

Ordinance No. 2977

AN ORDINANCE OF THE CITY OF PORT TOWNSEND AMENDING
CHAPTER 17.52 OF THE PORT TOWNSEND MUNICIPAL CODE
WITH REGARD TO REVISING THE DEFINITIONS OF CHILD CARE
FACILITIES AND MINOR CONDITIONAL USE AND AMENDING
THE CHILD DAY CARE CHAPTER

RECITAL:

The City Council of the City of Port Townsend finds as follows:

1. Port Townsend is a community with a very special environment, both natural and man-made and the qualities of both must be respected so that the uniqueness of Port Townsend can flourish without inappropriate changes.
2. The Port Townsend Comprehensive Plan was adopted to provide guidance for the community on accommodating growth and redevelopment in a manner that respected the natural and built environment and enhanced the community.
3. Title 17 (Zoning) of the Port Townsend Municipal Code was adopted to fully implement the Comprehensive Plan.
4. Certain standards and requirements in Title 17 have been identified as needing clarification.
5. Chapter 20.04 PTMC establishes a process for consideration of amendments to the text and maps of the Comprehensive Plan and Implementing Regulations. This ordinance has been developed in conformance with the requirements for land use code text revisions set forth in Section 20.04.090 PTMC.
6. Child care facilities are found to be an important resource to the City of Port Townsend and should be allowed in various forms in residential, mixed use, commercial and manufacturing zoning districts.
7. Child care references from the State Revised Code of Washington (RCW) and Washington Administrative Code (WAC) had been updated.
8. The Planning Commission considered in several workshop sessions the need for revisions to the requirements and standards associated with child care facilities.
9. On November 8, 2007, after timely and effective public notice, the Planning Commission conducted an open record public hearing to accept public testimony on the proposed amendments to Chapter 17.52 PTMC. Following the close of the public hearing, the Planning Commission reviewed the record, deliberated, and directed staff

to revise the draft ordinance with modifications to allow child care centers and stand-alone preschools in all residential zoning districts with approval of a conditional use permit. On January 24, 2008, by a vote of 7 in favor and 0 opposed recommended adoption of the proposed amendments

10. On June 2, 2008, after timely and effective notice, the City Council conducted an open record public hearing to accept public testimony on the proposed amendments to Chapter 17.52 PTMC. At the close of public hearing, the Council deliberated upon the proposal.
11. The City Council finds that opportunities provided for meaningful citizen participation in this amendment process are consistent with the requirements of the GMA (36.70A RCW) and the procedures set forth in Chapter 20.04 PTMC.
12. The City Council finds that the amendments to Chapter 17.52 PTMC recommended herein have been reviewed under the State Environmental Policy Act (Chapter 43.21C RCW and chapter 197-11 WAC) and Chapter 19.04 PTMC. The City Council finds that the amendments to Titles 17, 18, 19, and 20 PTMC recommended herein have been reviewed under the State Environmental Policy Act (Chapter 43.21C RCW and chapter 197-11 WAC) and Chapter 19.04 PTMC. On October 24, 2007, the SEPA Responsible Official issued a Determination of Non-Significance, Adoption of Existing Environmental Documents and Notice of Availability of SEPA Addendum. No comments were received during the public review period. A Final SEPA Determination was issued on November 26, 2007.
13. The City Council finds that Code amendments set forth herein are wholly consistent with the Community Direction Statement contained in Chapter III of the Plan, and the review and amendment procedures set forth in Section 20.04 PTMC.
14. The City Council expressly finds that site-specific criteria set forth in Section 20.04 PTMC are inapplicable to the text amendments recommended herein, and therefore need not be applied.
15. All audio taped and written record of the Planning Commission and City Council's deliberations during the meeting and hearings described in the above findings are incorporated herein by this reference.
16. Consistent with the requirement of the GMA, Planning staff provided notice of intent to adopt the proposed development regulation amendments to the State of Washington Department of Community Trade and Economic Development (CTED) for review and comment prior to the adoption of this ordinance (RCW 36.70A.106). No substantive comments were received from DCTED prior to the adoption of this ordinance.

17. This ordinance has been prepared in conformance with the goals and requirements of the GMA (Chapter 36.70ARCW) and is externally consistent and compatible with the 14 state-wide planning goals contained with in the GMA (RCW 36.70A.020).
18. This ordinance has also been reviewed against the requirements of the County-wide Planning Policy for Jefferson County (CWPP) and has been found by the Council to be in conformance therewith.
19. Based upon the foregoing findings, the Council finds that adoption of the amendments to the narrative text and tables of Chapter 17.52PTMC “Day Care Facilities” will promote the public health, safety and welfare of the citizens of Port Townsend and should be approved.

NOW, THEREFORE, based upon the foregoing FINDINGS, and based upon the record before the Port Townend Planning Commission and City Council, the City Council hereby ordains as follows:

SECTION 1. Amend the Child Day Care Chapter, Definitions for Child Care Facilities and Minor Conditional Use, the Zoning District Use Tables, and the Off-Street Parking Table to Reference New Sections of the WAC and RCW and to Create Separate Review Criteria for Residential and Commercial, Mixed Use, and Manufacturing Zoning Districts.

PTMC Chapter 17.08.020 is hereby amended, and shall read as follows:

~~“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 24 hours a day. Child day care facilities include family day care homes and child day care centers regulated by the Washington State Department of Social and Health Services, as presently defined and hereafter amended (Chapter 74.15 RCW, Chapters 388-150 and 388-155 WAC).~~

“Child care facility” means a building or structure in which an agency, person or persons providing developmentally appropriate care, protection and supervision of children that is designed to promote positive growth and educational experiences for children outside of their home for periods of less than twenty-four hours a day, as currently and hereafter defined in 170-296-0020 WAC. Child care facilities include preschools (not state licensed), family home child care and child day care centers that are regulated by the Washington State Department of Early Learning, as presently defined and hereafter amended (170-295-0010 and 170-296-0020 WAC). As used in this title, the term is not intended to include babysitting services of a casual, nonrecurring nature or in the child’s own home. Likewise, the term is not intended to include cooperative, reciprocal child care by a group of parents in their respective homes.

~~“Child day care” means the provision of supplemental parental care and supervision: A. For a nonrelated child or children; B. On a regular basis; C. For less than 24 hours a day; and D. Under license by the Washington State Department of Social and Health Services (DSHS).
As used in this title, the term is not intended to include babysitting services of a casual, nonrecurring nature or in the child’s own home. Likewise, the term is not intended to include cooperative, reciprocal child care by a group of parents in their respective homes.~~

~~“Child day care center” means a facility providing regularly scheduled care for a group of 13 or more children one month of age through twelve years of age for periods less than 24 hours, as presently defined and hereafter amended (170-295-0010 WAC). Such a The Department of Early~~

~~Learning (DEL) may license a center facility may be located~~ in a private family residence when the portion of the residence accessible to the children is:

- A. Used exclusively for the children during the center's operating hours or while the children are in care; or
- B. Separate from the family living quarters, as presently defined and hereafter amended (170-295-0020(7) WAC).

"Conditional (special) use, minor" means a conditional use which:

A. Is to be established and conducted entirely within an existing building or conducted entirely within an accessory structure not exceeding 120 square feet in building coverage and 10 feet in height; or,

B. Child care centers requiring no new construction other than an outdoor play area and parking improvements.

Minor conditional uses are processed as Type II permits under Chapter 20.01 PTMC.

PTMC Chapter 17.08.030 is hereby amended, and shall read as follows:

~~"Family day care home" means a licensed child day care facility located in the family abode of the person or persons under whose direct care and supervision the child is placed, for the care of 12 or fewer children, including children who reside in the home.~~

"Family home child care" means a facility licensed to provide direct care, supervision and early learning opportunities for 12 or fewer children at any one time, in the home of the licensee where the licensee resides and is the primary provider, as presently defined and hereafter amended (170-296-0020 WAC).

PTMC Chapter 17.08.050 is hereby amended, and shall read as follows:

~~"Preschool" means a nonresidential teacher-instructed, curriculum-based educational program of under four hours daily duration. Preschools have no state licensing procedure. For the purposes of this chapter, preschools shall be considered equivalent a "day care center" regardless of the number of children served, except for the state licensing requirement.~~

"Preschool, stand alone" means a teacher-instructed, curriculum-based educational program of under four hours daily duration for children 24 months through 6 years of age not attending kindergarten or elementary school. Stand alone preschools are not accessory to a residential use. Preschools serving children 30 months of age or older have no state licensing procedure.

Preschool, in-home" means a teacher-instructed, curriculum-based educational program of under four hours daily duration serving 12 or fewer children at a time. Preschools are for children 24 months through 6 years of age not attending kindergarten or elementary school. In-home preschools are accessory to a residential use. Hours of operation shall be limited to 7:00 am to 7:00 pm. In-home preschools serving children 30 months of age or older have no state licensing procedure.

PTMC Chapter 17.52 is hereby amended, and shall read as follows:

Chapter 17.52

~~DAY CARE CHILD CARE~~ FACILITIES

Sections:

17.52.010 Purpose.

- ~~17.52.020 Family day care homes.~~
- ~~17.52.020 Application Process.~~
- ~~17.52.030 Child day care centers.~~
- ~~17.52.030 Minimum standards for all child care facilities.~~
- ~~17.52.040 Family home child care and in-home preschools - Additional Standards.~~
- ~~17.52.050 Child day care centers and stand alone preschools – Additional Standards.~~
- ~~17.52.040 Registration.~~
- ~~17.52.050 Conflicting provisions.~~

17.52.010 Purpose.

The city council finds that affordable, good quality, and licensed child ~~day~~ care within the city 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 chapter to facilitate the siting of licensed child ~~day~~ care facilities in the city in a manner which simplifies the review and approval process while ensuring conformance with the surrounding land uses. (Ord. 2571 § 2, 1997).

~~17.52.020 Family day care homes.~~

~~—A family day care home shall be permitted by right in all residential, mixed use and commercial districts. For the purposes of this chapter, the city's regulatory role for family day care homes shall be limited to the following. Family day care homes shall:~~

~~—A. Apply for a city business license and obtain a license concurrently with DSHS approval and state licensing;~~

~~—B. Comply with all building, fire safety, health code and business licensing requirements;~~

~~—C. Conform to lot size, building size, setbacks and lot coverage standards applicable to the zoning district in which the facility is located except if the structure is a legal nonconforming structure;~~

~~—D. Be certified by the State Department of Licensing as providing a safe passenger loading area; provided, that the state has a procedure for providing such certification;~~

~~—E. Include signage, if any, that conforms to Chapter 17.76 PTMC;~~

~~—F. Limit hours of operation to facilitate neighborhood compatibility, while at the same time providing appropriate opportunity for person(s) who use family day care and who work a nonstandard work shift;~~

~~—G. The operator of the home shall file a child day care registration form with the city as provided for in PTMC 17.52.040;~~

~~—H. Provide to the development services department written proof of notification to immediately adjoining neighbors informing them of the intent to locate and maintain such a facility. This proof must be provided prior to state licensing. If a dispute arises between the neighbors and the family day care provider over licensing requirements, under state law DSHS may provide a forum to resolve the dispute. (RCW 35.63.185). (Ord. 2892 § 1, 2005; Ord. 2571 § 2, 1997).~~

17.52.020 Application Process

A. Procedure: All child care facilities must comply with the minimum standards of this chapter. Table 17.52.020 identifies the approval process.

	<u>Family Home Child Care & In-home Preschools</u>	<u>Child Day Care Centers & Stand Alone Preschools</u>	<u>Applicable Regulations/Notes</u>
<u>Permitted</u>	<u>All Commercial, Mixed Use, Residential, and Manufacturing zoning districts</u>	<u>All Mixed Use zones, C-II, C-III, C-II(H) zones, Any residential zone through the PUD process or as an accessory use.</u>	<u>Subject to the standards in this chapter. See Chapter 17.32 PTMC for Planned Unit Development regulations. See 17.52.020.B for child care as an accessory use.</u>
<u>Conditional Use</u>		<u>All Manufacturing zones, all Residential zones (unless processed concurrent with a PUD), and C-I</u>	<u>Type II Minor CUP if no new construction other than an outdoor play area and parking improvements. Type III CUP if new building construction</u>

B. Accessory Use. A child day care center, that is incidental and subordinate to the principal use of a site as a legally established community center, school, or church, shall be permitted outright.

17.52.030 Child day care centers.

— A child day care center, as defined by state law, may be allowed as follows:

— A. All Zoning Districts. A child day care center may be allowed in all zoning districts only upon issuance of a conditional use permit pursuant to Chapter 17.84 PTMC.

— 1. Conditional Use Permit Requirements.

— a. The child day care center shall meet state child day care licensing requirements.

— b. The child day care center shall comply with all building, fire safety, health code and business licensing requirements.

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

— d. Signage, if any, shall conform to the requirements for the applicable zoning district.

— e. The operator of the child day care center shall file a child day care registration form with the city as provided for in PTMC 17.52.040.

— f. Parking requirements shall conform to Chapter 17.72 PTMC.

— g. A fence at least four feet high must be installed around the play yard.

— 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 nor located in the residence of the care provider, excluding any child day care center which is an accessory use pursuant to subsection B of this section.~~

~~—k. In the director's evaluation he or she shall consider:~~

~~—i. Current traffic volumes of the subject streets and the capacity of the existing road network;~~

~~—ii. Conformance of the subject streets with city street standards set out in Chapter 12.04 PTMC;~~

~~—iii. Conformance of the subject streets with emergency vehicle access standards.~~

~~—iv. The conditional use standards and criteria set forth in Chapter 17.84 PTMC.~~

~~—B. 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.~~

~~—C. For the purposes of this section, any child day care center in operation in a zoning district other than R-I, R-II, R-III, or R-IV which was permitted as a matter of right before February 27, 1995, may continue as a pre-existing use. (Ord. 2571 § 2, 1997).~~

17.52.030 Minimum standards for all child care facilities.

All child care facilities (i.e., in-home and stand alone preschools, family home child care and child day care centers) shall meet the following standards:

A. Apply for a city business license and concurrently obtain any required state license with the Washington State Department of Licensing with approval from the Washington State Department of Early Learning;

B. Comply with all applicable building (including exiting requirements), fire safety (including requirements for sprinkler systems), health code and business licensing requirements;

C. Conform to lot size, building size, setbacks and lot coverage standards applicable to the zoning district in which the facility is located. Exceptions may apply for legal nonconforming structures pursuant to Chapter 17.88 PTMC;

D. Comply with Chapter 17.76 PTMC whenever signage is proposed;

E. A day care center cannot be located within 150 feet from any existing adult entertainment facility, as described in PTMC 17.20.020 and defined in PTMC 17.08.020.

F. Limit hours of operation to facilitate neighborhood compatibility, while at the same time providing appropriate opportunity for person(s) who use child care facilities and who work a nonstandard work shift;

G. The operator of the child care facility shall file a child care registration form with the city as provided for in PTMC 17.52.060.

H. If a conditional use permit is required, the director's evaluation shall consider the conditional use standards and criteria set forth in Chapter 17.84 PTMC.

17.52.040 Family home child care and in-home preschools - Additional Standards.

- A. No play structures may be located in the front setback of the home. In the event of double frontage or similar situations, the director of development services shall determine which setback would have the least visual impact to the neighborhood;
- B. Family home child care or in-home preschools located within multifamily residential units shall not operate from more than one dwelling unit;
- C. Off-street loading.
 - 1. Family home child care shall provide a passenger loading area that is determined adequate by the Department of Early Learning (DEL) or other applicable state licensor;
 - 2. In-home preschools shall provide a loading area that is determined adequate by the Development Services Department (inspection fees may apply);
- D. Exterior alterations shall be in keeping with the residential character of the neighborhood.
- E. Adjoining neighbor notification.
 - 1. Family home child care shall provide to the development services department written proof of notification to immediately adjoining neighbors informing them of the intent to locate and maintain such a facility. This proof must be provided prior to state licensing. If a dispute arises between the neighbors and the family home child care provider over licensing requirements, under state law the state licensor may provide a forum to resolve the dispute. (RCW 35.63.185).
 - 2. In-home preschools shall provide to the development services department written notice to immediately adjoining neighbors informing them of the intent to locate and maintain an in-home preschool. Enforcement shall be in accordance with the procedures detailed in Chapter 20.10 PTMC.

17.52.050 Child day care centers and stand alone preschools – Additional Standards.

A. Residential Districts.

In addition to the minimum standards in Section 17.52.030, Child Day Care Centers and Stand Alone Preschools in a residential district shall conform to the following standards:

- a. The site must be landscaped in a manner compatible with the neighborhood.
- b. Any new or remodeled structure must be designed to be compatible with the residential character of the surrounding neighborhood. New construction will require a Type III conditional use permitting process.
- c. A child day care center shall not be located within 300 feet of another child day care center with the exception of child care centers that are accessory uses pursuant to subsection 17.52.020(B) above.
- d. Parking shall be provided in compliance with Chapter 17.72, Off-Street Parking and Loading

B. Mixed Use, Commercial, and Manufacturing Districts.

In addition to the minimum standards in 17.52.030, Child Day Care Centers and Stand Alone Preschools in a mixed use, commercial or manufacturing district shall conform to the following standards:

- a. Child day care centers and stand alone preschools shall comply with the parking requirements set forth in Chapter 17.72, Off-Street Parking and Loading.
- b. Child day care centers and stand alone preschools shall comply with any applicable design standards for the zoning district.

C. For the purposes of this section, any child day care center in operation in any zoning district, which was lawfully established prior to adoption of this ordinance (Month day, 2008) may continue as a pre-existing use. (Ord. 2571 § 2, 1997).

17.52.0460 Registration.

Each child care service provider must register with the city development services department by completing a child ~~day~~ care registration form as provided by the department prior to the initiation of the use. Upon registration, the child ~~day~~ care provider must be able to demonstrate compliance with the applicable conditions of this chapter and the requirements of the building and fire code (16.04 PTMC). (Ord. 2947 § 7, 2007; Ord. 2892 § 1, 2005; Ord. 2571 § 2, 1997).

17.52.0570 Conflicting provisions.

In the event of conflict between this chapter and any ordinance or zoning provision for the city, the ~~provisions of this chapter shall prevail~~ more restrictive shall apply. (Ord. 2571 § 2, 1997).

PTMC Table 17.16.020 is hereby amended, and shall read as follows:

17.16.020 PTMC: Residential District Use Table

DISTRICT	R-I	R-II	R-III	R-IV	APPLICABLE REGULATIONS/NOTES
Child day care centers and <u>stand alone</u> preschools; child day care facilities;	C ¹	C ¹	C	C	⁽¹⁾ <u>See 17.52.020(B) for child care as an accessory use. Child day care centers may be permitted in any residential zone through the Planned Unit Development (PUD) process, see Ch. 17.32.</u> Ch. 17.52 PTMC, <u>Child Day Care Facilities</u> ; and PTMC 17.16.030, Bulk, dimensional and density requirements.
Family <u>home child care and in-home preschools</u> day care homes	P	P	P	P	Same as above.

PTMC Table 17.18 is hereby amended, and shall read as follows:

17.18.020 PTMC: Mixed Use District Use Table

DISTRICT	C-I/MU	C-II/MU	APPLICABLE REGULATIONS/NOTES
Child day care centers, child day care facilities , and <u>stand alone</u> preschools	P	P	Ch. 17.52 PTMC, <u>Child Day Care Facilities</u> ; and PTMC 17.18.030, Bulk, dimensional and density requirements.
<u>Family home child care and in-home preschools</u>	<u>P</u>	<u>P</u>	<u>Same as above.</u>

PTMC Chapter 17.20 is hereby amended, and shall read as follows:

DISTRICT	C-I	C-II	C-II(H)	C-III	APPLICABLE REGULATIONS/NOTES
Child Day Care Centers, Care Facilities , and Preschools	C	P	P	P	Chapter 17.52 PTMC, <u>Child Day Care Facilities</u> ; and PTMC 17.20.030, Bulk, dimensional and density requirements.
<u>Family home child care and in-home preschools</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>Permitted only when occurring in the residence where the primary provider lives, see definition in Chapter 17.08 PTMC and Ch. 17.52 PTMC, Child Care Facilities.</u>

PTMC Chapter 17.22 is hereby amended, and shall read as follows:

DISTRICT	M-C	M-I	M-II(A)	M-II(B)	M-III	APPLICABLE REGULATIONS/NOTES
Child day care centers, child day care facilities , and <u>stand alone</u> preschools	C	C	C	C	C	Chapter <u>17.52</u> PTMC, <u>Day Child Care Facilities</u> ; and PTMC <u>17.22.030</u> , Bulk, dimensional and density requirements.
<u>Family home child care and in-home preschools</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>Permitted only when occurring in the residence where the primary provider lives, see definition in Chapter 17.08 PTMC and Ch. 17.52 PTMC, Child Care Facilities.</u>

PTMC Table 17.72.080 is hereby amended, and shall read as follows:

Table 17.72.080 Vehicular and Bicycle Parking Standards

Use	Minimum Required Parking Spaces	Maximum Permissible Parking Spaces	Required Bicycle Spaces (minimum of two spaces if not listed)
Child day care centers, child day care facilities, and <u>stand alone</u> preschools ¹	1 space per each staff member plus 1 drop-off/pick-up space	1 space per each staff member, plus 1 drop-off/pick-up space, plus one space per each 10 children	2 spaces

¹ Parking standards do not apply to in-home preschools, see PTMC 17.52.

SECTION 2. Severability. If any sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase or work of this ordinance.

SECTION 3. Effective Date. This Ordinance shall take effect immediately after passage if adopted by a majority plus one of the City Council. Otherwise this ordinance shall take effect and be in force five days after the date of its publication in the manner provided by law. Publication of this ordinance shall be by summary thereof consisting of the title.

Adopted by the City Council of the City of Port Townsend, Washington, at a regular meeting thereof, held this second day of June, 2008.

Michelle Sandoval, Mayor

Attest:

Approved as to Form:

Pamela Kolacy, MMC
City Clerk

John P. Watts
City Attorney