones (SMC Section 23.51B.002)

Child care centers are permitted in existing or former public schools.

Quantity and design standards for access, off-street parking, and solid waste storage (SMC Chapter 23.54)

One parking space is required per ten students, or each teacher, whichever is higher. No parking is required in urban centers, station area overlays or frequent transit service areas. Parking requirements can be reduced based on a transportation plan.

A long-term bicycle parking space is required for every 4,000 square feet. A short-term bicycle parking space is required for every 20 students, with at least two spaces provided no matter the size of the center.

Loading spaces are required for facilities that are larger than 40,000 square feet.

Master Planned Communities (SMC Chapter 23.75)

Child care centers are permitted outright and are not subject to floor area limits.

Comprehensive plan policies related to child care:

Seattle's Comprehensive Plan's Community Wellbeing Element discusses the importance of facilities to support children:

- **CW 1.3** Enhance opportunities for children and youth to gain skills, increase self-esteem, and envision a positive future.
- **CW 1.4** Reinforce efforts that strengthen the ability of children, youth, and families to participate in their health, wellness, and education, and to contribute to the development of a vibrant, growing community.
- **CW 4.1** Create equitable access to high-quality early-learning services, and support families so that their children are prepared for school.
- **CW 5.6** Encourage efforts that enhance strong family relationships and healthy child development to help prevent child abuse, sexual assault, and domestic violence.

The Land Use Element classifies child care centers as "small institutions" and focuses on compatibility between small institutions and their neighbors:

- **LU 3.1** Regulate public facilities and small institutions to promote compatibility with other developments in the area.
- **LU 3.2** Allow public facilities and small institutions to depart from development standards, if necessary to meet their particular functional requirements, while maintaining general design compatibility with the surrounding area's scale and character. Require public facilities and small institutions to adhere to zoned height limits, except for spires on religious institutions. Consider providing greater flexibility for schools in recognition of their important role in the community.
- **LU 3.3** Allow standards to be modified for required off-street parking associated with public facilities and small institutions based on the expected use and characteristics of the facility and the likely impacts on surrounding parking and development conditions, and on existing and planned transportation facilities in the area.

- **LU 3.4** Avoid clusters of public facilities and small institutions in residential areas if such concentrations would create or further aggravate parking shortages, traffic congestion, and noise in the area.
- **LU 3.5** Allow nonconforming public facilities and small institutions to expand or make structural changes, provided these alterations comply with the zone’s development standards and do not increase the structure’s nonconformity.
- **LU 3.6** Allow buildings no longer used as schools to be put to other uses not otherwise permitted in the applicable zone. Base decisions about these uses on criteria that are established for each vacant school as the need arises, through a process that includes Seattle Public Schools, the City, and the surrounding neighborhood.

Child care in Seattle

In 2018 there were 44,000 children in Seattle under the age of six¹. Approximately 9 percent of Seattle households (31,700) included children under the age of six.² Approximately 75 percent of children under six are in a household where all parents are employed.³ Using this measure, 33,000 children under six in Seattle may need child care. A report from the Washington State Department of Commerce on the costs of child care found “in 2019 that 18% of workers with children under the age of six quit, and 9% reported being fired or let go from a job, due to child care issues.”⁴

There are 593 child care centers in Seattle.⁵ As of 2018, there were approximately 57,000 spaces in 1,837 child care centers across King County.⁶ In 2018, there were approximately 157,000 children under six in King County.⁷

Both King County and Washington State have recently released reports on the costs of child care. King County’s Women’s Advisory Board published a report in 2018 that found that “child care in King County is among the most costly in the nation.”⁸ Among their recommendations were recommendations that local governments should streamline permitting processes for child care centers. In 2019, the Washington State Child Care Collaborative Task Force found that:

¹ U.S. Census Bureau, American Community Survey, ACS 1-year estimates (2018), Table B09001, data.census.gov, March 13, 2020.

² U.S. Census Bureau, American Community Survey, ACS 1-year estimates (2018), Public Use Microdata Sample (PUMS), Table HUPAC, data.census.gov, March 13, 2020.

³ U.S. Census Bureau, American Community Survey, ACS 5-Year Estimates - Public Use Microdata Sample (2018), <https://data.census.gov/mdat/?#/search?ds=ACSPUMS5Y2018&cv=HUPAC,WORKSTAT&rv=ucgid&wt=WGTP&g=7950000US5311601,5311602,5311603,5311604,5311605>, March 13, 2020.

⁴ Washington State Department of Commerce, “The Mounting Costs of Child Care: Impacts of child care affordability and access to Washington’s employers and economy”

⁵ Seattle Finance and Administrative Services Department, Active Business License Tax Certificate Data, data.seattle.gov, March 13, 2020

⁶ Child Care Aware, “2018 Data Report: Trends, Child Care Supply, Cost of Care, & Demand for Referrals”, Sarah Kelley, Business and Data Analyst, January 31, 2019.

⁷ U.S. Census Bureau, American Community Survey, ACS 1-year estimates (2018), Table B09001, data.census.gov, March 13, 2020.

⁸ King County Women’s Advisory Board, “Supporting King County’s Women, Families and Employers: Improving child care access and affordability throughout King County,” 2018.

Washington seriously lacks child care capacity... Half of respondents [to a survey] found it difficult to find and keep. The most cited reason: no available care near the person's home or work... Insufficient access to affordable, high-quality child care means fewer parents in the workforce, more missed work, less productivity and lower economic gains. It also means fewer children will be able to take care of development supports, social-emotional skill-building opportunities and learning environments for school readiness and success offered by high-quality child care programs.⁹

The Task Force also recommended that “state, local and nonprofit agencies should ... continuously review and improve licensing standards to streamline permitting, licensing and development of child care facilities.”

Between 2015 and 2019, 51 child care centers received permits to open in Seattle. Table 1 summarizes those applications:

Table 1:

Zone/Approval Type	Projects	Average time to approval (days)	Longest time to approval (days)	Total spaces in new centers	Average spaces per center	Average square feet per center	Largest center (sf)
Single-Family							
Conditional Use	10	248	363	329	33	2,616	6,770
Permitted Outright	4	95	189	142	36	1,947	2,653
Multifamily	5	148	405	209	42	1,378	14,244
Commercial	24	127	454	1,508	63	4,402	17,064
Downtown/ Seattle Mixed	2	232	350	302	151	12,006	12,512
Industrial	6	182	389	923	154	12,478	16,371

On average, it took significantly longer to receive a conditional use permit to create a child care center in a single-family zone than to receive land use and building permits to open a child care center in other zones. In zones other than the single-family zones, the longest permitting times were for child care centers proposed as part of large new mixed-use buildings. Generally, for the projects with the longest permit times, the child care center made up a small portion of the total project. The shortest permit times were for child care centers that moved into existing office or retail spaces.

The median child care center was 3,200 square feet and was designed to accommodate approximately 40 children.

⁹ Child Care Collaborative Task Force, “Recommendations to the Legislature under SHB 2367, Laws of 2018”, Washington Department of Commerce, November 1, 2019

Childcare Near You

The proposed Childcare Near You package would amend provisions throughout the Land Use Code to remove regulatory hurdles to creating a child care facility that are compatible with the surrounding area. Changes fall into three categories:

- (1) allowing child care as a principal use outright;
- (2) providing limited incentives for child care centers to be added to mixed-use buildings; and
- (3) expanding some exemptions that currently only apply to preschools.

This section describes the proposed changes by code section and bill section.

Home Occupations

Section 1 to the bill would remove restrictions on the size and location of child care centers that are accessory to a residence, allowing State regulations for family day care providers to control the location of the day care activity and the number of children permitted.

Currently, a child care center that is permitted as a home occupation use must be conducted in the principal residence or in an accessory dwelling unit. The proposed bill would allow child care centers to be located in an accessory building separate from the principal unit, allowing for more flexibility in how the child care center operates. This change would provide flexibility to configure a child care center on a lot. It may result in a child care center occupying a separate structure on a lot, which is allowed for family day care providers. All lot coverage and building height limits would apply to that separate structure. In addition, the bill would remove a 12-child limit on the number of children permitted in a home occupation child care center. This would allow for additional child care slots in larger residences only if the State changes its requirements for child day care centers. Again, maximum size limits that apply within the zone would continue to apply.

Single-family Zones

Sections 2 and 3 of the bill would make child care centers a principal use permitted outright. Currently, child care centers, like most other institutional uses, must receive a conditional use permit from the Seattle Department of Construction and Inspections (SDCI) in single-family zones. The conditions that SDCI uses to determine whether a child care center is appropriate were described previously in this memo. This proposed change recognizes that child care centers are appropriate uses within single-family zones. This would reduce SDCI's review time and remove opportunities for neighbors to appeal the siting of a child care center. In the last five years, the time to review a child care center application as a conditional use has been 2.5 times the time to review a principal use child care center.

Rules that require most institutions in single-family zones to be at least 600 feet apart would be removed for child care centers, opening up new locations where a child care center is permitted. Most child care centers are small, with the average child care center created in Seattle in the last five years providing space for approximately 67 children in 4,811 square feet of space. The largest child care center permitted in Seattle in the last five years converted an office building to child care use, providing space for up to 230 children in 17,000 square feet. This is significantly smaller than an elementary school or many religious facilities, other institutions that are permitted in single family areas outright.

A provision for existing or former public schools that requires outdoor play to be located 30 feet away from single-family zoned lots and 20 feet away from other residentially zoned lots would be

standardized with a 20-foot requirement for distance to all residential lots, including lots in single-family zones.

Multifamily Zones

Section 4 and 5 of the bill would make two changes to support child care facilities in multifamily zones.

In midrise and highrise multifamily zones, child care centers would be exempt from floor area limits. Midrise and highrise zones are the densest multifamily zones and are predominantly located in urban centers and villages. This would allow larger mixed-use structures if they incorporate a child care center.

The bill would also remove a limitation regarding dispersion requirements that applies in all multifamily zones. Currently, child care centers in legally established institutions can be located less than 600 feet from another institution. Child care centers are an important component of residential areas, providing a needed service that is often sought near a person's residence. This amendment would allow all child care centers to be located within 600 feet of another institution, broadening the locations where a child care center can be located.

Commercial Zones

Section 6 of the bill would remove a size limit on child care centers that applies in Neighborhood Commercial 1 and 2 zones. This would allow child care centers to be larger than most commercial uses in these areas. The largest child care center that has been created in Seattle in the last five years was 17,000 square feet.

Section 7 of the bill would exempt child care centers from the maximum floor area ratio limits in all commercial zones. This would allow larger structures if they include a child care center.

Seattle Mixed Zones

The Seattle Mixed (SM) zone is used to support the mixed-use character of specific neighborhoods. Most SM zones include a suffix that relates to a specific neighborhood. For example, the SM-U zone applies to sections of the University District.

Section 8 of the bill would amend SM provisions that apply to many of the SM zones. It would add child care centers to the list of uses that are permitted along key commercial street fronts in specified SM zones. This would allow a child care center to be added in these areas, either as a project is built or to occupy a vacant space. A similar change was previously made to allow child care uses at street level in the city's pedestrian districts. This change would apply in South Lake Union and Uptown. A technical correction would remove a reference to Map A for SMC 23.48.640. That section refers to requirements in SMC 23.48.050 which includes a separate list of required street-level uses. SMC 23.48.050 includes child care centers in its list of permitted uses.

Sections 9, 10 and 11 of the bill would change the term "preschool" to "child care center" and exempt all floor area in child care centers from floor area ratio limits in the University and Uptown SM zones and from building width and depth limits in Uptown. The Land Use Code defines preschool as a subcategory of child care center. This change would make the current exemptions available to facilities that serve children under three years of age or that otherwise aren't classified as preschools.

Downtown zones

Section 12 makes a minor correction to floor area exemptions in the Downtown zones. SMC Subsection 23.49.011 B.1.d. exempts child care centers from floor area ratio limits. Section 23.49.011 B.1.x. exempts floor area for a preschool under certain limits. This section deletes the word preschool, applying the blanket exemption to all child care centers, including preschools.

Industrial zones

Section 13 makes a minor correction to a floor area limit exemption in the Industrial Commercial 85-175 zone. It replaces the term “child care facilities” with the defined term “child care centers.”