

July 17, 2020

MEMORANDUM

To: Land Use and Neighborhoods Committee
From: Lish Whitson, Analyst
Subject: CB 119831: Childcare Near You Package

On Wednesday, July 22, 2020, the Land Use and Neighborhoods Committee will begin consideration of [CB 119831](#), Councilmember Strauss' Childcare Near You package. The proposed legislation is intended to encourage the creation of new childcare centers across Seattle by (1) removing regulatory hurdles to open a new childcare center and (2) providing incentives to build mixed-use buildings that incorporate a childcare center.

The bill would amend the Seattle Land Use Code (Title 23 of the Seattle Municipal Code (SMC)) to reduce impediments to opening new childcare centers in Seattle through the following changes to the Land Use Code:

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

This bill only address the Land Use Code regulations related to where childcare centers can open and operate. This legislation does not address other impediments to the creation of new childcare centers, such as state licensing requirements, or issues related to childcare quality or costs.

This memorandum describes: (1) the current City and State regulations that apply to the design and construction of childcare centers; (2) the current state of childcare in Seattle and the need for additional childcare centers, (3) the proposed legislation, and (4) next steps in the Council's review of the legislation.

Current Childcare Regulations and Policies

The primary licensing authority for childcare centers in Washington State is the Washington Department of Children, Youth and Families (DCYF). They DCYF license two primary categories of childcare centers: child day care centers and family day care providers. Family day care providers offer 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 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 childcare providers including: (1) family and neighbors providing care, (2) cooperative childcare 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 childcare would be considered a “childcare center” under the Seattle Municipal Code, therefore, land use regulations for childcare centers apply to both those facilities that are licensed by DCYF and those that are not.

Childcare 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 childcare center requires a “conditional use” permit that adds time and expense to opening a childcare center. In Downtown and some Seattle Mixed zones, on the other hand, the zoning regulations provide incentives to add childcare centers to new development projects.

This section describes the different regulations by zone and then summarizes three sections of the code that apply across the City’s zones (definitions, home occupation regulations and parking).

Regulations by Zone

The City takes different approaches to regulating childcare centers depending on the intended level of activity in the zone. In single-family zones, childcare centers are discouraged through conditional use requirements which increase the time and cost of permitting and limit the locations where childcare centers may be located. The Seattle Department of Construction and Inspections (SDCI) reviews and issues a decision on conditional use permits submitted to establish a childcare center. SDCI’s decision to approve a childcare center can be appealed to the Seattle Hearing Examiner. In Downtown zones, childcare centers are incentivized through the provision of additional floor area for projects that include or contribute toward childcare centers. Table 1 summarizes these regulations.

Table 1: Summary of regulations by zone

Zone	SMC Chapter	Permitted	Maximum size	Dispersion requirements from other institutions	Incentives
Single-family (SMC 23.44)	23.44	Most are Conditional use (see SMC 23.44.022 for conditions)	None (centers >4,000 square feet have additional requirements)	600 feet (unless located in an existing institution or serving fewer than 25 children)	Additional housing units in clustered housing developments and planned residential developments
Multifamily (SMC 23.45)	23.45	Yes (centers that do not meet development standards may be permitted as a conditional use)	None	600 feet	None
Commercial (SMC 23.47A)	23.47A	Yes	NC1: 10,000 sf NC2: 25,000 sf Others: None	None	No limits on building width or commercial space for floors with a childcare center
Seattle Mixed (SMC 23.48)	23.48	Yes	None	None	Additional floor area is allowed for projects that provide or contribute toward childcare space and affordable housing. Special incentives in South Lake Union, Uptown and the University District, some of which only apply to preschools.
Downtown (SMC 23.49)	23.49	Yes	None	None	Additional floor area for projects that provide or contribute toward childcare space and affordable housing.
Industrial (SMC 23.50)	23.50	Yes	Yes	None	In higher-density IC zones, childcare centers are exempt from floor area limits.

Definition (SMC Section [23.84A.018](#))

“Childcare 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 childcare 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 childcare centers as a home occupation associated with a residential unit. These centers are permitted as accessory uses and do not require any additional permits, provided that they comply with the limits set. Requirements for home occupation uses include:

- a. The childcare 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. Childcare 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.

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.

Childcare in Seattle

In 2018 there were 44,000 children in Seattle under the age of six¹. Approximately nine 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 childcare. A report from the Washington State Department of Commerce on the costs of childcare 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 childcare issues.”⁴

There are approximately 600 childcare centers in Seattle.⁵ As of 2018, there were approximately 57,000 spaces in 1,837 childcare 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 childcare. King County’s Women’s Advisory Board published a report in 2018 that found that “childcare 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 childcare centers. In 2019, the Washington State Childcare Collaborative Task Force found that:

Washington seriously lacks childcare 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 childcare means fewer parents in the workforce, more missed work, less productivity and lower economic games. It also means fewer children will be able to take care of development supports, social-emotional

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 Childcare: Impacts of childcare 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 Childcare Aware, “2018 Data Report: Trends, Childcare 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 childcare access and affordability throughout King County,” 2018.

skill-building opportunities and learning environments for school readiness and success offered by high-quality childcare 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 childcare facilities.”

Between 2015 and 2019, 51 childcare centers received permits to open in Seattle. Table 2 summarizes those applications:

Table 2: 2015-2019 Childcare centers permitted by SDCI

Zone/ Approval Type	# of 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
TOTAL	51	161	454	3,413	67	4,811	17,064

Source: Seattle Department of Constructions and Inspections, Land Use Permits and Building Permits from data.seattle.gov, February 2020

On average, it took significantly longer to receive a conditional use permit to create a childcare center in a Single-family zone than to receive land use and building permits to open a childcare center in other zones. In all other zones, the longest permitting times were for childcare centers proposed as part of large new mixed-use buildings. Generally, for the projects with the longest permit times, the childcare center made up a small portion of the total project. The shortest permit times were for childcare centers that moved into existing office or retail spaces. The median childcare center was 3,200 square feet and was designed to accommodate approximately 40 children.

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

Childcare Near You

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

1. allowing childcare as a principal use outright;
2. providing limited incentives for childcare centers to be added to mixed-use buildings; and
3. expanding some exemptions that currently only apply to preschools to all types of childcare center.

Table 3 summarizes the proposed changes by zone and is followed by descriptions of changes to two citywide provisions. For a detailed description of the proposed changes, please see the Staff Report for the bill, available with the legislation [here](#).

Table 3: Childcare Near You Proposal: Summary of Changes by Zone

Zone	SMC Chapter	Permitted	Maximum size	Dispersion requirements from other institutions	Incentives
Single-family (SMC 23.44)	23.44	Yes – would no longer be a conditional use	None – No extra requirements for larger facilities	None – dispersal requirement removed	<i>No change</i>
Multifamily (SMC 23.45)	23.45	<i>No change</i>	<i>No change</i>	None – dispersal requirement removed	<i>No change</i>
Commercial (SMC 23.47A)	23.47A	<i>No change</i>	No maximum size limit in NC1 and NC2 zones	<i>No change</i>	<i>No change</i>
Seattle Mixed (SMC 23.48)	23.48	<i>No change</i>	<i>No change</i>	<i>No change</i>	Special incentives in South Lake Union, Uptown & University District expanded to include all childcare centers.
Downtown (SMC 23.49)	23.49	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>
Industrial (SMC 23.50)	23.50	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>

Home Occupations

SMC Section 23.42.050 would be amended to remove restrictions on the size and location of childcare 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.

The bill would allow childcare centers to be located in an accessory building separate from the principal unit, allowing for more flexibility in how the childcare center operates. This change would provide flexibility to configure a childcare center on a lot. All lot coverage and building height limits would apply to that separate structure.

The bill would remove a 12-child limit on the number of children permitted in a home occupation childcare center. This would allow for additional childcare slots in larger residences only if the State changes its requirements for child day care centers.

Definitions

The bill amends the definition of childcare center (SMC 23.84A.018) to clarify that cooperative childcare programs and drop in centers are considered childcare centers. The added uses are types of childcare centers that are not required to receive licenses from the State, but that best fall under the definition of childcare center in the City's land use code.

Next Steps

The Land Use and Neighborhoods Committee will hold a public hearing on the bill at its meeting on July 22, 2020 at 9:30 a.m. If Councilmembers are considering amendments to the bill, please contact me as soon as possible. Amendments to land use legislation often require extra notice prior to Council final action.

Appendices:

1. Single-family Zone Conditional Use Requirements

cc: Kirstan Arestad, Executive Director
Aly Pennucci, Supervising Analyst

Appendix 1: Single-Family Conditional Use Requirements for Child Care Centers

23.44.022 – Institutions

A. Institutions Identified.

The following institutions may be permitted as conditional uses in single-family zones:

- Community centers
- Child care centers**
- Private schools
- Religious facilities
- Libraries
- Existing institutes for advanced study
- Other similar institutions

The following institutions are prohibited in single-family zones:

- Hospitals
- Colleges
- Museums
- Private clubs
- Vocational schools

* * *

D. General provisions

1. New or expanding institutions in single-family zones shall meet the development standards for uses permitted outright in Sections 23.44.008 through 23.44.020 unless modified elsewhere in this subsection 23.44.022.D or in a Major Institution master plan.
2. The establishment of a **child care center** in a legally established elementary or secondary school or community center, or establishment of a shelter for homeless youths and young adults in a legally established elementary or secondary school, is not considered a new use or an expansion of the institutional use provided that:
 - a. The use does not violate any condition of approval of the existing institutional use;
 - b. The use does not require expansion of the existing structure;
 - c. Any new children's play area is located at least 30 feet from any other lot in a single-family zone, and at least 20 feet from any lot in a multifamily zone;
 - d. If the use is a shelter, the occupants are enrolled students of the established school.
3. Institutions seeking to establish or expand on property that is developed with residential structures may expand their campus up to a maximum of 2 1/2 acres. An institution campus may be established or expanded beyond 2 1/2 acres if the property proposed for the expansion is substantially vacant land.

E. Dispersion.

1. The lot line of any proposed new or expanding institution, other than child care centers locating in legally established institutions, shall be located six hundred (600) feet or more from any lot line of any other institution in a residential zone, with the following exceptions:
 - a. An institution may expand even though it is within six hundred (600) feet of a public school if the public school is constructed on a new site subsequent to December 12, 1985.
 - b. A proposed institution may be located less than six hundred (600) feet from a lot line of another institution if the Director determines that the intent of the dispersion criteria is achieved due to the presence of physical elements such as bodies of water, large open spaces or topographical breaks or other elements such as arterials, freeways or nonresidential uses, which provide substantial separation from other institutions.
2. A proposed **child-care center** serving not more than twenty-five (25) children which does not meet the criteria of subsection E1 of this section may be permitted to locate less than six hundred (600) feet from a lot line of another institution if the Director determines that, together with the nearby institution(s), the proposed child care center would not:
 - a. Create physical scale and bulk incompatible with the surrounding neighborhood;
 - b. Create traffic safety hazards;
 - c. Create or significantly increase identified parking shortages; or
 - d. Significantly increase noise levels to the detriment of surrounding residents.

F. Demolition of Residential Structures. No residential structure shall be demolished, nor shall its use be changed to provide for parking. This prohibition may be waived if the demolition or change of use proposed is necessary to meet the parking requirements of this Land Use Code and if alternative locations would have greater noise, odor, light and glare or traffic impacts on surrounding property in residential use. If the demolition or change of use is proposed for required parking, the Director may consider waiver of parking requirements in order to preserve the residential structure and/or use. The waiver may include, but is not limited to, a reduction in the number of required parking spaces and a waiver of parking development standards such as location or screening.

G. Reuse of Existing Structures. Existing structures may be converted to institution use if the yard requirements for institutions are met. Existing structures which do not meet these yard requirements may be permitted to convert to institution use, provided that the Director

may require additional mitigating measures to reduce impacts of the proposed use on surrounding properties.

- H. Noise and Odors.** For the purpose of reducing potential noise and odor impacts, the Director shall consider the location on the lot of the proposed institution, on-site parking, outdoor recreational areas, trash and refuse storage areas, ventilating mechanisms, sports facilities and other noise-generating and odor-generating equipment, fixtures or facilities. The institution shall be designed and operated in compliance with the Noise Ordinance, Chapter 25.08.

In order to mitigate identified noise and/or odor impacts, the Director may require measures such as landscaping, sound barriers or fences, mounding or berming, adjustments to yard or parking development standards, design modifications, setting hours of operation for facilities or other similar measures.

I. Landscaping

1. The Director shall promulgate rules to foster the long-term health, viability, and coverage of plantings. The rules shall address, at a minimum, the type and size of plants, spacing of plants, use of drought-tolerant plants, and access to light and air for plants. All landscaping provided to meet the requirements of this Section 23.44.022 shall comply with these rules.
2. Landscaping that achieves a Green Factor score of 0.3 or greater, pursuant to Section 23.86.019, is required for any lot with:
 - a. development containing more than four new dwelling units;
 - b. development, either a new structure or an addition to an existing structure, containing more than 4,000 new square feet of non-residential uses; or
 - c. any parking lot containing more than 20 new parking spaces for automobiles.

- J. Light and Glare.** Exterior lighting shall be shielded or directed away from adjacent residentially zoned lots. The Director may also require that the area and intensity of illumination, the location or angle of illumination be limited.

Nonreflective surfaces shall be used to help reduce glare.

K. Bulk and siting

1. Lot area. If the proposed site is more than one acre in size, the Director may require the following and similar development standards:
 - a. For lots with unusual configuration or uneven boundaries, the proposed principal structures be located so that changes in potential and existing

development patterns on the block or blocks within which the institution is located are kept to a minimum;

- b. For lots with large street frontage in relationship to their size, the proposed institution reflect design and architectural features associated with adjacent residentially-zoned block fronts in order to provide continuity of the block front and to integrate the proposed structures with residential structures and uses in the immediate area.
2. Yards. Yards of institutions shall be as required for uses permitted outright pursuant to Section 23.44.014, provided that no structure other than freestanding walls, fences, bulkheads or similar structures shall be closer than 10 feet to the side lot line. If the Director finds that a reduced setback will not significantly increase project impacts, including but not limited to noise, odor, and the scale of the structure in relation to nearby buildings, the sideyard setback may be reduced to 5 feet. Fences and freestanding walls of utility services uses, regulated under this Section 23.44.022 pursuant to Section 23.51A.002, shall be set back from the street lot line a minimum of 10 feet, and landscaping shall be provided between the fence or wall and the right-of-way. The Director may reduce this setback after finding that the reduced setback will not significantly increase project impacts, including but not limited to noise, odor, and the scale of the fence, wall, or structure in relation to nearby buildings.

Acceptable methods to reduce fence or wall impacts include changes in the height, design or construction of the fence or wall, including the use of materials, architectural detailing, artwork, vegetated trellises, decorative fencing, or similar features to provide visual interest facing the street lot line. Fences and walls may obstruct or allow views to the interior of a site. Where site dimensions and conditions allow, applicants are encouraged to provide both a landscaped setback between the fence or wall and the right-of-way, and a fence or wall that provides visual interest facing the street lot line, through the height, design or construction of the fence or wall, including the use of materials, architectural detailing, artwork, vegetated trellises, decorative fencing, or similar features.

3. Institutions Located on Lots in More Than One (1) Zone Classification. For lots which include more than one (1) zone classification, single-family zone provisions shall apply only to the single-family-zoned lot area involved.
4. Height Limit.
 - a. Religious symbols for religious institutions may extend an additional twenty-five (25) feet above the height limit.
 - b. For gymnasiums and auditoriums that are accessory to an institution the maximum height shall be thirty-five (35) feet if portions of the structure above thirty-five (35) feet are set back at least twenty (20) feet from all property lines. Pitched roofs on a gymnasium or auditorium which have a slope of not less than

four to twelve (4:12) may extend ten (10) feet above the thirty-five (35) foot height limit. No portion of a shed roof on a gymnasium or an auditorium shall be permitted to extend beyond the thirty-five (35) foot height limit under this provision.

5. Facade Scale. If any facade of a new or expanding institution exceeds thirty (30) feet in length, the Director may require that facades adjacent to the street or a residentially zoned lot be developed with design features intended to minimize the appearance of bulk. Design features which may be required include, but are not limited to, modulation, architectural features, landscaping or increased yards.

L. Parking and Loading Berth Requirements.

1. Quantity and Location of Off-street Parking.
 - a. Use of transportation modes such as public transit, vanpools, carpools and bicycles to reduce the use of single-occupancy vehicles is encouraged.
 - b. Parking and loading is required as provided in Section 23.54.015.
 - c. The Director may modify the parking and loading requirements of Section 23.54.015 and the requirements of Section 23.44.016 on a case-by-case basis using the information contained in the transportation plan prepared pursuant to subsection 23.44.022.M. The modification shall be based on adopted City policies and shall:
 1. Provide a demonstrable public benefit such as, but not limited to, reduction of traffic on residential streets, preservation of residential structures, and reduction of noise, odor, light and glare; and
 2. Not cause undue traffic through residential streets nor create a safety hazard.
2. Parking Design. Parking access and parking shall be designed as provided in Design Standards for Access and Off-street Parking, Chapter 23.54.
3. Loading Berths. The quantity and design of loading berths shall be as provided in Design Standards for Access and Off-street Parking, Chapter 23.54.

M. Transportation Plan. A transportation plan shall be required for proposed new institutions and for those institutions proposing expansions which are larger than four thousand (4,000) square feet of structure area and/or are required to provide an additional twenty (20) or more parking spaces.

The Director shall determine the level of detail to be disclosed in the transportation plan based on the probable impacts and/or scale of the proposed institution. Discussion of the following elements and other factors may be required:

1. Traffic. Number of staff on site during normal working hours, number of users, guests and others regularly associated with the site, level of vehicular traffic generated, traffic peaking characteristics of the institution and in the immediate area, likely vehicle use patterns, extent of traffic congestion, types and numbers of vehicles associated with the institution and mitigating measures to be taken by the applicant;
2. Parking. Number of spaces, the extent of screening from the street or abutting residentially zoned lots, direction of vehicle light glare, direction of lighting, sources of possible vibration, prevailing direction of exhaust fumes, location of parking access and curb cuts, accessibility or convenience of parking and measures to be taken by the applicant such as preference given some parking spaces for carpool and vanpool vehicles and provision of bicycle racks;
3. Parking Overflow. Number of vehicles expected to park on neighboring streets, percentage of on-street parking supply to be removed or used by the proposed project, opportunities for sharing existing parking, trends in local area development and mitigating measures to be taken by the applicant;
4. Safety. Measures to be taken by the applicant to ensure safe vehicular and pedestrian travel in the vicinity;
5. Availability of Public or Private Mass Transportation Systems. Route location and frequency of service, private mass transportation programs including carpools and vanpools, to be provided by the applicant.

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