

# ORDINANCE 5104, G 1-21, CHILD CARE



CITY COUNCIL, JUNE 8, 2021



# LEGISLATIVE CODE AMENDMENTS

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**Proposal to amend Chapters 17.06 (Definitions), 17.12 (R1), 17.15 (R2), 17.18 (R3), 17.21 (R4), 17.22 (R5), 17.24 (OR), 17.27 (C1), 17.30 (C2), 17.33 (C3), 17.36 (ML), 17.39 (M1), 17.42 (M2) and 17.60 (Off-Street Parking), to remove regulatory barriers for childcare opportunities, and become compliant with Oregon Revised Statutes and Oregon Administrative Rules.**

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# TONIGHT'S ACTION

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**Considering adoption of Ordinance that would enact proposed code amendments.**

**Legislative action being initiated by the City.**

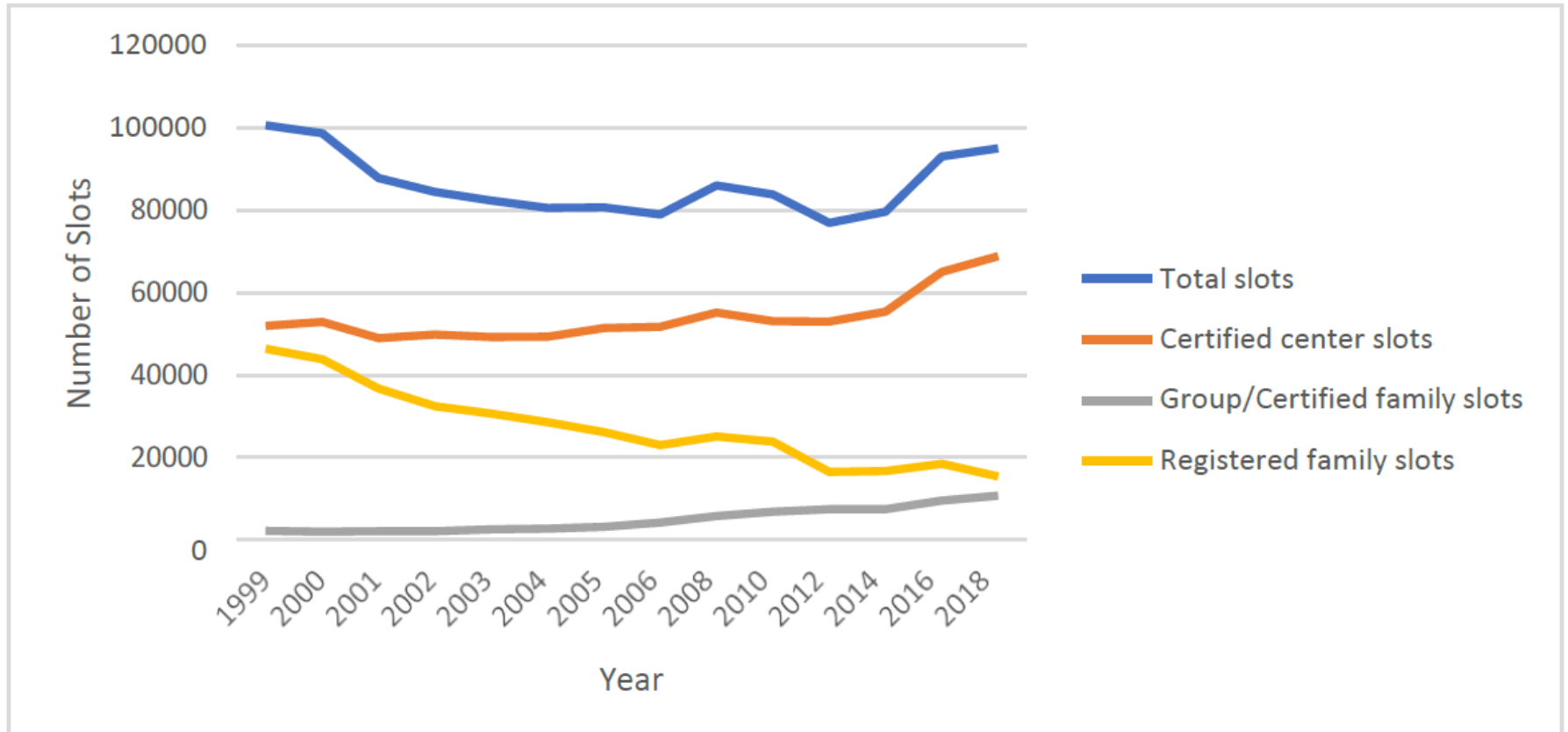
**Proposed code amendments are a recommendation of the Planning Commission after holding a work session in November 19, 2020, hosting a public hearing on April 15, 2021 and voting unanimously on May 20, 2021.**

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# CHILD CARE IN OREGON

Figure 1: Regulated Oregon child care supply for children under age 13: 1999-2018



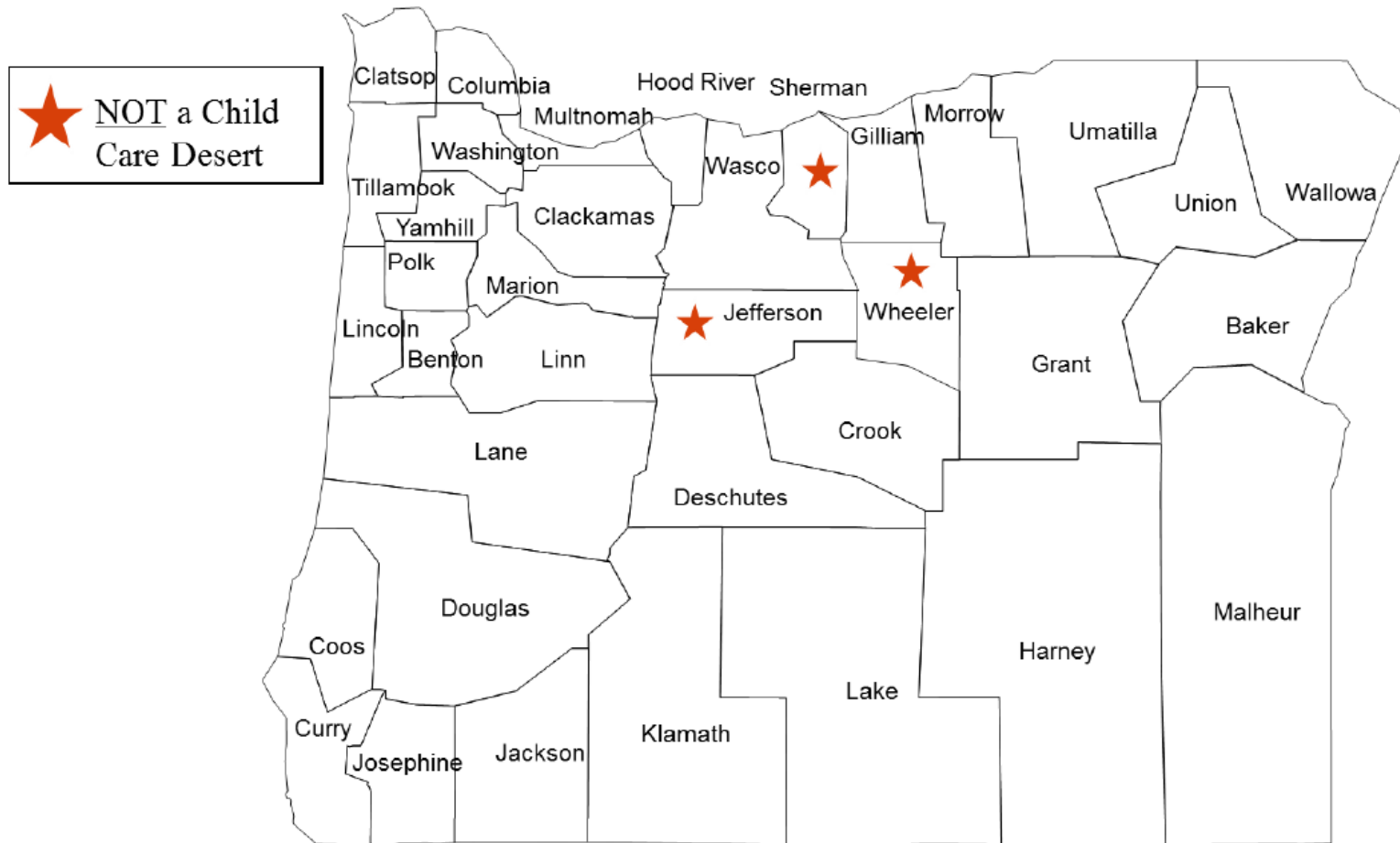


### Percentage of Children with Access to Child Care in Metropolitan and Nonmetropolitan Counties

	0-2 year olds with access to a slot	3-5 year olds with access to a slot	0-5 year olds with access to a slot
Metro Counties	13%	30%	21%
Nonmetro Counties	9%	28%	18%



**Map 2. For children age five and under, only 3 out of 36 counties are *not* child care deserts in Oregon.**



A child care desert is defined as a county with more than three young children for every child care slot.

Slots are defined as regulated child care slots, including Certified Centers, Certified Family, and Registered Family Providers.

**Data sources:** Access to child care is calculated by taking the Estimated Supply of Child Care in Oregon as of January 2018 (Analysis by Oregon Child Care Research Partnership, Oregon State University using data collected by 211 and the CCR&R system) and dividing it by the population of children in the county who fall in the age group (2017 Annual Population Report Tables, Portland State University Population Research Center).



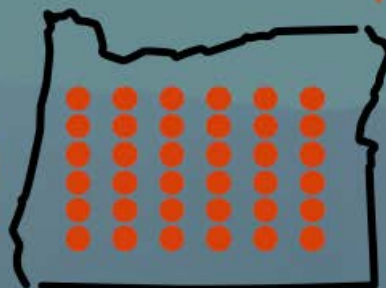
## Across Oregon, there is inadequate regulated child care supply - especially for infants & toddlers

Public funding plays a major role in creating Oregon's child care supply - especially for preschoolers

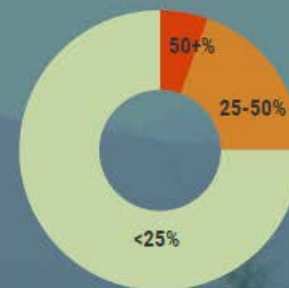


There are 8 infants & toddlers for a single child care slot in Oregon

A child care desert is a community with 3 or more children for a single child care slot



All 36 Oregon counties are child care deserts for infants & toddlers



3/4 of Oregon counties have fewer than 25% publicly funded regulated infant/toddler slots

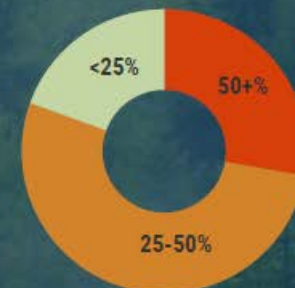


There are 3 preschool-age children for a single child care slot in Oregon



All but 9 Oregon counties are child care deserts for preschool-age children

Without publicly funded slots, 7 additional counties would be child care deserts.



All but 9 Oregon counties have at least 25% publicly funded regulated preschool-age slots

Definitions: **Infants & toddlers** are 0-2 year olds. **Preschool-age children** are 3-5 year olds. **Regulated child care** includes certified centers, and registered or certified family child care homes. **Publicly funded slots** include Oregon Head Start Prekindergarten, Early Head Start, Preschool Promise, Federal and Tribal Head Start, and Federal Migrant and Seasonal Head Start managed by OCDC.

Reference: Oregon's Child Care Deserts: Mapping Supply by Age Group, Metropolitan Status, and Percentage of Publicly Funded Slot, 2018 Oregon Child Care Research Partnership, Oregon State University. Full report can be found at <https://health.oregonstate.edu/early-learners/early-care-education>

For more information contact Megan Pratt at [megan.pratt@oregonstate.edu](mailto:megan.pratt@oregonstate.edu)

# CHILDCARE – Zoning Ordinance

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## Residential (R1, R2, R3, R4 and OR) Permitted Use

Day care facility, under the following provisions:

1. The structure is maintained in its residential character; operators own, lease, or rent the property and reside therein; and the center is operated at a usage level equal to or subservient to the residential use of the structure.
2. Twelve or fewer people are present at any one time at the center.
3. Requirements of the Oregon State Structural Specialty and Fire Life Safety Code (UBC), as amended, are met.
4. That a certificate of approval be obtained for facilities with seven 7 or more people as required by ORS 418.810.

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# CHILDCARE – Zoning Ordinance

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## Residential (R1, R2, R3, R4, R5 and OR) Conditional Use

Day care facility, when the following situations exist;

1. The structure is not used as a residence by the operators, and/or
2. Thirteen or more people present at any one time,
3. That a certificate of approval be obtained for facilities with seven or more people as required by ORS 418.810.

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# CHILDCARE – Zoning Ordinance

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Commercial and Industrial Zones  
(C3, ML, M1 and M2)

Conditional Use permit

Off-Street Parking: One space per teacher or supervisor



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# COMPLIANCE WITH STATE REGULATIONS

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## Definitions of Child Care:

(OAR 414-200-0415 to OAR 414-350-0415)

Registered Family Child Care Home: A facility, in the provider's own home, up to 10 children, including their own children.

Certified Family Child Care Home: A facility, in the provider's own home for up to 16 children including their own children.

Child Care Center: A facility, usually located in a commercial building. # of children is dependent upon size.

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# COMPLIANCE WITH STATE REGULATIONS

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## ORS 329A.440

Cities and counties can only apply zoning restrictions on registered or certified family child care in an area zoned for residential or commercial use if the conditions are no more restrictive than conditions imposed on other residential buildings in the same zone.

Registered or certified family child care home where child care is offered in the home of the provider to not more than 16 children, including the children of the provider.

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Registered or certified family child care home where child care is offered in the home of the provider to not more than 16 children, including the children of the provider.

**Thus, cannot be a conditional use.**

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# PROPOSED AMENDMENTS

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## Update Definitions

- Registered/Certified Child Care Homes
- Child Care Centers

## Residential Zones (R1, R2, R3, R4, R5 and OR)

- Registered and Certified Child Care Homes are allowed as outright permitted uses.
- Child Care Centers are allowed as permitted uses in City-owned park or recreation facility, a public school or a conforming private school.
- Child Care Centers are conditional uses if not provide for in the above.

## Employment Zones (C1, C2, C3, ML, M1, M2)

- Child Care Centers are allowed as outright permitted uses.
- Child Care Centers are conditional uses in the M2 zone.

## Off Street Parking and Loading:

- Amend off-street parking for on-site employees and add need for a designated pick-up and drop-off zone for two vehicles for child care centers.

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# PLANNING COMMISSIONER QUESTIONS

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- 1) Can cities regulate how many child care homes are allowed in attached residential dwelling units?

Response: No

- 1) Can developers or Home Owner's Associations prevent the location of child care facilities in a neighborhood through the use of Covenants, Conditions and Restrictions (CC&Rs)?

Response: Yes, it is not expressly prohibited in the legislation regulating this industry.

- 3) What is the number of children allowed per square foot of space for registered and certified child care homes and child care centers?

Response: It is nuanced. Regulations were attached to the staff report.

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# NOTICE / COMMENTS RECEIVED

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## NOTICES:

- News Register
- Chamber of Commerce
- MEDP
- Partner Agencies

## COMMENTS RECEIVED – Planning Commission

- DLCD - Request to keep the record open until April 30, for further review.
- Susan Muir, McMinnville Park and Rec Director

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# NOTICE / COMMENTS RECEIVED

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## COMMENTS RECEIVED – City Council

- Emily Linnertz
- Stacy Martin
- Marcus Straw
- Brian Turner
- Peter Hofstetter
- Meg Pierce
- Rachel Norman

Concerned about current availability of child care opportunities, affordability, and inclusiveness.

Some letters concerned that proposed amendments would make it more difficult to open child care opportunities (but no specifics).

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# PROPPING UP CHILDCARE

Residential versus Commercial. Residential child care providers are much less expensive to prop up than commercial facilities. There are trade offs but does not commercial building code improvements, tenant overhead or SDCs.

	RESIDENTIAL (R-3) "Family Child Care Home"		COMMERCIAL "Day Care Facility"		
<b>Location</b>	Single-Family Dwelling		Place other than a Child Care Home		
	<u>Registered</u> Family Child Care Home	<u>Certified</u> Family Child Care Home	<u>Educational (E)</u>	<u>Institutiona</u> I (I-4)	<u>Accessory</u> *Subject to Building Official Approval*
<b>Other Requirements</b>	Fire Sprinklers not required. In-home child care falls under 1 of the above 2 categories; registered or certified. Check with the State of Oregon Office of Child Care regarding licensing.		Fire sprinklers dependent on size of facility, number of occupants, and/or floor level the space is located on  Manual fire alarm system required if occupant load exceeds 50  Emergency Voice/alarm system required if occupant load exceeds 100	Manual Fire Alarm system is required  Fire Sprinklers dependent on exit location and/or floor level the space is located on	Other requirements based on the primary occupancy the space is located

# QUESTIONS



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