

# Not an official copy.

## CTED [now the Washington State Department of Commerce] Model Ordinance for Child Day Care Facilities

City/County of \_\_\_\_\_, Washington  
Ordinance Number \_\_\_\_\_  
November 1, 1990

AN ORDINANCE, relating to the establishment and operation of child day care facilities; establishing land use regulations and a permit, system therefore; and (amending applicable Sections of the City/County of Municipal Code.)

THE CITY/COUNTY COUNCIL/BOARD OF THE CITY/COUNTY OF \_\_\_\_\_  
DOES ORDAIN AS FOLLOWS:

### **SECTION 1. Purpose**

[COMMENT 1]

(The Council/Board finds) that affordable, good quality' and licensed child day care within the City/County of is critical to the well-being of parents and children in the community and is a needed community service. Further, it is the purpose of this ordinance to facilitate the siting of licensed child day care facilities in the City/County of in a manner which simplifies the review and approval process while ensuring conformance with the surrounding land uses.

### **SECTION 2. Definition**

For the purpose of this ordinance, unless otherwise apparent from the context, certain words and phrases used in this ordinance are defined as follows:

- A. "Child Day Care" means the provision of supplemental parental care and supervision
1. for a non-related child or children,
  2. on a regular basis,
  3. for less than 24 hours a day, and
  4. under license by the Washington State Department of Social and Health Services.

As used in this ordinance, the term is not intended to include babysitting services of a casual, non-recurring nature or in the child's own home. Likewise, the term is not intended to include cooperative, reciprocative child care by a group of parents in their respective homes.

B. "Child Day Care Facility" means a building or structure in which an agency, person, or persons regularly provide care for a group of children for periods of less than -4 hours day. Child day care facilities include family day care homes, out-of-home child mini-day care centers and

child day care centers regulated by the Washington State Department of Social and Health Services, as presently defined and hereafter amended (RCW 74.15, WAC 388-73-422).

**[COMMENT 2]**

**SECTION 3. Family**

A. Family Day Care Home

A family day care home shall be permitted by right in all zoning districts permitting residences and shall be subject to the following requirements:

1. Meet Washington State child day care licensing requirements;
2. Comply with all building, fire safety, health code, and business licensing requirements;
3. Lot size, building size, setbacks, and lot coverage conform to the standards of the zoning district except if the structure is a legal nonconforming structure;
4. A safe passenger loading area must be provided;

**[COMMENT 3]**

5. Signage, if any, will conform to (Section \_\_\_\_\_ of the zoning code);
6. Filing of a child day care registration form with the city/county as provided for in SECTION 6 of this ordinance;

**[COMMENT 4]**

7. No structural or decorative alteration which will alter the single-family character of an existing or proposed residential structure or be incompatible with surrounding residences is permitted.

**SECTION 4. Child Mini-Day Care Center**

A. Child Mini-Day Care Center (not located in the residence of the care Provider). A child mini-day care center not located in the residence of the care provider is allowed in the designated zoning districts as follows:

**[COMMENT 5]**

1. Zoning Districts (Single-Family Residential and Two-Family Residential). A child mini-day care center not located in the residence of the care provider shall be permitted by (Administrative Review).

**[COMMENT 6]**

- a. Notice. Notice of the proposal shall be given as provided below:

1) Notices shall be posted on site and in two (2) other conspicuous locations in the vicinity of the site at least ten (10) calendar days prior to final action on the application;

2) The notice shall include a description of the proposal, site location, deadline for submitting written comments, and the address and phone number of the Planning Department of the City/County of \_\_\_\_\_.

b. (Administrative Review Requirements). The (Planning Director/Building Official) shall review applications for a mini-day care center not located in the residence of the care provider in (zones which allow for single-family and two-family residential structures) and may approve, modify, or deny the application subject to the following requirements:

**[see COMMENT 5]**

**[COMMENT 7]**

1) Meet Washington State child day care licensing requirements;

2) Comply with all building, fire safety, health code, and business licensing requirements;

3) Signage, if any, will conform to the requirements of (Section of the municipal code);

4) Filing of a child day care registration form with the city/county as provided for in SECTION 6 of this ordinance;

**[see COMMENT 4]**

5) Parking requirements shall conform to Section \_\_\_\_\_ of the zoning code;

6) The site must be landscaped in a manner compatible with adjacent residences;

7) No structural or decorative alteration which will alter the residential character of an existing residential structure used for a child mini-day care center is permitted. Any new or remodeled structure must be designed to be compatible with the residential character of the surrounding neighborhood;

8) The child mini-day care center shall not be located within 300 feet of another child mini-day care center not located in the residence of the care

provider or child day care center. Any child day care center which is an accessory use pursuant to SECTION 5D of this ordinance shall be excluded;

**[COMMENT 9]**

**[Also see COMMENT 13]**

9) The (Planning Director/Building Official) may attach conditions to the permit in order to reduce conflicts between the child mini-day care center and surrounding neighborhood; i.e., noise attenuation, special parking needs, and hours of operation;

10) If the (Planning Director/Building Inspector) finds that there is just cause for a public hearing, final approval shall be determined through the Conditional Use Permit process and shall be subject to the requirements of SECTION 5A(1) of this ordinance and Chapter of the municipal code;

The process used to appeal an (Administrative Review) decision is contained in Section of the municipal code (appeal of administrative decisions).

**[COMMENT 10]**

2. All Other Zoning Districts. A child mini-day care center not located in the residence of the care provider is permitted by right in all other zoning districts provided the conditions set forth in SECTION 4, parts b(1) through b(7) of this ordinance are met.

**[COMMENT 11]**

**SECTION 5. Child Day Care Center**

A child day care center may be allowed in the designated zoning districts as follows:

A. Zoning Districts (Single-Family Residential and Two-Family Residential). A child day care center may be allowed in these zoning districts only upon issuance of a conditional permit pursuant to Section \_\_\_ of the municipal code.

**[see COMMENT 5]**

**[see COMMENT 7]**

1. Conditional Use Permit Requirements.
  - a. Meet Washington State child day care licensing requirements;

b. Comply with all building, fire safety, health code, and business licensing requirements;

c. Lot size, building size, setbacks and lot coverage conform to those applicable to the zoning district;

d. Signage, if any, will conform to the requirements for the applicable zoning district;

e. Filing of a child day care registration form with the city/county as provided for in SECTION 6 of this ordinance;

**[see COMMENT 4]**

f. Parking requirements shall conform to Section of the zoning code;

**[See COMMENT 8]**

g. A fence at least (4) feet high must be installed around the play yard;

**[COMMENT 12]**

h. The site must be landscaped in a manner compatible with adjacent residences;

i. No structural or decorative alteration which will alter the residential character of an existing residential structure used for a child day care center is permitted. Any new or remodeled structure must be designed to be compatible with the residential character of the surrounding neighborhood.

j. The child day care center shall not be located within 300 feet of another child day care center or child mini-day care center not located in the residence of the care provider, excluding any child day care center which is an accessory use pursuant to SECTION 5D of this ordinance.

**[see COMMENT 9]**

B. All Other Zoning Districts. A child day care center is permitted by right in all other zoning districts subject to the following requirements:

**[See COMMENT 11]**

1. Meet Washington State child day care licensing requirements;
2. Comply with all building, fire safety, traffic safety, health code, and business licensing requirements;
3. Setbacks, screening, landscaping, lot size, building size, and lot coverage shall conform to the pertinent portions of the zoning code;

4. Parking requirements shall conform to Section of the zoning code;

[See COMMENT 8]

5. Filing of a child day care registration form with the city as provided for in SECTION 6 of this ordinance.

[see COMMENT 4]

C. Limitations in Use of a Family Residence. No child day care center shall be located in a private family residence unless the portion of the residence where the children have access is used exclusively for the children during the hours the center is in operation, or is separate from the usual living quarters of the family.

D. Accessory Use. A child day care center, if sited on the premises of an operating community service facility shall be considered accessory to the principal use of the property concerned.

[COMMENT 13]

**SECTION 6. Registration**

Each child day care service provider must register with the City/County Planning Department by completing a child day care registration form as provided by the department prior to initiation of the use. Upon registration, the child day care provide- must be able to demonstrate compliance with the applicable conditions of this ordinance.

**SECTION 7. Contradictions**

In the event of conflict between this ordinance and any other ordinance or zoning provision for the City/county of the provisions of this ordinance shall prevail.

**SECTION 8. Effective Date**

This ordinance shall take effect and be in force [thirty (30) days after] the date of its publication in the manner provided by law.

[COMMENT 14]

PASSED by the Council/Board of the City/County of \_\_\_\_\_, Washington, at a regular meeting thereof and APPROVED by the Mayor/Chair this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_\_.

CITY/COUNTY OF \_\_\_\_\_

---

## **Model Ordinance for Child Day Care Facilities - Comments on Content**

**COMMENT 1** - The enactment clause needs to be individualized according to the status of the jurisdiction; i.e., third class city, cone city (see RCW 35.24.210, RCW 35.27.290, RCW 35A.12.130, RCW 35.17.030, or RCW 35.23.300).

**COMMENT 2** - Those jurisdictions which spell out definitions for "family day care homes", "mini-day care centers", and "child day care centers" should review definitions against recently amended DSHS definitions. Consistency between state and local definitions is desired. A copy of the current DSHS definitions is attached.

**COMMENT 3** - Local governments may wish to substitute with local parking ordinance requirements.

**COMMENT 4** - Child day care registration could also be achieved through issuance of a local business license. License or registration fees, if required, should not create a barrier to the child day care provider. One possible way of addressing this problem is to make family and child mini-day care centers eligible for either reduction or exemption of local license or registration fees (based on the number of children served).

**COMMENT 5** - Residential zoning districts and names will need to be modified according to local code; i.e., R1, R2.

**COMMENT 6 (Administrative Review)** - The reason for selecting this process for mini-day care centers, not located in the residence of the care provider, was to try to use a process which allows for notice and input and the ability to impose conditions, yet is less expensive and time consuming than the more traditional Conditional Use Permit process. Local jurisdictions which do not have this process in place may need to use a different process.

It should be noted that this situation would probably not arise very often due to the economic constraints of a 12-child facility. Local governments may not wish to differentiate between the treatment of family day care homes and mini-day care centers.

**COMMENT 7** - Local governments may wish to supplement these conditions or refer to other local generic conditions frequently used for decision making; i.e., consistency with comprehensive plan, service by adequate public services.

**COMMENT 8** - Review local parking regulations to make sure that while providing for safety, they are not posing unreasonable barriers to day care provision.

**COMMENT 9** - Local governments may wish to eliminate dispersal requirements for mini-day care centers not located in the residence of the care provider and day care centers. If required, the distance between centers could be modified to meet local need but must be reasonable to allow for adequate provision of child day care.

**COMMENT 10** - As policy, local governments may wish to identify potential situations whereby a Planning Director/Building Inspector would be justified in requiring the child day care provide- to go through the conditional use process.

**COMMENT 11** - Communities may wish to modify the permitting process to meet local policy; i.e., industrial zones, adult entertainment zones.

**COMMENT 12** - Fence height must be at least 4 feet to comply with the Washington State Department of Social and Health Services regulations. The height needs to be consistent with that allowed in front, side, and back yards, if raised above 4 feet.

**COMMENT 13** - The accessory use provision was included to expedite the use of some existing facilities for child care provision. Those communities who chose to provide for accessory uses will need to define acceptable community service facilities. o-, communities may wish to use another permitting process for child care facilities locating in certain community service facilities.

**COMMENT 14** - The effective date should be modified to reflect local practice.