



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Administrative Code Text Change

HEARING DATE: OCTOBER 28, 2010

*Project Name:* **Child Care Feasibility Study**  
*Case Number:* 2010.0788U [Board File No. 10-1094]  
*Initiated by:* Supervisor Dufty and Alioto-Pier / Introduced August 10, 2010  
*Staff Contact:* AnMarie Rodgers, Manager Legislative Affairs  
anmarie.rodgers@sfgov.org, 415-558-6395

*Recommendation:* **Recommend Approval With Modifications**

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### ADMINISTRATIVE CODE AMENDMENT

The proposed Ordinance would amend the San Francisco Administrative Code by adding Chapter 29B to require a City agency, or a private developer that receives City funds for a development project, as defined, to prepare a feasibility study for providing an on-site child care center whenever it plans to construct or purchase a building, lease more than 50 percent of space in a private building for an initial term of more than one year, or alter more than 50 percent of the space in an existing building.

#### The Way It Is Now:

San Francisco currently has a child care requirement codified in Section 414 et seq. of the Planning Code. Under this control, an office or hotel development project proposing the net addition of 50,000 or more gross square feet of office or hotel space must provide a licensed child care facility or pay an in-lieu fee. The only projects exempted from this requirement are projects for the State of California, the US Federal Government, Redevelopment Agency projects, Port of San Francisco projects.

#### The Way It Would Be:

The proposed Ordinance would require a City agency, or a private developer that receives City funds for a development project to prepare a feasibility study for providing an on-site child care center whenever it plans to construct or purchase a building, lease more than 50 percent of space in a private building for more than one year, or alter more than 50 percent of the space in an existing building. Projects of less than 25,000 sf or that will include child care are exempted.

The feasibility study is to include (**bold text** indicates non-architectural data, \*indicates data available in the Child Care Needs Assessment produced by the local planning council):

- description of the proposed development project;
- estimated total cost of the project;
- **number of City employees within a two-to-three mile radius of the project;**

- number of City employees of the sponsoring department of the project who have indicated they would use the child care center;
- number and ages of children 3 months to five years old in the target area\*;
- number of existing child care centers serving the general public in the area\*;
- licensed capacity of existing child care centers in the target area\*;
- number of vacant spaces in existing child care centers in the area\*;
- estimated start-up cost for construction or renovation of space for an on-site child care facility and identification of any source of funding;
- estimated cost of appliances, permanent fixtures, furnishings and equipment to appropriately furnish the child care center; and
- estimated annual cost of providing the space for the child care center.

## BACKGROUND

Studies have shown that in San Francisco, licensed care is available for only 43% of parents in the labor force. For one-third of the families with children who need licensed child care, it is unavailable irrespective of affordability. Licensed child care spaces are particularly limited in specific neighborhoods, such as the downtown corridor and South of Market. A child care nexus study prepared for San Francisco in 2007 found that there is a shortage of approximately 17,828 spaces overall for children aged 0 to 13 in San Francisco and that most of this shortage is for preschool-age and school-age care. For infant care, only 46 percent of the demand is being met. Overall, one-third of children that need a licensed child care space may not have one available, and the City will experience even more demand in the future based on projected population growth.

The project sponsors indicate that the legislation is intended to establish the City as a leader for the private-sector by requiring city projects to contemplate the provision of child care with projects. The Department of Children, Youth, and Families has found that past projects considered child care too late in the project planning stages resulting in poor siting of facilities with little access to natural light or outdoor facilities.

## REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

## RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

## BASIS FOR RECOMMENDATION

The need for more child care services in San Francisco is high. In general, when the City applies controls to the private sector, City Agencies should strive to meet or exceed these requirements. That said, in this

case the City has an existing requirement (development impact fee or the provision of child care) that is supported by a nexus fee. Before expanding that requirement, it is important to ask the following questions:

- **How much expense will this add to public projects?** The Planning Department believes it may add about \$15,000 to the cost of the project, although the cost could vary widely depending on the expertise of the department sponsoring the project and/or their consultant. DCYF has estimated that the study would cost between \$5-25k, with studies that developed programming on the high-side of the estimate and studies without programming on the low-side.
- **How much data can DCYF provide?** Any information DCYF could provide would reduce the burden on the public project.
- **Do the various City agencies know about the pending change?** Outreach should be conducted to ensure that city agencies understand and are able to implement the proposed Ordinance should it be adopted.
- **Is the requirement to apply to office only?** A double-negative on page 5 appears to unintentionally apply the requirement to housing projects.
- **Will this apply more broadly than intended?** A broad reading of the legislation may find that the requirement would apply to any project that received tax-increment funding from the Redevelopment Agency.

#### PROPOSED MODIFICATIONS:

Since introduction of this legislation, Supervisor Dufty has convened a working group with staff from the Department of Children, Youth, and Families (DCYF), the Planning Department and the Mayor's Office to ensure that the legislation is as effective and cost-efficient as possible. Below is a summary of the modifications under consideration and supported by this working group:

- **Apply requirement to City-occupied projects only.** The Planning Code already has a child care provide-or-pay requirement that applies to private projects regardless of whether the project receives city funding or not.
- **Focus the requirement on the goal: ensure that the City is a leader in the provision of child care and that City agencies understand their employees' child care needs; any new demand for child care services that a proposed project would generate early in the process of developing new projects; and the cost of providing such services as part of the total project development budget.** To meet this goal the legislation should require City-occupied projects of 50,000 or more square feet to consult with DCYF in order for the sponsoring department to produce a Child Care Needs and Feasibility Analysis *prior to* any city funding approvals related to a future lease and/or net new construction of office space. The key components of this revised study would be:
  - **DCYF would provide the all of the applicable/needed data on child care need related to a specific project.** DCYF would provide the child care data for demographics, existing area deficiencies, availability, and pricing. DCYF would also provide a list of

appropriate consultants that have the expertise to conduct a child care feasibility study, as well as any technical assistance related to the understanding and effective use of the child care data required in the feasibility study. This would also ensure that the sponsoring department discusses the project with DCYF staff and would ensure that DCYF can educate the sponsoring department and/or their hired consultants about how to successfully implement child care services, where a need is identified.

- **Timing.** The proposed feasibility analysis must be completed *prior to* any funding approvals and must be submitted for consideration by approving entities of said funding including the Mayor, the Board of Supervisors and related commissions.
- **After the study.** While the provision of child care would not be required, the working group recommended that the legislation be modified to require those City agencies that develop office projects that create a need for additional child care services and decide not to provide new child care services as part of a proposed project to provide evidence to approving entities that they fairly considered providing such services early in project development and why such services would not be provided. The working group recommended that this response be required in actions to approve funding for such projects.

In addition to the recommendations provided by the working group, Supervisor Dufty has offered to take the lead on conducting outreach to relevant City agencies so as to ensure that the City family understands and can implement the legislation upon adoption.

## **ENVIRONMENTAL REVIEW**

The proposal to amend the Administrative Code would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

## **PUBLIC COMMENT**

As of the date of this report, the Planning Department has not received any comments in with regard to the proposed Ordinance.

<b>RECOMMENDATION:</b> <b>Recommendation of Approval with Modifications</b>
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### **Attachments:**

- Exhibit A:        Draft Planning Commission Resolution
- Exhibit B:        Board of Supervisors File No. 10-1095



# SAN FRANCISCO PLANNING DEPARTMENT

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## Draft Planning Commission Resolution Administrative Code Text Change

HEARING DATE: OCTOBER 28, 2010

*Project Name:* **Child Care Feasibility Study**  
*Case Number:* 2010.0788U [Board File No. 10-1095]  
*Initiated by:* Supervisor Dufty and Alioto-Pier / Introduced August 10, 2010  
*Staff Contact:* AnMarie Rodgers, Manager Legislative Affairs  
anmarie.rodgers@sfgov.org, 415-558-6395

*Recommendation:* **Recommend Approval With Modifications**

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS A PROPOSED ORDINANCE THAT WOULD AMEND THE SAN FRANCISCO ADMINISTRATIVE CODE BY ADDING CHAPTER 29B TO REQUIRE A CITY AGENCY, OR A PRIVATE DEVELOPER THAT RECEIVES CITY FUNDS FOR A DEVELOPMENT PROJECT, AS DEFINED, TO PREPARE A FEASIBILITY STUDY FOR PROVIDING AN ON-SITE CHILD CARE CENTER WHENEVER IT PLANS TO CONSTRUCT OR PURCHASE A BUILDING, LEASE MORE THAN 50 PERCENT OF SPACE IN A PRIVATE BUILDING FOR AN INITIAL TERM OF MORE THAN ONE YEAR, OR ALTER MORE THAN 50 PERCENT OF THE SPACE IN AN EXISTING BUILDING; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS.

### PREAMBLE

Whereas, on August 10, 2010, Supervisor Dufty introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 10-1094 which would amend the San Francisco Administrative Code by adding Chapter 29B to require a city agency, or a private developer that receives city funds for a development project, as defined, to prepare a feasibility study for providing an on-site child care center whenever it plans to construct or purchase a building, lease more than 50 percent of space in a private building for an initial term of more than one year, or alter more than 50 percent of the space in an existing building; adopting findings, including environmental findings; and

Whereas, on October 28, 2010, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed Administrative Code amendment has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); and

Whereas, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the legislative sponsor, Department staff, and other interested parties; and

Whereas, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

Whereas, the Commission has reviewed the proposed Ordinance; and

**MOVED**, that the Commission hereby recommends that the Board of Supervisors recommends *approval with modification of the proposed Ordinance* and adopts the Resolution to that effect.

## **FINDINGS**

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. A child care nexus study prepared for San Francisco in 2007 found that there is a shortage of approximately 17,828 spaces overall for children aged 0 to 13 in San Francisco and that most of this shortage is for preschool-age and school-age care. For infant care, only 46 percent of the demand is being met. Overall, one-third of children that need a licensed child care space may not have one available, and the City will experience even more demand in the future based on projected population growth;
2. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

### **I. COMMUNITY FACILITIES ELEMENT**

#### **OBJECTIVE 3**

#### **ASSURE THAT NEIGHBORHOOD RESIDENTS HAVE ACCESS TO NEEDED SERVICES AND A FOCUS FOR NEIGHBORHOOD ACTIVITIES.**

One component contributing to the quality of the living environment is the availability of community services and facilities designed to meet the cultural, social and recreational needs of neighborhood residents. While there are already many neighborhood services and facilities (libraries, recreation centers, health centers, police stations, schools) there are still unmet needs. Services to be provided vary according to the composition and needs of the population in the area and include activities such as child care, health care, youth activities, senior citizen programs and adult education and enrichment programs.

*Staff Comment: Ensuring that the activity that creates the demand for the service (in this case employment) helps meet the need is a fundamental underpinning of the development impact fees.*

### **II. MISSION AREA PLAN**

#### **POLICY 2.3.6**

Establish an impact fee to be allocated towards an Eastern Neighborhoods Public Benefit Fund to mitigate the impacts of new development on transit, pedestrian, bicycle, and street improvements, park and recreational facilities, and community facilities such as libraries, child care and other neighborhood services in the area.

**OBJECTIVE 7.1**

**PROVIDE ESSENTIAL COMMUNITY SERVICES AND FACILITIES.**

**POLICY 7.1.3**

**Ensure childcare services are located where they will best serve neighborhood workers and residents.**

III. Community Safety Element

**POLICY 2.21**

**Develop partnerships with private businesses, public service organizations and local nonprofits to meet disaster-time needs.**

The City should seek opportunities to partner with private sector businesses and organizations where possible. For example, drug stores can be used to distribute medical supplies and pharmaceuticals during emergencies. Medical institutions and university health centers can be set

up to provide medical treatment such as inoculations in the event of a chemical or biological emergency. Private and community-based organizations can assist with recovery activities, and in the dissemination of disaster information. The American Red Cross, Habitat for Humanity and the Salvation Army, as well as numerous local groups, can be supportive partners in providing emergency shelter, food, clothing, physical and mental health support. The City's relationships with these agencies and organizations should be mutually supportive. Local services, particularly in lower-income areas, such as food banks, senior centers, child care centers, may be ill-prepared to cope with disaster. The City should assist in developing support networks for these organizations, providing them with employee response training, assisting them in securing insurance coverage, and helping to develop contingency plans for their operations' continuance post-disaster.

*Staff Comment: Locating child care services near or at their parents' employment site may make it easier for families to reconnect after a disaster.*

3. The proposed Ordinance is generally consistent with the eight General Plan priority policies set forth in Section 101.1 in that:
  - A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

*The proposed Ordinance would not significantly impact existing neighborhood-serving retail uses or opportunities for employment in or ownership of such businesses. It may slightly increase family-oriented shopping near work.*

- B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

*The proposed Ordinance would not negatively affect neighborhood character.*

- C) The City's supply of affordable housing will be preserved and enhanced:

*The proposed Ordinance not affect affordable housing supply.*

- D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

*The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking. In fact, the proposed Ordinance may reduce trips generated in that parents would not need to travel to pick-up their children.*

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

*The proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors. It may spur the development of more child care.*

- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*Preparedness against injury and loss of life in an earthquake may be increased by locating children closer to their parents.*

- G) That landmark and historic buildings will be preserved:

*The proposed Ordinance will not affect landmark and historic buildings.*

- H) Parks and open space and their access to sunlight and vistas will be protected from development:

*The proposed Ordinance will not impact the City's parks and open space.*

4. The proposed Ordinance is exempt from CEQA per CEQA Guidelines Section 15060(c)(2).

5. The Commission therefore recommends ***approval with modifications described below:***



### Recommended Modifications

The Commission recommends that the Board incorporate all of the modifications recommended by the working group consisting of the Department of Youth, Children and Families (DCYF), the Planning Department, and the Office of Economic and Workforce Development. Below is a summary of the modifications under consideration and supported by this working group:

1. **Apply requirement to City-occupied projects only.** The Planning Code already has a child care provide-or-pay requirement that applies to private projects regardless of whether the project receives city funding or not.
2. **Focus the requirement on the goal:** ensure that the City is a leader in the provision of child care and that City agencies understand their employees' child care needs; any new demand for child care services that a proposed project would generate early in the process of developing new projects; and the cost of providing such services as part of the total project development budget. To meet this goal the legislation should require City-occupied projects of 50,000 or more square feet to consult with DCYF in order for the sponsoring department to produce a Child Care Needs and Feasibility Analysis prior to any city funding approvals related to a future lease and/or net new construction of office space. The key components of this revised study would be:
  - **DCYF would provide the all of the applicable/needed data on child care need related to a specific project.** DCYF would provide the child care data for demographics, existing area deficiencies, availability, and pricing. DCYF would also provide a list of appropriate consultants that have the expertise to conduct a child care feasibility study, as well as any technical assistance related to the understanding and effective use of the child care data required in the feasibility study. This would also ensure that the sponsoring department discusses the project with DCYF staff and would ensure that DCYF can educate the sponsoring department and/or their hired consultants about how to successfully implement child care services, where a need is identified.
  - **Timing.** The proposed feasibility analysis must be completed prior to any funding approvals and must be submitted for consideration by approving entities of said funding including the Mayor, the Board of Supervisors and related commissions.
  - **After the study.** While the provision of child care would not be required, the working group recommended that the legislation be modified to require those City agencies that develop office projects that create a need for additional child care services and decide not to provide new child care services as part of a proposed project to provide evidence to approving entities that they fairly considered providing such services early in project development and why such services would not be provided. The working group recommended that this response be required in actions to approve funding for such projects.

In addition to the recommendations provided by the working group, the Planning Commission commends Supervisor Dufty for his offer to conduct outreach to relevant City agencies so as to ensure that the City family understands and can implement the legislation upon adoption.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on October 28, 2010.

Linda Avery

Commission Secretary

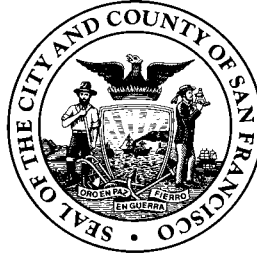
AYES:

NAYS:

ABSENT:

ADOPTED:

BOARD of SUPERVISORS



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## MEMORANDUM

TO: John Rahaim, Director  
Planning Department

FROM: Alisa Somera, Clerk, Land Use and Economic Development Committee  
Board of Supervisors

DATE: August 27, 2010

SUBJECT: LEGISLATION INTRODUCED

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On August 10, 2010, Supervisor Dufty introduced the following legislation that has been assigned to the Land Use and Economic Development Committee. Pursuant to BOS Rules of Order 5.41, the Planning Department has 30 days to review and comment.

**File No. 101094**

Ordinance amending the San Francisco Administrative Code by adding Chapter 29B to require a City agency, or a private developer that receives City funds for a development project, as defined, to prepare a feasibility study for providing an on-site child care center whenever it plans to construct or purchase a building, lease more than 50 percent of space in a private building for an initial term of more than one year, or alter more than 50 percent of the space in an existing building; adopting findings, including environmental findings.

If you wish to submit any comments or reports please return this memorandum with your response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

cc: AnMarie Rodgers, Legislative Affairs  
Tara Sullivan, Legislative Affairs  
Kate Stacy, Deputy City Attorney

FILE NO. 101094

ORDINANCE NO.

1 [Child Care Centers for City Projects and City-Funded Private Projects]

2

3 **Ordinance amending the San Francisco Administrative Code by adding Chapter 29B to**  
4 **require a City agency, or a private developer that receives City funds for a development**  
5 **project, as defined, to prepare a feasibility study for providing an on-site child care**  
6 **center whenever it plans to construct or purchase a building, lease more than 50**  
7 **percent of space in a private building for an initial term of more than one year, or alter**  
8 **more than 50 percent of the space in an existing building; adopting findings, including**  
9 **environmental findings.**

10

11 NOTE: Additions are *single-underline italics Times New Roman*;  
12 deletions are ~~*strike-through italics Times New Roman*~~.  
13 Board amendment additions are double-underlined;  
Board amendment deletions are ~~strikethrough normal~~.

14 Be it ordained by the People of the City and County of San Francisco:

15 Section 1. Findings.

16 (a) Environmental Findings. The Planning Department has determined that the  
17 actions contemplated in this ordinance comply with the California Environmental Quality Act  
18 (Public Resources Code Section 21000 et seq.) Said determination is on file with the Clerk of  
19 the Board of Supervisors in File No. \_\_\_\_\_.

20 (b) General Findings.

21 (1) In a report prepared for the Bay Area Council and the Bay Area Early Childhood  
22 Funders in 2009 entitled "Key to Economic Success in the 21<sup>st</sup> Century," the authors state that  
23 there is a substantial body of research showing that investments in high-quality educational  
24 experiences during the years from birth to age five significantly improve not only school  
25 achievement but also a range of social and economic outcomes throughout life. Economists

1 have shown that public investments in high-quality early child care and education generate a  
2 higher rate of return than almost any other public investment. However, early child care and  
3 education in the Bay Area is expensive and working families with young children, most of  
4 whom receive no government subsidies, typically devote large portions of their income to child  
5 care.

6 (2) In a 2009 report, the National Association of Child Care Resource and Referral  
7 Agencies (NAACRRA) found that in every region of the country, average child care fees for an  
8 infant were higher than the average amount that families spent on food; child care fees for two  
9 children at any age exceeded median rent costs and were as high or higher than the average  
10 mortgage payment. The cost of child care is rising faster than inflation.

11 (3) In San Francisco, the availability of child care spaces at high-quality,  
12 community-based child care programs is at a premium, with infant care being the most difficult  
13 to find. According to the Child Care Needs Assessment prepared in 2007 by the San  
14 Francisco Child Care Planning & Advisory Council, San Francisco has increased the City's  
15 licensed center capacity by 1,264 slots since the 2002 Needs Assessment. Concerted efforts  
16 by the City, child care providers, foundations, and corporate support contributed to the growth  
17 in infant/toddler care as well as preschool and school-age care. Despite existing efforts,  
18 however, there remains a considerable gap in available licensed care. Studies have shown  
19 that in San Francisco, licensed care is available for only 43 percent of parents in the labor  
20 force. For one-third of the families with children who need licensed child care, it is unavailable  
21 irrespective of affordability. Licensed child care spaces are particularly limited in specific  
22 neighborhoods, such as the downtown corridor and South of Market.

23 (4) San Francisco currently has a child care requirement for private projects that is  
24 codified in Section 414 et seq. of the Planning Code. Under Section 414 et seq., an office or  
25 hotel development project in the downtown area proposing the net addition of 50,000 or more

1 gross square feet of office or hotel space must provide a licensed child care facility or pay an  
2 in-lieu fee. A child care nexus study prepared for the City and County of San Francisco in  
3 2007 found that there is a shortage of approximately 17,828 spaces overall for children aged  
4 0 to 13 in San Francisco; most of this shortage is for preschool-age and school-age care. For  
5 infant care, only 46 percent of the demand is being met. Overall, one-third of children that  
6 need a licensed child care space may not have one available, and the City will experience  
7 even more demand in the future based on projected population growth.

8 (5) The lack of affordable quality child care for workers greatly affects the  
9 productivity of the workforce. Large employers in the City who have built on-site child care for  
10 their employees, such as Pacific Gas & Electric, The Gap, and University of California at San  
11 Francisco, have stated that their investments of company resources in on-site child care has  
12 increased recruitment and yielded a more stable productive workforce. Offering on-site child  
13 care for employees also boosts the morale of all employees, not only those who use the child  
14 care services.

15 (6) The Federal Government has recognized that providing its employees with the  
16 opportunity for quality child care at the work site of a federal agency can enhance the  
17 performance of the organization, especially because the majority of worker absences result  
18 from the breakdown in child care arrangements, and increase the employee's allegiance to  
19 the workplace as a quality, family-friendly environment. Therefore, the Federal Government  
20 has a policy of providing child care centers in federal buildings for government employees and  
21 also for nonemployees if space is available.

22 (7) As a large employer, the City and County of San Francisco is severely impacted  
23 by the lack of affordable quality child care in San Francisco. Requiring City agencies to  
24 explore the feasibility of building on-site child care whenever they construct, purchase, lease,  
25 or perform a major renovation to a City facility would not only provide the significant benefits

1 that have been recognized by the Federal Government and large private-sector San  
2 Francisco employers, it would also ease the demand for child care services in private  
3 facilities. Requiring that private developers who receive City funds for a large project also  
4 comply with this requirement would ensure that these developments do not burden San  
5 Francisco's already scarce child care resources.

6 Section 2. The San Francisco Administrative Code is hereby amended by adding  
7 Chapter 29B, to read as follows:

8 CHAPTER 29B: CHILD CARE FEASIBILITY STUDY FOR CITY AND  
9 CITY-FUNDED PROJECTS

10 SEC. 29B.1. Applicability.

11 (a) This Chapter shall be applicable to:

12 (1) a development project of more than 25,000 gross square feet proposed and/or funded by  
13 a City agency; and

14 (2) a development project of more than 25,000 gross square feet proposed by a private  
15 developer receiving any funds controlled by the City and County of San Francisco unless the developer  
16 is required to comply with Planning Code Section 414 et seq.

17 SEC. 29B.2. Definitions.

18 (1) "Child Care Feasibility Study" or "Feasibility Study." A study described in Section  
19 29B.4.

20 (2) "City agency." An office, board, department, commission, or other unit of government of  
21 the City and County of San Francisco.

22 (3) "Development project" or "project." A project to (a) construct a new building, (b)  
23 purchase an existing building, (c) perform alterations to more than 50 percent of the gross square  
24 footage of an existing building, or (d) lease more than 50 percent of the space in a privately-owned  
25

1 building for an initial term of more than one year. It shall not include a building that will not be used  
2 primarily for human occupancy.

3 (4) "Project sponsor." The City agency or private developer of a project subject to this  
4 Chapter.

5 SEC. 29B.3. Purpose. The purpose of this Chapter is to enhance the performance and morale of  
6 City employees by offering the opportunity for quality child care in a City-owned or controlled space,  
7 and to increase the availability of quality child care options in the City and County of San Francisco.

8 SEC. 29B.4. Child Care Feasibility Study.

9 (a) Preparation of Study. A City agency or private developer that is subject to the  
10 requirements of this Chapter shall prepare a Child Care Feasibility Study that considers the build out  
11 and tenant improvements of a child care center on the project site that contains the information  
12 required in subsection (d) below and has the minimum features described in subsection (e). The  
13 Feasibility Study shall be prepared at an early stage in the project design when budgeting and other  
14 planning decisions are made.

15 (b) Submission to the City Administrator and Board of Supervisors. The Feasibility Study  
16 shall be submitted to the City Administrator by the City agency involved in either proposing or funding  
17 the development project prior to either (1) the purchase or lease of the building or (2) the submission of  
18 an environmental evaluation application, application for a building permit, or application for other  
19 project approvals by the City, whichever is applicable. If the project is subject to the Fiscal  
20 Responsibility and Feasibility requirements of Chapter 29 of this Code, the Child Care Feasibility  
21 Study shall be presented to the Board of Supervisors at the same time the information required by  
22 Chapter 29 is required to be presented.

23 (c) Waiver of Requirement. The City Administrator is authorized to waive the requirement  
24 to prepare a Child Care Feasibility Study under the following circumstances. Any waiver granted by  
25



1 the City Administrator must be in writing and shall set forth the specific reason or reasons why the  
2 waiver has been granted.

3 (1) The City Administrator shall waive the requirement if:

4 (A) the project sponsor has made a determination that the proposed development project  
5 will include an on-site child care center, or

6 (B) the proposed development project is under the jurisdiction of the Port of San Francisco,  
7 the San Francisco Public Utilities Commission, or other City agency where the agency contends, and  
8 the City Attorney agrees, that the use of agency funds to support the establishment or operation of a  
9 child care center as described in this Chapter is prohibited by State law, the San Francisco Charter, or  
10 other local law.

11 (2) The City Administrator may waive the requirement if:

12 (A) The project sponsor has documented that including an on-site child care center in the  
13 project is infeasible because the site cannot meet, or be remodeled to meet, the State of California child  
14 care licensing requirements.

15 (B) The project sponsor has provided evidence sufficient to establish that including a child  
16 care center on site is infeasible without the necessity of preparing a Feasibility Study. Such reasons  
17 include, but are not limited to space or legal constraints. In the case of legal constraints, the City  
18 Attorney must agree that they apply.

19 (d) Required Information. The Feasibility Study shall include and document the following  
20 information, in addition to any other information that the City Administrator requires or that the City  
21 agency proposing and/or funding the project deems relevant:

22 (1) Project Description:

23 (A) a description of the proposed development project;

24 (B) the estimated total cost of the project.

25 (2) Population and Need:

1           (A) the total number of City employees within a two-to-three mile radius of the project  
2 location (the "target area");

3           (B) the number of City employees who have indicated they would use the child care center;  
4 and

5           (C) the number and ages of children 3 months to five years old in the target area.

6           (3) Community Impact:

7           (A) the number of existing child care centers serving the general public that are in the target  
8 area;

9           (B) the licensed capacity of existing child care centers in the target area and the number of  
10 vacant spaces;

11           (4) Cost:

12           (A) the estimated start-up cost for construction or renovation of space for an on-site child  
13 care facility and identification of any source of funding;

14           (B) the estimated cost of appliances, permanent fixtures, furnishings and equipment to  
15 appropriately furnish the child care center; and

16           (C) the estimated annual cost of providing the space for the child care center.

17           (e) Minimum Requirements. In preparing the Feasibility Study required by this Chapter, the  
18 following assumptions shall be made:

19           (1) The child care center shall be a licensed facility.

20           (2) The child care center shall have a minimum gross floor area of 3,000 square feet of  
21 usable interior space and access to dedicated exterior space of at least 1,500 square feet.

22           (3) The space for the child care center shall be provided to a nonprofit child care provider  
23 without charge for rent, utilities, property taxes, building services, repairs, or other charges of any  
24 nature.

25

1           (4) Unless otherwise indicated in the Feasibility Study (with reasons supporting the  
2 proposed alternative priorities), the child care center shall provide for the following priority of  
3 enrollment:

4           (A) City employees working in the building shall have first priority for child care space;

5           (B) If space is available, all City employees shall have the second priority for child care  
6 space; and

7           (C) If space is available, San Francisco residents shall have the third priority for child care  
8 space.

9           (e) Approval by the Department of Children, Youth and their Families. The consultant that  
10 prepares the Child Care Feasibility Study required by this Chapter shall be on the list of consultants  
11 approved by the San Francisco Department of Children, Youth and their Families as qualified to  
12 prepare the Feasibility Study. If the City agency or private sponsor of a development project subject to  
13 this Chapter wishes to use either its own staff or a consultant that is not on the Department of Children,  
14 Youth and their Families' list, it must obtain the prior written approval of that Department.

15           SEC. 29A.5. Annual Report by City Administrator. One year after the effective date of this  
16 Chapter, and every year thereafter, the City Administrator shall prepare and submit to the Board of  
17 Supervisors a report that summarizes any waivers that have been granted pursuant to Subsection (c) of  
18 this Chapter. A copy of the Annual Report shall also be provided to the San Francisco Child Care  
19 Planning and Advisory Council and the Department of Children, Youth and Their Families.

20           SEC. 29A.6. Severability.

21           If any section, paragraph, sentence, clause or phrase of this Chapter 29B is for any  
22 reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction,  
23 such decision shall not affect the validity or effectiveness of the remaining portions of this  
24 Chapter 29B. The Board of Supervisors declares that it would have passed each section,  
25

1 paragraph, sentence, clause, or phrase of this Chapter 29B irrespective of the fact that any  
2 portion of this Chapter 29B could be declared unconstitutional, invalid, or ineffective.

3

4 APPROVED AS TO FORM:  
5 DENNIS J. HERRERA, City Attorney

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7 By: \_\_\_\_\_  
8 JUDITH A. BOYAJIAN  
9 Deputy City Attorney

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FILE NO. 101094

## LEGISLATIVE DIGEST

[Child Care Centers for City Projects and City-Funded Private Projects]

**Ordinance amending the San Francisco Administrative Code by adding Chapter 29B to require a City agency or a private developer that receives City funds for a development project, as defined, to prepare a feasibility study for providing an on-site child care center whenever it plans to construct or purchase a building, lease more than 50 percent of space in a private building for an initial term of more than one year, or alter more than 50 percent of the space in an existing building; adopting findings, including environmental findings.**

### Existing Law

Planning Code Section 414 et seq. establishes child care requirements for private office and hotel development projects proposing the net addition of 50,000 or more gross square feet of office or hotel space. Such projects must either provide a child care center of at least 3,000 square feet on site or nearby, or pay an in-lieu fee of \$1.00 per net additional gross square foot of office or hotel space. There are no existing requirements for City projects or other private projects to include a child care center in the project.

### Amendments to Current Law

The proposed legislation adds Chapter 29B to the San Francisco Administrative Code to require a City agency that is proposing or funding a "development project" of more than 25,000 gross square feet to prepare an on-site Child Care Feasibility Study at an early stage in the project design when budgeting and other planning decisions are made. This Feasibility Study requirement is also imposed on a private development project that receives any funds controlled by the City and County of San Francisco unless the project sponsor is required to comply with the child care requirements of Planning Code Section 414 et seq. "Development project" is defined as a project to construct a new building, purchase an existing building, perform alterations to more than 50 percent of the gross square footage of an existing building, or lease more than 50 percent of the space in a privately-owned building for an initial term of more than one year; it does not include a building that will not be used primarily for human occupancy.

The Child Care Feasibility Study must consider the build out and tenant improvements of a child care center on the project site that has the minimum features described in the legislation. The Study must be submitted to the City Administrator prior to either (1) the purchase or lease of the building or (2) the submission of an environmental evaluation application, application for a building permit, or application for other project approvals by the City, whichever applies. If the project is subject to the Fiscal Responsibility and Feasibility requirements of Chapter 29 of the Administrative Code, the Feasibility Study must be presented to the Board of Supervisors at the same time. Unless otherwise indicated in the Feasibility Study (with reasons supporting

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alternative priorities), the child care center shall provide first priority for child care space to City employees working in the building. If space is available, all City employees shall have the second priority for child care space and San Francisco residents shall have third priority.

The City Administrator is authorized to waive the requirement to prepare a Feasibility Study. The City Administrator must grant the waiver if (1) the project sponsor has decided to include a child care center in the project or (2) the proposed project is under the jurisdiction of the Port, the Public Utilities Commission, or other City agency where the agency contends, and the City Attorney agrees, that the use of agency funds to support the establishment or operation of a child care center is prohibited by State or local law. The City Administrator may grant the waiver if (1) the project sponsor has documented that the site cannot meet, or be remodeled to meet, the State of California child care licensing requirements or (2) the project sponsor has provided evidence establishing that due to space constraints, legal constraints, or other reasons, including a child care center on site is infeasible without the necessity of preparing a Feasibility Study. All waivers must be in writing and state the specific reason or reasons for granting the waiver.

The consultant that prepares the Child Care Feasibility Study must be approved by the San Francisco Department of Children, Youth and Their Families as qualified to prepare the Study. One year after the effective date of this legislation and every year thereafter, the City Administrator shall prepare and submit to the Board of Supervisors a report that summarizes any waivers that have been granted. A copy of the report shall also be submitted to the the San Francisco Child Care Planning and Advisory Council and the Department of Children, Youth and Their Families.

### Background Information

There is a substantial body of research showing that investments in high-quality educational experiences during a child's early years significantly improve not only school achievement but also a range of social and economic outcomes throughout life. Economists have shown that public investments in high-quality early child care and education generate a higher rate of return than almost any other public investment. However, early child care and education in the Bay Area is expensive and working families with young children, most of whom receive no government subsidies, typically devote large portions of their income to child care. The cost of child care is rising faster than inflation.

In San Francisco, the availability of child care spaces at high-quality, community-based child care programs is at a premium, with infant care being the most difficult to find. Despite existing efforts by the City, child care providers, foundations, and corporations to increase the capacity, there remains a considerable gap in available licensed care. Studies have shown that in San Francisco, licensed care is available for only 43 percent of parents in the labor force. For one-third of the families with children who need licensed care, it is unavailable irrespective of affordability. Licensed child care spaces are particularly limited in specific neighborhoods, such as the downtown corridor and South of Market. A child care nexus study

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prepared for the City in 2007 found that there is a shortage of approximately 17,828 spaces overall for children aged 0 to 13; most of this shortage is for preschool-age and school age care. For infant care, only 46 percent of the demand is being met. Overall, one-third of children that need a licensed child care space may not have one available, and the City will experience even more demand in the future based on projected population growth.

The lack of affordable quality child care for workers greatly affects the productivity of the workforce. Large employers in the City who have built on-site child care for their employees, such as PG&E, The Gap, and the UCSF, have stated that their investments of company resources in on-site child care has increased recruitment and yielded a more stable productive workforce. Offering on-site child care for employees also boosts the morale of all employees, not only those who use the child care services. The Federal Government has a policy of providing child care centers in federal buildings for government employees and also for nonemployees if space is available.

As a large employer, the City is severely impacted by the lack of affordable quality child care in San Francisco. Requiring City agencies to explore the feasibility of building on-site child care whenever they construct, purchase, lease, or perform a major renovation to a City building would not only provide the significant benefits to its employees that have been recognized by the Federal Government and large private-sector San Francisco employers, it would also ease the demand for child care services in private facilities. Requiring that private developers who receive City funds for a large project also comply with this requirement would ensure that these developments do not burden San Francisco's already scarce child care resources.