

File No. 150793

Committee Item No. 3

Board Item No. 43

# COMMITTEE/BOARD OF SUPERVISORS

## AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation

Date December 7, 2015

Board of Supervisors Meeting

Date DECEMBER 15, 2015

### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Resolution                                   |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form                            |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Memorandum of Understanding (MOU)            |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Form 126 - Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Form 700                                     |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Vacancy Notice                               |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Information Sheet                            |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Public Correspondence                        |

### OTHER (Use back side if additional space is needed)

- |                                     |                                     |                                                     |
|-------------------------------------|-------------------------------------|-----------------------------------------------------|
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>CEQA Determination, dtd 8/13/15</u>              |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Planning Commission Resolution No. 19405</u>     |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Notice of Public Hearing</u>                     |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Youth Commission Recommendation, dtd 9/23/15</u> |
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Completed by: Alisa Somera

Date December 4, 2015

Completed by: V Young

Date 12/10/15

1 [Planning Code - Child Care Requirements for Office and Residential Projects]

2  
3 **Ordinance amending the Planning Code to increase the Child Care In Lieu Fee for**  
4 **office and hotel development projects of up to \$1.57 per gross square foot and apply**  
5 **the Fee to projects of 25,000 or more gross square feet; to impose a tiered Child Care**  
6 **Fee for residential development projects of up to \$1.83 per gross square feet; to allow**  
7 **developers the option to provide onsite Small Family Daycare Homes in lieu of the fee;**  
8 **and affirming the Planning Department's determination under the California**  
9 **Environmental Quality Act, and making findings of consistency with the General Plan**  
10 **and the eight priority policies of Planning Code Section 101.1.**

11 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
12 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
13 **Deletions to Codes** are in ~~*italics Times New Roman font*~~.  
14 **Board amendment additions** are in double-underlined Arial font.  
15 **Board amendment deletions** are in ~~Arial font~~.  
16 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
17 subsections or parts of tables.

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

19 Section 1.

20 (a) The Planning Department has determined that the actions contemplated in this  
21 ordinance comply with the California Environmental Quality Act (California Public Resources  
22 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
23 Supervisors in File No. 150793 and is incorporated herein by reference. The Board affirms  
24 this determination.

25 (b) On October 21, 2015, the Planning Commission, in Resolution No. 19495, adopted  
findings that the actions contemplated in this ordinance are consistent, on balance, with the

1 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board  
2 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
3 Board of Supervisors in File No. 150793, and is incorporated herein by reference.

4 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code  
5 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth  
6 in Planning Commission Resolution No. 19495 and the Board incorporates such reasons  
7 herein by reference.

8  
9 Section 2. The Planning Code is hereby amended by revising Sections 401, 406,  
10 414.3, and 414.8 and adding Sections 414A.1 through 414A.8, to read as follows:

11 **SEC. 401. DEFINITIONS**

13 \* \* \* \*

14 Designated Child Care Unit. ~~An On- or Off-site Unit~~ A residential unit provided by a project  
15 subject to Section 414A and that is designated for use as a Small Family Daycare Home.

16 \* \* \* \*

17 Small Family Daycare Home. A Small Family Daycare Home is defined by California Health  
18 & Safety Code Section 1596.78(c), as amended from time to time.

19 \* \* \* \*

20 **SEC. 406. WAIVER, REDUCTION, OR ADJUSTMENT OF DEVELOPMENT PROJECT**  
21 **REQUIREMENTS.**

22 \* \* \* \*

23 (b) Waiver or Reduction, Based on Housing Affordability.

24 (1) An affordable housing unit shall receive a waiver from the Rincon Hill  
Community Infrastructure Impact Fee, the Market and Octavia Community Improvements

1 Impact Fee, the Eastern Neighborhoods Infrastructure Impact Fee, the Balboa Park Impact  
2 Fee, *and* the Visitacion Valley Community Facilities and Infrastructure Impact Fee, *and the*  
3 Residential Child Care Impact Fee if the affordable housing unit:

4 (A) is affordable to a household at or below 80% of the Area Median  
5 Income (as published by HUD), including units that qualify as replacement Section 8 units  
6 under the HOPE SF program;

7 (B) is subsidized by MOHCD, the San Francisco Housing Authority,  
8 and/or the San Francisco Redevelopment Agency; and

9 (C) is subsidized in a manner which maintains its affordability for a term  
10 no less than 55 years, whether it is a rental or ownership opportunity. Project sponsors must  
11 demonstrate to the Planning Department staff that a governmental agency will be enforcing  
12 the term of affordability and reviewing performance and service plans as necessary.

13 \* \* \* \*

14  
15 **SEC. 414.3. APPLICATION.**

16 (a) Section 414.1 *et seq.* shall apply to office and hotel development projects  
17 proposing the net addition of 25,000~~50,000~~ or more gross square feet of office or hotel space.

18 \* \* \* \*

19  
20 **SEC. 414.8. COMPLIANCE BY PAYMENT OF AN IN-LIEU FEE.**

21 (a) The sponsor of a development project subject to Section 414.1 *et seq.* may elect to  
22 pay a fee in lieu of providing a child-care facility. The fee shall be computed as follows:

23 Net add. gross sq. ft. office or hotel space × ~~\$1.00~~1.57 = Total Fee

24 \* \* \* \*

25 //

1 **SEC. 414A. CHILD CARE REQUIREMENTS FOR RESIDENTIAL PROJECTS.**

2 **SEC. 414A.1. PURPOSE AND FINDINGS.**

3 *(a) Purpose. Residential developments in the City are benefited by the availability of childcare*  
4 *for persons residing in such developments. However, the supply of childcare in the City has not kept*  
5 *pace with the demand for childcare created by new residents. Due to this shortage of childcare,*  
6 *residents unable to find accessible and affordable quality childcare will be forced either to live where*  
7 *such services are available outside of San Francisco or leave the work force, in some cases seeking*  
8 *public assistance to support their children. In either case, there will be a detrimental effect on San*  
9 *Francisco's economy and its quality of life.*

10 *The San Francisco General Plan requires that the City "balance housing growth with adequate*  
11 *infrastructure that serves the city's growing population." In light of this provision, the City should*  
12 *impose requirements on developers of certain residential projects designed to mitigate the adverse*  
13 *effects of the increase in population facilitated by such projects.*

14 *(b) Findings. In adopting Ordinance No. 50-15, the Board of Supervisors reviewed the San*  
15 *Francisco Citywide Nexus Analysis prepared by AECOM dated March 2014 ("Nexus Analysis"), and*  
16 *the San Francisco Infrastructure Level of Service Analysis prepared by AECOM dated March 2014,*  
17 *both on file with the Clerk of the Board of Supervisors in File No. 150149. The Board of Supervisors*  
18 *reaffirms the findings and conclusions of those studies as they relate to the impact of residential*  
19 *development on childcare and hereby readopts the findings contained in Ordinance 50-15, including*  
20 *the General Findings in Section 401A(a) of the Planning Code and the Specific Findings in Section*  
21 *401A(b) of the Planning Code relating to childcare.*

22  
23 **SEC. 414A.2. DEFINITIONS.**

24 *See Section 401 of this Article for definitions applicable to Section 414A et seq.*

1 **SEC. 414A.3. APPLICATION OF RESIDENTIAL CHILD CARE IMPACT FEE.**

2 *(a) Application.*

3 *(1) Section 414A.1 et seq. shall apply to any residential development project that results*  
4 *in:*

5 *(A) At least one net new residential unit;*

6 *(B) Additional space in an existing residential unit of more than 800 gross*  
7 *square feet;*

8 *(C) At least one net new group housing facility or residential care facility; or*

9 *(D) Additional space in an existing group housing or residential care facility of*  
10 *more than 800 gross square feet.*

11 *(2) Section 414A.1 et seq. shall not apply to*

12 *(A) That portion of a residential development project consisting of a retail use;*

13 *(B) That portion of a residential development project located on property owned*  
14 *by the United States or any of its agencies;*

15 *(C) That portion of a residential development project located on property owned*  
16 *by the State of California or any of its agencies, with the exception of such property not used for a*  
17 *governmental purpose;*

18 *(D) That portion of a residential development project located on property under*  
19 *the jurisdiction of the Port of San Francisco or the San Francisco Office of Community Investment and*  
20 *Infrastructure where the application of this Section 41.14A is prohibited by State or local law; and*

21 *(E) Any residential development project that has obtained its First Construction*  
22 *Document prior to the effective date of Section 414A.1 et seq.*

23  
24 **SEC. 414A.4. IMPOSITION OF RESIDENTIAL CHILD CARE IMPACT FEE REQUIREMENT.**

1           (a) Determination of Requirements. The Department shall determine the applicability of  
2 Section 414A to any development project requiring a First Construction Document and, if Section 414A  
3 is applicable, the number of gross square feet of space subject to its requirements, and shall impose  
4 these requirements as a condition of approval for issuance of the First Construction Document for the  
5 development project to mitigate the impact on the availability of child-care facilities that will be caused  
6 by the residents attracted to the proposed development project. The project sponsor shall supply any  
7 information necessary to assist the Department in this determination.

8           (b) Department Notice to Development Fee Collection Unit at DBI. After the Department has  
9 made its final determination of the net addition of gross square feet of the space subject to Section  
10 414A.1 et seq., it shall immediately notify the Development Fee Collection Unit at the Department of  
11 Building Inspection (DBI) of its determination in addition to the other information required by Section  
12 402(b) of this Article.

13           (c) Timing of Fee Payments. The Residential Child Care Impact Fee shall be paid at the time  
14 of and in no event later than the City issues a First Construction Document.

15           (d) Development Fee Collection Unit Notice to Department Prior to Issuance of the First  
16 Certificate of Occupancy. The Development Fee Collection Unit at DBI shall provide notice in writing  
17 or electronically to the Department prior to issuing the First Certificate of Occupancy for any  
18 development project subject to this Section 414A whether the project sponsor has paid the required  
19 Residential Child Care Impact Fee. If the Department notifies the Unit at such time that the sponsor  
20 has not paid this fee in full, the Director of DBI shall deny any and all Certificates of Occupancy until  
21 the subject project is brought into compliance with the requirements of this Section 414A.

22           (e) Process for Revisions of Determination of Requirements. In the event that the Department  
23 or Commission takes action affecting any development project subject to Section 414A, and such action  
24 is subsequently modified, superseded, vacated, or reversed by the Board of Appeals, the Board of  
25 Supervisors, or by a court, the procedures of Section 402(c) of this Article 4 shall be followed.

1 (f) Waiver or Reduction. Development projects may be eligible for a waiver or reduction of  
 2 impact fees, per Section 406 of this Article 4, including Section 406(d), in the event a project located in  
 3 an Area Plan may be assessed a child care fee.

4  
 5 **SEC. 414A.5. CALCULATION OF THE RESIDENTIAL CHILD CARE IMPACT FEE.**

6 (a) For development projects for which the Residential Child Care Impact Fee is applicable:

7 (1) Any net addition of gross square feet shall pay per the Fee Schedule in Table  
 8 414A.5A; and

9 (2) Any replacement of gross square feet or change of use shall pay per the Fee  
 10 Schedule in Table 414A.5B.

11 **TABLE 414A.5A**

12 **FEE SCHEDULE FOR NET ADDITIONS OF GROSS SQUARE FEET**

<u>Residential projects of 10 or more units</u>	<u>Residential Projects of up to 9 units</u>
<u>\$1.83/gsf</u>	<u>\$0.91/gsf</u>

13  
 14  
 15  
 16  
 17 **TABLE 414A.5B**

18 **FEE SCHEDULE FOR REPLACEMENT OF USE OR CHANGE OF USE**

	<u>Residential Use to</u> <u>Residential Use</u>	<u>Non-Residential to</u> <u>Residential</u>	<u>PDR to Residential</u>
<u>Residential projects of 10</u> <u>or more units</u>	<u>\$0 /gsf</u>	<u>\$0.26/gsf</u>	<u>\$0.26/gsf</u>
<u>Residential Projects of</u> <u>up to 9 units</u>	<u>\$0 /gsf</u>	<u>\$0.13/gsf</u>	<u>\$0.13/gsf</u>

1 (b) Credit for On-Site Childcare Facilities. A project may be eligible for a credit for on-site  
 2 Childcare Facilities: The project sponsor must apply to the Planning Department to receive a credit for  
 3 on-site child care facilities. To qualify for a credit, the facility shall be open and available to the  
 4 general public on the same terms and conditions as to residents of the residential development project  
 5 in which the facilities are located. Subject to the review and approval of the Planning Commission, the  
 6 project sponsor may apply for a credit up to 100% of the required fee. The City shall enter into an In-  
 7 Kind Agreement with the Project Sponsor under the conditions described for In-Kind Agreements in  
 8 Section 421.3(d), subsections (2) through (5).

9 **SEC. 414A.6. OPTION TO PROVIDE ONSITE SMALL FAMILY DAYCARE HOME IN LIEU OF**  
 10 **FEE.**

11 (a) Election to Provide Designated Child Care Units in Lieu of Residential Child Care Impact  
 12 Fee.

13 Consistent with the timing to elect the option to provide On- or Off-site Units under Section  
 14 415.5(g), the sponsor of a development project subject to the requirements of Section 414A.1 et seq.,  
 15 may elect to fulfill all or a portion of the Residential Child Care Fee requirement imposed as a  
 16 condition of approval by creating one or more Designated Child Care Units in the project, as follows:

17 (1) The number of Designated Child Care Units in a project subject to this Section  
 18 414A shall be as follows:

	<u>Maximum allowable Designated Child Care Units</u>
<u>Residential Projects of 25- 100 units</u>	<u>1 Unit</u>
<u>Residential Projects of 101-200 units</u>	<u>2 Units</u>
<u>Residential Projects of 201 or more units</u>	<u>3 Units</u>

1                   (2) A Designated Child Care Unit shall have two or more bedrooms and shall  
2 be 1,000 square feet or more;

3                   (3) A Designated Child Care Unit shall be offered only for rent and only to a tenant  
4 who agrees to operate a licensed Small Family Daycare Home in the Unit; and

5                   (4) A Designated Child Care Unit shall be reserved for a period of at least ten years  
6 from the date the Designated Unit is first leased to a tenant for use as a licensed Small Family Daycare  
7 Home; and

8                   (5) A Designated Child Care Unit may not be an On-site or Off-site Unit, as  
9 defined in Planning Code Section 415 et seq. establishing the Inclusionary Affordable Housing  
10 Program.

11                   (b) Calculation of Value of Designated Child Care Unit in Lieu of Residential Child Care  
12 Impact Fee.

13                   For purposes of determining the value of a Designated Child Care Unit to calculate a waiver of  
14 the Child Care Fee, the City shall calculate the number Designated Child Care Units being provided  
15 multiplied by the average number of children per Unit multiplied by the cost per childcare space. The  
16 following formula, using numbers derived from the 2014 San Francisco Citywide Nexus Study shall be  
17 used:

18                   Total number of gross square feet of the unit or units designated as Child Care Units \*  
19 Residential Child Care Impact Fee \* 20.

20                   This value shall be deducted from the amount of the Residential Child Care Impact Fee owed.

21                   (c) Responsibilities of Operators of Small Family Daycare Homes in Designated Child Care  
22 Units.

23                   The Office of Early Care and Education shall monitor Designated Child Care Units and refer  
24 any instances of noncompliance to the Planning Department for enforcement. A tenant of any  
25

1 Designated Child Care Unit shall agree to operate a licensed Small Family Daycare Home in the unit  
2 for a minimum of 10 years as follows:

3 ~~(1)~~ Except as provided herein, the tenant must meet the income qualifications  
4 to occupy the Unit and shall comply with all other requirements of the City's Inclusionary  
5 Affordable Housing Program, Planning Code Section 415 et seq., as it may be amended from  
6 time to time. Compliance with the Inclusionary Housing Program requirements shall be  
7 determined by MOHCD or its successor. Notwithstanding the Inclusionary Housing Program  
8 requirements, for the duration of a tenant's occupancy of a Designated Child Care Unit and  
9 operation of a licensed Small Family Daycare Home in the Designated Child Care Unit,  
10 MOHCD shall not enforce against the tenant any income requirements that otherwise apply to  
11 current tenants;

12 (1)(2) If, in the determination of the Office of Early Care and Education, the tenant  
13 does not begin to operate a licensed Small Family Daycare Home in the unit within nine months of  
14 occupying the unit, or if the tenant ceases to operate a licensed Small Family Daycare Home at any  
15 point in time within ten years from the date the Designated Unit is first leased to a tenant to operate a  
16 licensed Small Family Daycare Home, all tenants in the Unit shall be required to vacate the unit within  
17 180 days;

18 (2)(3) At least 1/3 of the children served by the Small Family Daycare Home shall be  
19 from Households of Low- or Moderate-income, as defined in Section 401; and

20 (3)(4) The Small Family Daycare Home established in any Designated Child Care Unit  
21 shall serve at least four children of whom the operator of the Small Family Daycare Home is not a  
22 parent or guardian, based on an average over the previous 12 months.

1 **SEC. 414A.7. USE OF FEES.**

2 All monies contributed pursuant to the provisions of Section 414A shall be deposited in the  
3 Child Care Capital Fund established by Section 414.14 of this Code.

4  
5 **SEC. 414A.8. NOTICE OF AVAILABLE DESIGNATED UNITS.**

6 Whenever a Designated Unit becomes available for rent, within 5 business days, the owner of  
7 the Unit shall notify governmental and nonprofit entities that can assist in publicizing the availability of  
8 the Unit, including, at a minimum, the following entities: the Office of Early Care and Education, the  
9 Family Child Care Association of San Francisco, the Children's Council, and Wu Yee Children's  
10 Services.

11  
12 Section 3. Effective and Operative Date. This ordinance shall become effective 30  
13 days after enactment. The operative date of the provisions in Section 414A.6 will be six  
14 months after enactment. The operative date for all of the other provisions of this ordinance  
15 shall be the effective date. Enactment occurs when the Mayor signs the ordinance, the Mayor  
16 returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it,  
17 or the Board of Supervisors overrides the Mayor's veto of the ordinance.

18  
19 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
20 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
21 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
22 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
23 additions, and Board amendment deletions in accordance with the "Note" that appears under  
24 the official title of the ordinance.

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

By:   
Susan Cleveland-Knowles  
Deputy City Attorney

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**REVISED LEGISLATIVE DIGEST**

(12/7/2015, Amended in Committee)

[Planning Code - Child Care Requirements for Office and Residential Projects]

**Ordinance amending the Planning Code to increase the Child Care In Lieu Fee for office and hotel development projects of up to \$1.57 per gross square foot and apply the Fee to projects of 25,000 or more gross square feet; to impose a tiered Child Care Fee for residential development projects of up to \$1.83 per gross square feet; to allow developers the option to provide onsite Small Family Daycare Homes in lieu of the fee; and affirming the Planning Department's determination under the California Environmental Quality Act, and making findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1.**

Existing Law

The Planning Code requires that office and hotel development projects of 50,000 or more gross square feet must meet certain Child Care Requirements, including the option to pay \$1.00 per gross square feet. The Planning Code does not have a citywide requirement on residential development to meet Child Care requirements, but some Area Plans have community impact fees that include a fee for child care.

Amendments to Current Law

The Proposed Legislation will require that office and hotel development projects of 25,000 or more gross square feet meet certain Child Care Requirements and increases the in lieu fee to \$1.57 per gross square feet.

The Proposed Legislation will impose a new Child Care Fee for residential projects of \$1.83 for projects containing 10 or more units and 50% of that amount or \$0.91 for projects of up to 9 units. The Proposed Legislation provides for an option to provide on-site day care facilities and receive a full or partial waiver of the Fee. The Proposed Legislation also includes an option for a project sponsor to receive a full or partial waiver of the Fee if they designate one or more of those units as Designated Childcare Units that will be rented to a household operating a Small Family Daycare Home as defined in State law for at least 10 years.

Background Information

San Francisco conducted a Citywide Nexus Study dated March 2014 prepared by the consultant AECOM. The fee amounts in the Proposed Ordinance are based on the results of that analysis.

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BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

July 29, 2015

File No. 150793

Sarah Jones  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Ms. Jones:

On July 21, 2015, Supervisor Yee introduced the following legislation:

**File No. 150793**

**Ordinance amending the Planning Code to increase the Child Care In Lieu Fee for office and hotel development projects of up to \$1.57 per gross square foot and apply the Fee to projects of 25,000 or more gross square feet; to impose a tiered Child Care Fee for residential development projects of up to \$1.83 per gross square feet; to allow developers the option to provide onsite Small Family Daycare Homes in lieu of the fee; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Assistant Clerk  
Land Use & Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Jeanie Poling, Environmental Planning

Statutory Exemption under CEQA Guidelines Section 15273 - Rates, Tolls, Fares, and Charges - the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges...

Joy  
Navarrete  
4203

Digitally signed by Joy Navarrete  
DN: cn=Joy Navarrete, o=Planning,  
ou=Environmental Planning,  
email=joy.navarrete@sfgov.org, c=US  
Date: 2015.08.13 09:48:12 -07'00'



# SAN FRANCISCO PLANNING DEPARTMENT

November 9, 2015

Ms. Angela Calvillo, Clerk of the Board  
Honorable Supervisor Yee  
Board of Supervisors  
City and County of San Francisco  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

Re: **Transmittal of Planning Department Case Number 2015-009771PCA  
Child Care in Lieu Fee Increase and Application  
Planning Commission Recommendation: Approval with Modification**

Dear Ms. Calvillo and Supervisor Yee:

On October 21, 2015 the Planning Commission conducted a duly noticed public hearing at regularly scheduled meetings to consider the proposed Ordinance that would amend Planning Code Sections 401, 406, and 414 introduced by Supervisor Yee. At the hearing the Planning Commission recommended approval with modifications.

The Commission's proposed modifications were as follows:

1. Remove the Designated Child Care Unit (DCCU) from this ordinance and consider the DCCU section as a separate piece of legislation.
2. Clarify in the proposed ordinance that Child Care Fees levied in Area Plans are to remain in Area Plans.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) (2) and 15378 because they do not result in a physical change in the environment.

Supervisors Yee, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron Starr", with a long horizontal line extending to the right.

Aaron D. Starr  
Manager of Legislative Affairs

Transmittal Materials

CASE NO. 2015-008208PCA  
Clarifying/Creating Preferences for Affordable Housing Units

cc:

Matthias Mormino, Aide to Supervisor Yee  
Susan Cleveland Knowles, Deputy City Attorney  
Alisa Somera, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution  
Planning Department Executive Summary



# SAN FRANCISCO PLANNING DEPARTMENT

## Planning Commission Resolution No.19495

HEARING DATE OCTOBER 15, 2015

*Project Name:* Child Care in Lieu Fee Increase and Application  
*Case Number:* 2015-009771PCA [Board File No. 150793]  
*Initiated by:* Supervisor Yee / Introduced July 29, 2015  
*Staff Contact:* Menaka Mohan, Legislative Affairs  
Menaka.mohan@sfgov.org, 415-575-9141  
*Reviewed by:* Aaron Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362  
*Recommendation:* Recommend Approval with Modifications

1650 Mission St.  
Suite 400  
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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO INCREASE THE CHILD CARE IN LIEU FEE FOR OFFICE AND HOTEL DEVELOPMENT PROJECTS OF UP TO \$1.57 PER GROSS SQUARE FOOT AND APPLY THE FEE TO PROJECTS OF 25,000 OR MORE GROSS SQUARE FEET; TO IMPOSE A TIERED CHILD CARE FEE FOR RESIDENTIAL DEVELOPMENT PROJECTS OF UP TO \$1.83 PER GROSS SQUARE FEET; TO ALLOW DEVELOPERS THE OPTION TO PROVIDE ONSITE SMALL FAMILY DAYCARE HOMES IN LIEU OF THE FEE; AND AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE SECTION 101.1

WHEREAS, on July 29, 2015, Supervisor Yee introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 150793, which would amend the Planning Code to increase the increase the Child Care In Lieu Fee for office and hotel development projects of up to \$1.57 per gross square foot and apply the Fee to projects of 25,000 or more gross square feet; to impose a tiered Child Care Fee (hereinafter "Fee") for residential development projects of up to \$1.83 per gross square feet; to allow developers the option to provide onsite Small Family Daycare Homes in lieu of the fee and;

WHEREAS, the proposed fee is based on the 2014 San Francisco Citywide Nexus Analysis adjusted fee rates for 2015 and;

WHEREAS, the proposed ordinance adds a new Citywide tiered Residential Child Care Fee (hereinafter "Fee") where projects up to nine units would be subject to \$0.91/GSF and projects of ten or more would be subject to \$1.83/GSF and;

WHEREAS, the proposed ordinance provides the option for developers to add a Designated Child Care Unit, which would provide Small Family Day Care Homes defined in California Health and Safety Code Section 1596.78(c) in lieu of a portion or the full Fee and would count towards the requirements of Planning Code Section 415 and;

WHEREAS, the proposed ordinance provides the option for developers to receive credit for providing on-site childcare facilities subject to the In-kind Agreement rules outlined in Planning Code Section 421.3(d), subsections (2) through (5) and;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on October 15, 2015; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 150152723 and;

WHEREAS, the Planning 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 Department staff and other interested parties; and

WHEREAS, 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 Planning Commission has reviewed the proposed Ordinance; and

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve with modifications** the proposed ordinance. Specifically, the Commission recommends the following modifications:

1. Remove the Designated Child Care Unit (DCCU) from this ordinance and consider the DCCU section as a separate piece of legislation.
2. Clarify Child Care Fees levied in Area Plans remain in Area Plans.

## 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. Residential developments in the City are benefited by the availability of childcare for persons residing in such developments. However, the supply of childcare in the City has not kept pace with the demand for childcare created by new residents. Due to this shortage of childcare, residents unable to find accessible and affordable quality childcare will be forced either to live where such services are available outside of San Francisco or leave the work force, in some cases seeking public assistance to support their children. In either case, there will be a detrimental effect on San Francisco's economy and its quality of life.
2. The San Francisco General Plan requires that the City "balance housing growth with adequate infrastructure that serves the city's growing population." In light of this provision, the City should impose requirements on developers of certain residential projects designed to mitigate the adverse effects of the increase in population facilitated by such projects.
3. In adopting Ordinance No. 50-15, the Board of Supervisors reviewed the San Francisco Citywide Nexus Analysis prepared by AECOM dated March 2014 ("Nexus Analysis"), and the San

Francisco Infrastructure Level of Service Analysis prepared by AECOM dated March 2014, both on file with the Clerk of the Board of Supervisors in File No. 150149. The Board of Supervisors reaffirms the findings and conclusions of those studies as they relate to the impact of residential development on childcare and hereby readopts the findings contained in Ordinance 50-15, including the General Findings in Section 401A(a) of the Planning Code and the Specific Findings in Section 401A(b) of the Planning Code relating to childcare.

4. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are, *on balance*, consistent with the Objectives and Policies of the General Plan (Staff discussion is added in *italic font* below):

#### COMMUNITY FACILITIES

##### **OBJECTIVE 3**

**Assure that neighborhood residents have access to needed services and a focus for neighborhood activities.**

*The proposed fee would be applied to new residential development, hotel and office use, which in turn will be used to fund child care facilities.*

#### HOUSING ELEMENT

##### **OBJECTIVE 12**

**Balance housing growth with adequate infrastructure that serves the City's growing population.**

##### **POLICY 12.2**

**Consider the proximity of quality of life elements, such as open space, child care, and neighborhood services, when developing new housing units.**

*The proposed fee would be applied to new residential development, hotel and office use, which in turn will be used to fund child care facilities.*

#### BAYVIEW HUNTERS POINT

##### **OBJECTIVE 15**

**Combine social revitalization with physical and economic revitalization efforts.**

*The proposed fee will be applied to new residential development which in turn will be used to fund child care facilities.*

#### CENTRAL WATERFRONT

##### **OBJECTIVE 2.3**

Require that a significant number of units in new developments have two or more bedrooms except senior housing and SRO developments unless all below market rate units are two or more bedroom units.

**POLICY 2.3.4**

Encourage the creation of family supportive services, such as child care facilities, parks and recreation, or other facilities, in affordable housing or mixed-use developments.

*The proposed legislation would provide the option for developers to provide an on-site child care facility in lieu of the proposed fee.*

**EAST SOMA (SOUTH OF MARKET)**

**OBJECTIVE 2.3**

Ensure that new residential developments satisfy an array of housing needs with respect to tenure, unit mix and community services.

**Policy 2.3.4**

Encourage the creation of family supportive services, such as childcare facilities, parks and recreation, or other facilities, in affordable housing or mixed use developments.

**OBJECTIVE 7.1**

Provide essential community services and facilities

*The proposed legislation would provide the option for developers to provide an on-site child care facility in lieu of the proposed fee.*

**EXECUTIVE PARK**

**OBJECTIVE 9**

Provide and enhance community facilities to serve existing and future residents.

**Policy 9.1**

Encourage development that provides the necessary community facilities to serve the intended population and to create a livable neighborhood.

*The proposed legislation would provide the option for developers to provide an on-site child care facility in lieu of the proposed fee.*

**MISSION**

**OBJECTIVE 2.3**

Ensure that new residential developments satisfy an array of housing needs with respect to tenure, unit mix and community services.

**OBJECTIVE 7.2**

Ensure continued support for human service providers throughout the Eastern Neighborhoods.

SHOWPLACE SQUARE

OBJECTIVE 2.3

Require that a significant number of units in new developments have two or more bedrooms except senior housing and SRO developments unless all below market rate units are two or more bedroom units.

Policy 2.3.4

Encourage the creation of family supportive services, such as childcare facilities, parks and recreation, or other facilities, in affordable housing or mixed use developments.

OBJECTIVE 7.1

Provide essential community services and facilities.

OBJECTIVE 7.2

Ensure continued support for human service providers throughout the Eastern Neighborhoods.

*The proposed legislation would provide the option for developers to provide an on-site child care facility in lieu of the proposed fee.*

WESTERN SOMA (SOUTH OF MARKET)

OBJECTIVE 3.5

Ensure that new residential developments satisfy an array of housing needs with respect to tenure, unit mix and community services.

Policy 3.5.4

In affordable housing and mixed-use developments, encourage the creation of family supportive services, such as childcare facilities, parks and recreation, or other facilities.

OBJECTIVE 9.2

Provide neighborhood childcare services where they will best serve local residents and workers.

POLICY 9.2.2

Locate childcare near residential areas, on-site in new residential complexes, near transit facilities, or near employment centers to support families by reducing the time spent going to and from daycare, and to support other plan goals of traffic reduction and increased transit ridership.

*The proposed legislation would provide the option for developers to provide an on-site child care facility in lieu of the proposed fee.*

5. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

*The proposed amendments will not have a negative effect on neighborhood serving retail uses and will not affect opportunities for resident employment in and ownership of neighborhood-serving retail.*

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

*The amendments will not affect existing housing and neighborhood character.*

3. That the City's supply of affordable housing be preserved and enhanced;

*The proposed amendments will not affect the supply of affordable housing.*

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

*The proposed amendments will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.*

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

*The proposed amendments would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.*

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

*The proposed ordinance would not negatively affect preparedness in the case of an earthquake.*

7. That the landmarks and historic buildings be preserved;

*Landmarks and historic buildings would not be negatively affected by the proposed amendments.*

8. That our parks and open space and their access to sunlight and vistas be protected from development;

*The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed amendments.*

6. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance with the modification as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on October 15, 2015.

Jonas P. Ionin  
Commission Secretary

AYES: Fong, Wu, Antonini, Johnson, Richards

NOES:

ABSENT: Hillis, Moore

ADOPTED: October 15, 2015



# SAN FRANCISCO PLANNING DEPARTMENT

## Executive Summary Child Care In Lieu Fee Amendment HEARING DATE: OCTOBER 15, 2015

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*Project Name:* Child Care in Lieu Fee Increase and Application  
*Case Number:* 2015-009771PCA [Board File No. 150793]  
*Initiated by:* Supervisor Yee / Introduced July 29, 2015  
*Staff Contact:* Menaka Mohan, Legislative Affairs  
 Menaka.mohan@sfgov.org, 415-575-9141  
*Reviewed by:* Aaron Starr, Manager of Legislative Affairs  
 aaron.starr@sfgov.org, 415-558-6362  
*Recommendation:* Recommend Approval with Modifications

### PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to increase the Child Care In Lieu Fee for office and hotel development projects of up to \$1.57 per gross square foot and apply the Fee to projects of 25,000 or more gross square feet; to impose a tiered Child Care Fee for residential development projects of up to \$1.83 per gross square feet; to allow developers the option to provide onsite Small Family Daycare Homes in lieu of the fee.

#### The Way It Is Now:

Currently the City charges child care fees for downtown commercial development and residential development in Plan Areas per the table below:

Child Care Fee	Amount
Residential Fees (\$/Gross Square Feet (GSF))	
Balboa Park	\$1.46
Eastern Neighborhoods*	\$1.26
Market and Octavia	\$0.87
Visitacion Valley	\$1.11
Commercial Fees (\$/Gross Square Feet (GSF))	
Citywide-Office/Hotel (50,000 GSF or more)	\$1.21
Balboa Park	\$0.27
Eastern Neighborhoods*	\$0.34

\*Note that the table highlights the maximum fee charged in each infrastructure category.

The child care fees associated with Area Plans must be spent within the Area Plans borders, while the Citywide Fee can be spent throughout the City. As with all impact fees, the funding must spent on capital costs associated with the anticipated growth in child care need.

In general, fees are applicable to development projects which result in:

1. At least one net residential unit
2. Additional space in an existing residential unit of more than 800 gross square feet,
3. At least one net new group housing facility or residential care facility,
4. Additional space in an existing group housing or residential care facility of more than 800 gross square feet,
5. New construction of a non-residential use, or
6. Additional non-residential space in excess of 800 gross square feet in an existing structure.

**The Way It Would Be:**

The new Residential Child Care Impact Fee would apply Citywide. The legislation would also change the child care requirement for office and hotel development projects (section 414.1) by applying to projects proposing the net addition of 25,000 or more gross square feet of office or hotel space. New commercial and residential fees would be charged based on the number of units provided per table below.

<b>Child care Fee</b>	<b>Amount</b>
<b>Residential Fees (\$/Gross Square Feet (GSF))</b>	
Balboa Park*	\$1.46
Eastern Neighborhoods	\$1.26
Market and Octavia	\$0.87
Visitacion Valley	\$1.11
Citywide Projects of 10 or more units	\$1.83
Citywide Projects of up to 9 units	\$0.91
<b>Commercial Fees (\$/Gross Square Feet (GSF))</b>	
Citywide-Office/Hotel (25,000 GSF or more)	\$1.57
Balboa Park	\$0.27
Eastern Neighborhoods*	\$0.34

The Residential Child Care Impact Fee (Fee) would apply to development projects which result in:

1. At least one net residential unit
2. Additional space in an existing residential unit of more than 800 gross square feet,
3. At least one net new group housing facility or residential care facility,
4. Additional space in an existing group housing or residential care facility of more than 800 gross square feet.

Note that the fee rates in Area Plans would remain the same with the difference in the fee deposited into the newly created Child Care Facilities Fund. Exceptions to the new fee would not apply to retail portions of a residential project, government owned properties, and any project that has obtained its First Construction Document prior to the effective date of Section 414A.1. There are additional fees for the conversion of non-residential space to residential determined by the number of units as well from PDR to residential.

Projects may also choose to provide a small family daycare home known as a Designated Child Care Unit in lieu of a portion or 100 percent of the fee as follows:

Residential Project	Maximum Allowable Designated Child Care Units
25-100 units	1 unit
101-200 units	2 units
201 or more units	3 units

Designated Child Care Unit would only be offered for rents and to a tenant who agrees to operate a licensed small Family Daycare Home in the unit. The unit would have two or more bedrooms and would be reserved as a Daycare Home for at least ten years.

## BACKGROUND

The Planning Code contains over 20 different development impact fees, including several single-purpose fees as well as several community infrastructure fees that the City established as a part of various area plan efforts. In 2013, the consultant company AECOM began to update the City's nexus analysis with direction from the San Francisco Planning Department, the San Francisco Capital Improvements Program with direction from the City Attorney's Office.

The nexus analysis studied the connection of new growth (nexus) to facilities for recreation and open space, child care, streetscape and pedestrian infrastructure, and bicycle infrastructure. The nexus study and accompanying Level of Service (LOS) report<sup>1</sup> developed a standards-based methodology for existing impact fees and served as the five year update to the nexus studies as outlined in Planning Code section 410.

## ISSUES AND CONSIDERATIONS

### Development Impact Fees

Cities are authorized to levy development impact fees through the California Mitigation Fee Act<sup>2</sup>, (hereinafter the Fee Act) that establishes requirements and principles for local jurisdictions to impose fees as a condition of approval. One of the requirements set by the Fee Act requires local jurisdictions establish a "nexus" between the impacts of new development and the proposed fee. While not all fees in Article Four of the Planning Code are subject to the Fee Act, it is the City's practice to establish a nexus for any fee imposed as a condition of development.

The San Francisco Citywide Nexus Analysis established a residential fee for child care of \$1.86/GSF for residential and \$1.58/GSF for commercial using data from 2013. The current legislation proposes to charge 90% of the San Francisco Citywide Nexus Analysis-adjusted for 2015 rates for the commercial fee (\$1.57/GSF) and 90% of the Nexus (\$1.83/GSF) of the residential fee for projects with 10 or more units and 45% of Nexus (\$0.91) of the fee for projects with 0-9 units. Note that funds generated from the impact fee may only be used to fund capital child care projects and facilities.

Currently, impact fees levied in the Area Plans are spent within the borders of each Plan. The Planning Department worked extensively with the Office of Early Care and Education to develop a Notice of

<sup>1</sup>Found at <http://www.sf-planning.org/index.aspx?page=2893> and in BOS File No. 150149)

<sup>2</sup> California Government Code Section 66000 et. seq.

Funding Availability for Market Octavia for child care funds accrued and will do the same when enough funds have accrued in Eastern Neighborhoods.

Note that the Transportation Sustainability Fee (TSF) rate proposed by the Land Use Committee of the Board of Supervisors (BOS) for projects over 100 units and more than 100,000 GSF may make some projects infeasible with the proposed Residential Child Care Fee in this ordinance-please see table below. The TSF Feasibility study notes that at 150% of the Base Case TSF (rates that were proposed in 2012) the fee does not impact the overall feasibility for the majority of prototypes, but could impact the feasibility of some projects.<sup>3</sup>

Use	Current TIDF	Proposed TSF Rate	150% of Base TSF (\$/GSF)	Proposed Child Care Fee	BOS TSF less than 100 units and less than 100k	BOS TSF less than 100 units and less than 100k + Proposed Child Care Fee	BOS TSF more than 100 units and more than 100k	BOS TSF more than 100 units and more than 100k+Proposed Child Care Fee
Residential	\$0	\$7.74	\$9.29	\$1.83	\$7.74	\$9.57	\$8.74	\$10.57
Nonresidential	\$13.87 - \$14.59	\$18.04	\$21.65	\$1.57	\$18.04	\$19.61	\$19.04	\$20.61

Note that the TSF was supported by a feasibility study which was not completed for the proposed child care fee. The Department believes the proposed fee recommendation is justifiable, given that the TSF rate increases only for projects that are more than 100 units or more than 100 GSF.

**Child Care Need**

As of 2010, 79,210 children ages 0-12 call San Francisco home, with approximately 25,186 under the age of 12 in families with income levels eligible for a subsidy for early care, which represent 35% of the City's young child population.

The demand for child care is mostly generated by those who live in San Francisco. A smaller percentage is generated by those who work in the City but do not reside in San Francisco. Child care demand is calculated by the estimating the pool of children who would require licensed child care based on the labor force and an estimated percentage of parents who use formal licensed care.

The child care nexus was established on the Level of Service (LOS) metric, which is based on projected demographics of the City in 2020. The LOS is determined by the percent of infant and toddler (ages 0-2) child care demand served by available licensed slots. The same formula is used to determine the LOS for preschoolers. Childcare LOS is currently provided for 37% of demand for infants and toddler (ages 0-2)

<sup>3</sup> The Transportation Sustainability Fee: Economic Feasibility Study can be found at: [http://www.sf-planning.org/ftp/files/plans-and-programs/emerging\\_issues/tsp/TSF\\_EconomicFeasibilityStudy\\_Spring2015.pdf](http://www.sf-planning.org/ftp/files/plans-and-programs/emerging_issues/tsp/TSF_EconomicFeasibilityStudy_Spring2015.pdf)

and child care LOS is currently provided for 99.6% of child care demand for preschoolers (ages 3-5). The nexus study analyzed the same LOS metrics-37% of demand for infants and toddlers and 99.6% for preschoolers-for the year 2020.

The 2012-2013 San Francisco Early Care and Education Needs Assessment<sup>4</sup> was overseen by the Child Care Planning and Advisory Council (CPAC), the Assessment provides an overview of the demographic needs for child care in the City as well as outlines capacity for early care and the unmet need for subsidized care. The report also provides a detailed overview of the early care and education landscape in San Francisco. Of particular note in the report is the creation of the Office of Early Care and Education (OECE), which coordinates and consolidates services, improves policy coordination, and provides a single line of authority for the City's investments in early care and education services. This office also sits on the interagency Plan Implementation Committee which programs the City's impact fees. This office would also oversee the new Child Care Capital Fund established in the proposed ordinance.

### Child Care Facilities

Provision of child care can be divided into two categories, licensed and unlicensed. Unlicensed child care could be more formal child care administered through programs like the Boys and Girls Club or more informal care such as stay-at-home parents. Unlicensed child care is largely beyond the scope or control of the City.

Licensed child care takes two forms, child care centers that are often located in commercial buildings, and family child care homes (FCCH) that are typically located within private residences. FCCH have a lower capacity with a maximum of 12-14 children, and are principally permitted throughout the City, except in most PDR districts. Facilities with 15 or more children are considered child care centers and often require conditional use authorization as larger institutional uses.

Both FCCH and child care centers require licensing from the City and the City only provides capital costs to licensed facilities. Impact fees, including the one proposed in this ordinance, are used for child care centers that are serving infants, toddlers, and preschooler care. School-age care is generally provided for within the schools facilities' built by the School District; therefore the Citywide Nexus Study limited the LOS to children ages 0-5.

The current child care fees collected at occupancy from new office and hotel developments above 50,000 square feet of \$1 per square foot were established in 1985. These development fees are spent on child care facility capital and infrastructure as part of the Child Care Facilities Fund, administered by the Low Income Investment Fund under contract with the Office of Early Care and Education. The fees are used to increase and/or retain child care capacity in San Francisco. Funding available to child care agencies for facility development include: pre-development grants, new capital grants, move-in grants, start-up capacity grants and emergency renovation and repair grants. Priority for funding is given to child care programs that are part of City funded development projects, especially as part of affordable housing such as HOPE SF, public/private partnerships, those serving a higher percentage of low/moderate income families, and those providing increased access to infants, toddlers and children with special needs.

The increased revenue generated by the Residential Child Care fees will supplement the current Child Care Facilities Fund and enable the City to support more of the child care facility projects currently in the pipeline, using the same application process and priorities for funding. Examples of projects in the

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<sup>4</sup> The 2012-2013 San Francisco Early Care and Education Needs Assessment can be found at <http://38.106.4.155/modules/showdocument.aspx?documentid=1932>

pipeline include Hunter's View Block 10, the Transbay Block 7, HOPE SF Alice Griffiths, 1500 Mission Street, Mission Neighborhood Centers, and Nihonmachi Little Friends. Estimated costs of confirmed and potential child care facility projects and grants requested show a projected need of approximately \$12 million from 2015-17 and beyond.

#### On-Site Child Care Facilities and Designated Child Care Center

The legislation provides credit for on-site child care facilities if the project sponsor applies to the Planning Department to receive a credit for an on-site child care facility. To qualify for the credit, the facility shall be open and available to the general public on the same terms and conditions as to residents of the residential development project in which the facilities are located. The credit is subject to the review and approval of the Planning Commission, who may apply a credit of up to 100% of the required fee. Project Sponsors who proposed an on-site child care facility for credit shall enter into an In-Kind Agreement with the City. In-Kind Agreements are subject to a valuation at the discretion of the Director of Planning. Project Sponsors must provide two cost estimates from independent sources of the proposed improvement. The actual agreement includes a description of the type and timeline of the proposed improvement, the appropriate value, and the legal remedies in case of failure of the project sponsor to provide an in-kind improvement according to the specified timeline and terms in the agreement.

This legislation also created a Designated Child Care Unit (DCCU) which is an on- or off-site unit provided by the developer that is designated for use as a Small Family Daycare Home, where Small Family Day Care Home is defined by the California Health and Safety Code<sup>5</sup>. Projects that provide a DCCU are eligible for a partial or full fee waiver of the Residential Child Care Fee requirement if the per the table below:

Residential Project	Maximum Allowable Designated Child Care Units
25-100 units	1 unit
101-200 units	2 units
201 or more units	3 units

In order to qualify for a fee waiver, the DCCU must be a rental unit, have two or more bedrooms, must operate as a Family Child Care Home for at least ten years, and be created within nine months of the tenant occupying the unit. The Designated Child Care Unit would occupy one of the development's required inclusionary units and would be income restricted through section 415. In effect, this would create a new preference for inclusionary units for people who are licensed child care providers that also meet the income restrictions for the unit. The Designated Child Care Unit is also subject to the following:

- If the OECE determines that a tenant has not begun to operate a Small Family Day Care Home within nine months or that the Day Care Home ceases to operate at any point in time within ten years from the date of the DCCU, then all tenants would be required to vacate the unit within 180 days

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<sup>5</sup> Note that A Designated Child Care Unit is defined as an on-or off-site unit provided by a project that is designated for use as a Small Family Day Care Home. A Small Family Daycare Home is defined by the California & Safety Code Section 1596.78(c) and is amended from time to time. To date, the definition of a Small Family Day Care Home is a home that provides family day care for eight or fewer children, including children under the age of ten years who reside at the home.

- At least 1/3 of the children served by the Small Family Day Care Home must be from households of low or moderate income
- The Small Family Day Care home established in a DCCU shall serve at least four children of whom the operator of the Day Care is not a parent or guardian, based on an average over the previous 12 months.

If a project elects to complete a DCCU the fee reduction is based on the total number of gross square feet of the unit or units designated as DCCUs multiplied by the Residential Child care Impact Fee multiplied by 20. This formula is derived from the 2014 San Francisco Citywide Nexus Study. An example of how the calculation and fee waiver is provided per the table below:

Total Residential GSF	50,000
Residential Child Care Fee (Fee)	\$1.83
Child Care Fee	\$91,500
Total Units	150
BMR Rental (55% AMI)Units	18
Designated Child Care Units (DCCUs)	2
GSF of DCCUs	2,000
Fee waiver (GSF of DCCUs * Fee *20)	\$73,200
Total Residential Child Care Fee	\$18,300

### 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. The Department's proposed recommendations are as follows:

1. Remove the Designated Child Care Unit (DCCU) from the Inclusionary Program and create a separate program for the DCCU.
2. Clarify Child Care Fees levied in Area Plans remain in Area Plans.
3. The Office of Early Child Care (OECE) should be the Enforcement Agency.

### BASIS FOR RECOMMENDATION

The Department recommends that the Commission recommend approval with modifications of the proposed Ordinance and adopt the attached Draft Resolution to that effect. Providing the funding for adequate child care facilities is a documented need in the City. Furthermore, there is an unmet capital

need of approximately \$12 million in the current pipeline for child care facilities that could be met with the proposed fee.

**Recommendation 1: Remove the Designated Child Care Unit (DCCU) from the Inclusionary Program and Create a Separate Program for the DCCU**

The City applauds efforts to create more facilities for child care especially small family daycare homes; however the implementation of a Designated Child Care Unit (DCCU) presents several questions and concerns regarding implementation. Based on input from Mayor's Office of Housing and Community Development (MOHCD) the Department has concerns about tying the inclusionary program to the DCCU. MOHCD and the Planning Department support the creation of more child care facilities and believe establishing a program, independent of the inclusionary program, is more appropriate.

The creation of a DCCU results in a full or partial credit for the child care fee and counts towards the City's inclusionary requirement. A DCCU could setup a bad precedent in that a project sponsor would be "double dipping" in that a sponsor would receive credit for both affordable housing and child care.

This program would also create a new inclusionary unit preference for child care providers. The City is in the process of reevaluating its preference for inclusionary units, and while it may make sense to have a preference for child care providers this has not been part of the discussion until now, and the Department isn't entirely clear on how this will impact the inclusionary program.

The inclusionary program is also tied to individuals making 55% of the AMI (\$56,050 for a family of four) and requiring that low income tenants also be able to start a family child care center in the home within the nine month period could become onerous. Additionally, if the family home day care is unable to run for 10 years or if the tenant is unable to start a family home day care within nine months of occupying the units, the City could be put in the situation of evicting a low income tenant.

For these reasons the Department recommends that the DCCU be a separate program from the inclusionary program that is not tied to an individual's income. This would encourage the provision of child care services by allowing for a fee reduction that benefits the project sponsor without further burdening the inclusionary occupant. In order to test that the program's feasibility the Department proposes a monitoring the program to ensure the creation of units and if after one year a DCCU has not been designated we would recommend increasing the fee waiver from the current legislative proposal. Alternatively, if the program is determined infeasible the Department recommends eliminating the DCCU requirement altogether.

**Recommendation 2: Clarify Child Care Fees levied in Area Plans remain in Area Plans.**

Currently it is unclear that the fees levied in Area Plans would be unchanged in the current legislation. The intent is to have the Area Plan fees remain the same and the difference in the fee would be deposited into the Child Care Facilities Fund.

**Recommendation 3: The Office of Early Child Care (OECE) should be the Enforcement Agency.**

Currently the Planning Department is named as the enforcement agency to ensure that a designated child care unit is running a family child care home for at least 10 years. Given that the Planning Department does not regulate child care or is equipped to determine what constitutes a legal family day care in the home, enforcement of the unit should remain with the Office of Early Child Care (OECE).

## ENVIRONMENTAL REVIEW

The proposed Ordinance would result in no physical impact on the environment. The proposed amendments are statutory exempt from environmental review under CEQA Guidelines Section 152723-Rates, Tolls, Fares, and Charges.

## PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

<b>RECOMMENDATION:</b> Recommendation of Approval with Modification
---------------------------------------------------------------------

### Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 150793

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## NOTICE OF PUBLIC HEARING

### BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO LAND USE AND TRANSPORTATION COMMITTEE

NOTICE IS HEREBY GIVEN THAT the Land Use and Transportation Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

**Date:** Monday, December 7, 2015

**Time:** 1:30 p.m.

**Location:** Legislative Chamber, Room 250, located at City Hall  
1 Dr. Carlton B. Goodlett Place, San Francisco, CA

**Subject:** **File No. 150793.** Ordinance amending the Planning Code to increase the Child Care In Lieu Fee for office and hotel development projects of up to \$1.57 per gross square foot and apply the fee to projects of 25,000 or more gross square feet; to impose a tiered Child Care Fee for residential development projects of up to \$1.83 per gross square feet; to allow developers the option to provide onsite Small Family Daycare Homes in lieu of the fee; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

If the legislation passes, the existing in lieu fee charged to office and hotel development projects to meet certain child care requirements pursuant to Planning Code, Sections 414.1 et seq., shall be revised, as follows:

- Increased from \$1.00/gross square feet (gsf) to \$1.57/gsf; and
- Project gsf threshold shall be lowered from 50,000 gsf to 25,000 gsf.

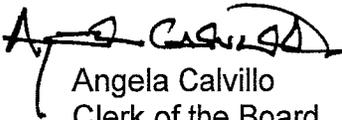
A new Residential Child Care Impact Fee shall be charged to residential projects, calculated as follows:

- Net additions of gsf to projects of 10 or more units: \$1.83/gsf;
- Net additions of gsf to projects of up to 9 units: \$0.91/gsf;
- Projects of 10 or more units that changes its use from "Non-Residential" to "Residential:" \$0.26/gsf;

- Projects of up to 9 units that changes its use from "Non-Residential" to "Residential:" \$0.13/gsf;
- Projects of 10 or more units that changes its use from "Production, Distribution and Repair (PDR)" to "Residential:" \$0.26/gsf; or
- Projects of up to 9 units that changes its use from "PDR" to "Residential:" \$0.13/gsf.

All monies collected through these fees shall be deposited into the Child Care Capital Fund and used solely to increase and/or improve the supply of child care facilities that are affordable to low and moderate income households.

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made as part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, December 4, 2015.

  
Angela Calvillo  
Clerk of the Board

DATED: November 24, 2015  
PUBLISHED: November 27 and December 3, 2015

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## NOTIFICACIÓN DE AUDIENCIA PÚBLICA

JUNTA DE SUPERVISORES DE LA CIUDAD Y CONDADO DE SAN FRANCISCO  
COMITÉ SOBRE USO DE SUELOS Y TRANSPORTE

- Fecha:** Lunes, 7 de diciembre de 2015
- Hora:** 1:30 p.m.
- Lugar:** Cámara Legislativa, Sala 250, localizada dentro del Ayuntamiento  
1 Dr. Carlton B. Goodlett Place, San Francisco, CA
- Asunto:** Núm. de Expediente 150793. Ordenanza que enmienda el Código de Planificación relacionado con el Pago en vez de Cuidado Infantil de los proyectos de urbanización para oficinas y hoteles para aumentarlo hasta un \$1.57 por pie cuadrado bruto y asignar los pagos relacionados a los proyectos de 25,000 o más pies cuadrados; se impone un sistema de pago por niveles de Cuidado Infantil para los proyectos de urbanización residencial hasta \$1.83 por pie cuadrado bruto; para permitir que los desarrolladores tengan la opción de proporcionar en sitio Pequeñas Guarderías Infantiles Familiares en vez de dar el pago; afirma la determinación del Departamento de Planificación bajo la Ley de Calidad Medioambiental de California; y hace hallazgos conforme con la Sección 101.1 del Plan General, y las ocho políticas prioritarias del Código de Planificación.

  
Angela Calvillo  
Secretaria de la Junta

FECHADO: 24 de noviembre de 2015  
PUBLICADO: 27 de noviembre y 3 de diciembre de 2015

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No 554-5184  
Fax No. 554-5163  
TTD/TTY No. 5545227

公聽會通知

三藩市市及縣市參事委員會  
土地使用與交通運輸委員會

日期: 2015年12月7日星期一

時間: 下午1時30分

地點: 市政廳，立法會議廳 250 室，1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102

議題: 檔案號碼 150793。該項條例修訂規劃法規旨在對寫字樓及酒店開發項目提高託兒替代費用 (Child Care In Lieu Fee) 達至每平方英尺 (總面積) \$1.57和對總面積達25,000平方英尺或以上的項目實行此收費規定；對住宅開發項目進行分層徵收託兒費用達至每平方英尺 (總面積) \$1.83；允許開發商選擇就地提供小型家庭日間託兒設施 (Small Family Daycare Homes) 以代替應繳費用；依據「加州環境質量法」 (California Environmental Quality Act) 確認規劃局的裁定；以及作出與總體計劃及規劃法規第101.1條款的八項優先政策相一致的裁斷。

A handwritten signature in black ink, appearing to read "Angela Calvillo".

Angela Calvillo  
市參事委員會書記

日期: November 24, 2015  
公佈: November 27, 2015 和 December 3, 2015

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CCSF BD OF SUPERVISORS (OFFICIAL NOTICES)
1 DR CARLTON B GOODLETT PL #244
SAN FRANCISCO, CA 94102

COPY OF NOTICE

Notice Type: GPN GOVT PUBLIC NOTICE
Ad Description AS - 12.7.15 Land Use - 150793 Fee Ad

To the right is a copy of the notice you sent to us for publication in the SAN FRANCISCO EXAMINER. Thank you for using our newspaper. Please read this notice carefully and call us with ny corrections. The Proof of Publication will be filed with the County Clerk, if required, and mailed to you after the last date below. Publication date(s) for this notice is (are):

11/27/2015 , 12/03/2015

The charge(s) for this order is as follows. An invoice will be sent after the last date of publication. If you prepaid this order in full, you will not receive an invoice.

Table with 2 columns: Description, Amount. Rows: Publication \$930.00, Publication \$-93.00, Total \$837.00

EXM# 2820433

NOTICE OF PUBLIC HEARING
BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO
LAND USE AND TRANSPORTATION COMMITTEE
MONDAY, DECEMBER 7, 2015 - 1:30 PM
LEGISLATIVE CHAMBER, ROOM 250, CITY HALL
1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA

NOTICE IS HEREBY GIVEN THAT the Land Use and Transportation Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard: File No. 150793. Ordinance amending the Planning Code to increase the Child Care In Lieu Fee for office and hotel development projects of up to \$1.57 per gross square foot and apply the fee to projects of 25,000 or more gross square feet; to impose a tiered Child Care Fee for residential development projects of up to \$1.83 per gross square feet; to allow developers the option to provide onsite Small Family Daycare Homes in lieu of the fee; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1. - If the legislation passes, the existing in lieu fee charged to office and hotel development projects to meet certain child care requirements pursuant to Planning Code, Sections 414.1 et seq., shall be revised, as follows: increased from \$1.00/gross square feet (gsf) to \$1.57/gsf; and project gsf threshold shall be lowered from 50,000 gsf to 25,000 gsf. A new Residential Child Care Impact Fee shall be charged to residential projects, calculated as follows: net additions of gsf to projects of 10 or more units: \$1.83/gsf; net additions of gsf to projects of up to 9 units: \$0.91/gsf; projects of 10 or more units that changes its use from "Non-Residential" to "Residential:" \$0.26/gsf; projects of up to 9 units that changes its use from "Non-Residential" to "Residential:" \$0.13/gsf; projects of 10 or

more units that changes its use from "Production, Distribution and Repair (PDR)" to "Residential:" \$0.26/gsf; or projects of up to 9 units that changes its use from "PDR" to "Residential:" \$0.13/gsf. All monies collected through these fees shall be deposited into the Child Care Capital Fund and used solely to increase and/or improve the supply of child care facilities that are affordable to low and moderate income households. In accordance with Administrative Code, Section 87.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made as part of the official public record in this matter, and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, December 4, 2015. - Angela Calvillo, Clerk of the Board



\* A 0 0 0 0 0 3 9 4 0 6 8 4 \*

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## MEMORANDUM

TO: Regina Dick-Endrizzi, Director  
Small Business Commission, City Hall, Room 448

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Transportation Committee  
Board of Supervisors

DATE: July 29, 2015

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 150793

**Ordinance amending the Planning Code to increase the Child Care In Lieu Fee for office and hotel development projects of up to \$1.57 per gross square foot and apply the Fee to projects of 25,000 or more gross square feet; to impose a tiered Child Care Fee for residential development projects of up to \$1.83 per gross square feet; to allow developers the option to provide onsite Small Family Daycare Homes in lieu of the fee; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

\*\*\*\*\*

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: \_\_\_\_\_

\_\_\_\_ No Comment

\_\_\_\_ Recommendation Attached

\_\_\_\_\_  
Chairperson, Small Business Commission

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

July 29, 2015

Planning Commission  
Attn: Jonas Ionin  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Commissioners:

On July 21, 2015, Supervisor Yee introduced the following legislation:

**File No. 150793**

**Ordinance amending the Planning Code to increase the Child Care In Lieu Fee for office and hotel development projects of up to \$1.57 per gross square foot and apply the Fee to projects of 25,000 or more gross square feet; to impose a tiered Child Care Fee for residential development projects of up to \$1.83 per gross square feet; to allow developers the option to provide onsite Small Family Daycare Homes in lieu of the fee; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Assistant Clerk  
Land Use and Transportation Committee

- c: John Rahaim, Director of Planning
- Aaron Starr, Acting Manager of Legislative Affairs
- AnMarie Rodgers, Senior Policy Manager
- Scott Sanchez, Zoning Administrator
- Sarah Jones, Chief, Major Environmental Analysis
- Jeanie Poling, Environmental Planning
- Joy Navarrete, Environmental Planning

BOARD of SUPERVISORS



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Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## MEMORANDUM

TO: Adele Carpenter, Director, Youth Commission  
Todd Rufo, Director, Office of Economic and Workforce Development  
Trent Rhorer, Executive Director, Human Services Agency

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Transportation Committee,  
Board of Supervisors

DATE: July 29, 2015

SUBJECT: LEGISLATION INTRODUCED

---

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, introduced by Supervisor Yee on July 21, 2015:

**File No. 150793**

**Ordinance amending the Planning Code to increase the Child Care In Lieu Fee for office and hotel development projects of up to \$1.57 per gross square foot and apply the Fee to projects of 25,000 or more gross square feet; to impose a tiered Child Care Fee for residential development projects of up to \$1.83 per gross square feet; to allow developers the option to provide onsite Small Family Daycare Homes in lieu of the fee; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

If you have any additional comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

C:  
Ken Rich, Director of Development  
Lisa Pagan, Liaison to the Board of Supervisors  
Louise Rainey, Commission Secretary

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

July 29, 2015

File No. 150793

Sarah Jones  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Ms. Jones:

On July 21, 2015, Supervisor Yee introduced the following legislation:

**File No. 150793**

**Ordinance amending the Planning Code to increase the Child Care In Lieu Fee for office and hotel development projects of up to \$1.57 per gross square foot and apply the Fee to projects of 25,000 or more gross square feet; to impose a tiered Child Care Fee for residential development projects of up to \$1.83 per gross square feet; to allow developers the option to provide onsite Small Family Daycare Homes in lieu of the fee; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "A. Ausberry".

By: Andrea Ausberry, Assistant Clerk  
Land Use & Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Jeanie Poling, Environmental Planning

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## MEMORANDUM

TO: Tom Hui, Director, Department of Building Inspection  
Sonya Harris, Secretary, Building Inspection Commission

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Transportation Committee,  
Board of Supervisors

DATE: July 29, 2015

SUBJECT: LEGISLATION INTRODUCED

---

The Board of Supervisors' Land Use and Economic Transportation Committee has received the following legislation, introduced by Supervisor Yee on July 21, 2015:

**File No. 150793**

**Ordinance amending the Planning Code to increase the Child Care In Lieu Fee for office and hotel development projects of up to \$1.57 per gross square foot and apply the Fee to projects of 25,000 or more gross square feet; to impose a tiered Child Care Fee for residential development projects of up to \$1.83 per gross square feet; to allow developers the option to provide onsite Small Family Daycare Homes in lieu of the fee; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

The proposed legislation is being for informational purposes. This ordinance is pending before the Land Use & Economic Development Committee.

c: William Strawn, Department of Building Inspection  
Carolyn Jayin, Department of Building Inspection

**Youth Commission**  
City Hall ~ Room 345  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4532



1516-RBM-01

(415) 554-6446  
(415) 554-6140 FAX  
www.sfgov.org/youth\_commission

**YOUTH COMMISSION**  
**MEMORANDUM**

**TO:** Andrea Ausberry, Assistant Clerk, Land Use and Transportation Committee  
**FROM:** Youth Commission  
**DATE:** Wednesday September 23, 2015  
**RE:** Referral response to BOS Files No. 150793

---

At our **Monday, September 21, 2015** meeting, the Youth Commission voted unanimously to support the following motion:

**To support BOS File No. 150793** – Ordinance amending the Planning Code to increase the Child Care In Lieu Fee for office and hotel development projects of up to \$1.57 per gross square foot and apply the Fee to projects of 25,000 or more gross square feet; to impose a tiered Child Care Fee for residential development projects of up to \$1.83 per gross square feet; to allow developers the option to provide onsite Small Family Daycare Homes in lieu of the fee; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

\*\*\*

**Youth commissioners also approved the following comments regarding this legislation:**

The Youth Commission recommends that the Board of Supervisors set a goal for the number of family daycares to be established through the use of the in lieu on-site option established in this legislation.

The Youth Commission recommends that the Board of Supervisors request an analysis of the distribution of need for affordable childcare, as well as the usage of the childcare slots created through centers or family daycares established as a result of the impact fee and in lieu options set forth in this legislation in order to ensure the slots are reaching the areas and communities with the highest need for affordable childcare options.

Youth Commissioners thank the Board of Supervisors for their attention to this issue. If you have any questions, please contact our office at (415) 554-6446, or your Youth Commissioner.

Handwritten signature of Luis Avalos-Nunez in black ink.

Chair, Luis Avalos-Nunez  
Adopted on September 21, 2015  
2015-2016 San Francisco Youth Commission

12/17/2015 Amendments offered by Supervisor YEE

✓ Accepted by Land Use & Transportation Committee

[Planning Code - Child Care Requirements for Office and Residential Projects]

Ordinance amending the Planning Code to increase the Child Care In Lieu Fee for office and hotel development projects of up to \$1.57 per gross square foot and apply the Fee to projects of 25,000 or more gross square feet; to impose a tiered Child Care Fee for residential development projects of up to \$1.83 per gross square feet; to allow developers the option to provide onsite Small Family Daycare Homes in lieu of the fee; and affirming the Planning Department's determination under the California Environmental Quality Act, and making findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1.

NOTE: Unchanged Code text and uncodified text are in plain Arial font. Additions to Codes are in *single-underline italics Times New Roman font*. Deletions to Codes are in *strikethrough italics Times New Roman font*. Board amendment additions are in double-underlined Arial font. Board amendment deletions are in ~~strikethrough Arial font~~. Asterisks (\* \* \* \*) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on-file with the Clerk of the Board of Supervisors in File No. \_\_\_ and is incorporated herein by reference. The Board affirms this determination.

(b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The

1 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of  
2 the Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

3 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code  
4 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth  
5 in Planning Commission Resolution No. \_\_\_\_\_ and the Board incorporates such reasons  
6 herein by reference.

7  
8 Section 2. The Planning Code is hereby amended by revising Sections 401, 406,  
9 414.3, and 414.8 and adding Sections 414A.1 through 414A.8, to read as follows:

10  
11 **SEC. 401. DEFINITIONS**

12 \* \* \* \*

13 Designated Child Care Unit. ~~An On- or Off-site Unit~~ A residential unit provided by a project  
14 subject to Section 414A and that is designated for use as a Small Family Daycare Home.

15 \* \* \* \*

16 Small Family Daycare Home. A Small Family Daycare Home is defined by California Health  
17 & Safety Code Section 1596.78(c), as amended from time to time.

18 \* \* \* \*

19 **SEC. 406. WAIVER, REDUCTION, OR ADJUSTMENT OF DEVELOPMENT PROJECT**  
20 **REQUIREMENTS.**

21 \* \* \* \*

22 (b) Waiver or Reduction, Based on Housing Affordability.

23 (1) An affordable housing unit shall receive a waiver from the Rincon Hill  
24 Community Infrastructure Impact Fee, the Market and Octavia Community Improvements  
25 Impact Fee, the Eastern Neighborhoods Infrastructure Impact Fee, the Balboa Park Impact

1 Fee, *and* the Visitacion Valley Community Facilities and Infrastructure Impact Fee, *and the*  
2 Residential Child Care Impact Fee if the affordable housing unit:

3 (A) is affordable to a household at or below 80% of the Area Median  
4 Income (as published by HUD), including units that qualify as replacement Section 8 units  
5 under the HOPE SF program;

6 (B) is subsidized by MOHCD, the San Francisco Housing Authority,  
7 and/or the San Francisco Redevelopment Agency; and

8 (C) is subsidized in a manner which maintains its affordability for a term  
9 no less than 55 years, whether it is a rental or ownership opportunity. Project sponsors must  
10 demonstrate to the Planning Department staff that a governmental agency will be enforcing  
11 the term of affordability and reviewing performance and service plans as necessary.

12 \* \* \* \*

3

14 **SEC. 414.3. APPLICATION.**

15 (a) Section 414.1 *et seq.* shall apply to office and hotel development projects  
16 proposing the net addition of 25,000~~50,000~~ or more gross square feet of office or hotel space.

17 \* \* \* \*

18

19 **SEC. 414.8. COMPLIANCE BY PAYMENT OF AN IN-LIEU FEE.**

20 (a) The sponsor of a development project subject to Section 414.1 *et seq.* may elect to  
21 pay a fee in lieu of providing a child-care facility. The fee shall be computed as follows:

22 Net add. gross sq. ft. office or hotel space × \$1.00157 = Total Fee

23 \* \* \* \*

24 //

25 //

1 SEC. 414A. CHILD CARE REQUIREMENTS FOR RESIDENTIAL PROJECTS.

2 SEC. 414A.1. PURPOSE AND FINDINGS.

3 (a) Purpose. Residential developments in the City are benefited by the availability of childcare  
4 for persons residing in such developments. However, the supply of childcare in the City has not kept  
5 pace with the demand for childcare created by new residents. Due to this shortage of childcare,  
6 residents unable to find accessible and affordable quality childcare will be forced either to live where  
7 such services are available outside of San Francisco or leave the work force, in some cases seeking  
8 public assistance to support their children. In either case, there will be a detrimental effect on San  
9 Francisco's economy and its quality of life.

10 The San Francisco General Plan requires that the City "balance housing growth with adequate  
11 infrastructure that serves the city's growing population." In light of this provision, the City should  
12 impose requirements on developers of certain residential projects designed to mitigate the adverse  
13 effects of the increase in population facilitated by such projects.

14 (b) Findings. In adopting Ordinance No. 50-15, the Board of Supervisors reviewed the San  
15 Francisco Citywide Nexus Analysis prepared by AECOM dated March 2014 ("Nexus Analysis"), and  
16 the San Francisco Infrastructure Level of Service Analysis prepared by AECOM dated March 2014,  
17 both on file with the Clerk of the Board of Supervisors in File No. 150149. The Board of Supervisors  
18 reaffirms the findings and conclusions of those studies as they relate to the impact of residential  
19 development on childcare and hereby readopts the findings contained in Ordinance 50-15, including  
20 the General Findings in Section 401A(a) of the Planning Code and the Specific Findings in Section  
21 401A(b) of the Planning Code relating to childcare.

22  
23 SEC. 414A.2. DEFINITIONS.

24 See Section 401 of this Article for definitions applicable to Section 414A et seq.  
25

1 SEC. 414A.3. APPLICATION OF RESIDENTIAL CHILD CARE IMPACT FEE.

2 (a) Application.

3 (1) Section 414A.1 et seq. shall apply to any residential development project that results  
4 in:

5 (A) At least one net new residential unit;

6 (B) Additional space in an existing residential unit of more than 800 gross  
7 square feet;

8 (C) At least one net new group housing facility or residential care facility; or

9 (D) Additional space in an existing group housing or residential care facility of  
10 more than 800 gross square feet.

11 (2) Section 414A.1 et seq. shall not apply to

12 (A) That portion of a residential development project consisting of a retail use;

13 (B) That portion of a residential development project located on property owned  
14 by the United States or any of its agencies;

15 (C) That portion of a residential development project located on property owned  
16 by the State of California or any of its agencies, with the exception of such property not used for a  
17 governmental purpose;

18 (D) That portion of a residential development project located on property under  
19 the jurisdiction of the Port of San Francisco or the San Francisco Office of Community Investment and  
20 Infrastructure where the application of this Section 41.14A is prohibited by State or local law; and

21 (E) Any residential development project that has obtained its First Construction  
22 Document prior to the effective date of Section 414A.1 et seq.

23  
24 SEC. 414A.4. IMPOSITION OF RESIDENTIAL CHILD CARE IMPACT FEE REQUIREMENT.

1           (a) Determination of Requirements. The Department shall determine the applicability of  
2 Section 414A to any development project requiring a First Construction Document and, if Section 414A  
3 is applicable, the number of gross square feet of space subject to its requirements, and shall impose  
4 these requirements as a condition of approval for issuance of the First Construction Document for the  
5 development project to mitigate the impact on the availability of child-care facilities that will be caused  
6 by the residents attracted to the proposed development project. The project sponsor shall supply any  
7 information necessary to assist the Department in this determination.

8           (b) Department Notice to Development Fee Collection Unit at DBI. After the Department has  
9 made its final determination of the net addition of gross square feet of the space subject to Section  
10 414A.1 et seq., it shall immediately notify the Development Fee Collection Unit at the Department of  
11 Building Inspection (DBI) of its determination in addition to the other information required by Section  
12 402(b) of this Article.

13           (c) Timing of Fee Payments. The Residential Child Care Impact Fee shall be paid at the time  
14 of and in no event later than the City issues a First Construction Document.

15           (d) Development Fee Collection Unit Notice to Department Prior to Issuance of the First  
16 Certificate of Occupancy. The Development Fee Collection Unit at DBI shall provide notice in writing  
17 or electronically to the Department prior to issuing the First Certificate of Occupancy for any  
18 development project subject to this Section 414A whether the project sponsor has paid the required  
19 Residential Child Care Impact Fee. If the Department notifies the Unit at such time that the sponsor  
20 has not paid this fee in full, the Director of DBI shall deny any and all Certificates of Occupancy until  
21 the subject project is brought into compliance with the requirements of this Section 414A.

22           (e) Process for Revisions of Determination of Requirements. In the event that the Department  
23 or Commission takes action affecting any development project subject to Section 414A, and such action  
24 is subsequently modified, superseded, vacated, or reversed by the Board of Appeals, the Board of  
25 Supervisors, or by a court, the procedures of Section 402(c) of this Article 4 shall be followed.

1 (f) Waiver or Reduction. Development projects may be eligible for a waiver or reduction of  
 2 impact fees, per Section 406 of this Article 4, including Section 406(d), in the event a project located in  
 3 an Area Plan may be assessed a child care fee.

4  
 5 **SEC. 414A.5. CALCULATION OF THE RESIDENTIAL CHILD CARE IMPACT FEE.**

6 (a) For development projects for which the Residential Child Care Impact Fee is applicable:

7 (1) Any net addition of gross square feet shall pay per the Fee Schedule in Table  
 8 414A.5A; and

9 (2) Any replacement of gross square feet or change of use shall pay per the Fee  
 10 Schedule in Table 414A.5B.

11 **TABLE 414A.5A**

12 **FEE SCHEDULE FOR NET ADDITIONS OF GROSS SQUARE FEET**

<u>Residential projects of 10 or more units</u>	<u>Residential Projects of up to 9 units</u>
<u>\$1.83/gsf</u>	<u>\$0.91/gsf</u>

13  
 14  
 15  
 16  
 17 **TABLE 414A.5B**

18 **FEE SCHEDULE FOR REPLACEMENT OF USE OR CHANGE OF USE**

	<u>Residential Use to Residential Use</u>	<u>Non-Residential to Residential</u>	<u>PDR to Residential</u>
<u>Residential projects of 10 or more units</u>	<u>\$0 /gsf</u>	<u>\$0.26/gsf</u>	<u>\$0.26/gsf</u>
<u>Residential Projects of up to 9 units</u>	<u>\$0 /gsf</u>	<u>\$0.13/gsf</u>	<u>\$0.15/gsf</u>

1           **(b) Credit for On-Site Childcare Facilities:** *A project may be eligible for a credit for on-site*  
 2 *Childcare Facilities: The project sponsor must apply to the Planning Department to receive a credit for*  
 3 *on-site child care facilities. To qualify for a credit, the facility shall be open and available to the*  
 4 *general public on the same terms and conditions as to residents of the residential development project*  
 5 *in which the facilities are located. Subject to the review and approval of the Planning Commission, the*  
 6 *project sponsor may apply for a credit up to 100% of the required fee. The City shall enter into an In-*  
 7 *Kind Agreement with the Project Sponsor under the conditions described for In-Kind Agreements in*  
 8 *Section 421.3(d), subsections (2) through (5).*

9           **SEC. 414A.6. OPTION TO PROVIDE ONSITE SMALL FAMILY DAYCARE HOME IN LIEU OF**  
 10 **FEE.**

11           **(a) Election to Provide Designated Child Care Units in Lieu of Residential Child Care Impact**  
 12 **Fee.**

13           *Consistent with the timing to elect the option to provide On- or Off-site Units under Section*  
 14 *415.5(g), the sponsor of a development project subject to the requirements of Section 414A.1 et seq.,*  
 15 *may elect to fulfill all or a portion of the Residential Child Care Fee requirement imposed as a*  
 16 *condition of approval by creating one or more Designated Child Care Units in the project, as follows:*

17           **(1) The number of Designated Child Care Units in a project subject to this Section**  
 18 **414A shall be as follows:**

	<b><u>Maximum allowable Designated Child Care Units</u></b>
<b><u>Residential Projects of 25-100 units</u></b>	<b><u>1 Unit</u></b>
<b><u>Residential Projects of 101-200 units</u></b>	<b><u>2 Units</u></b>
<b><u>Residential Projects of 201 or more units</u></b>	<b><u>3 Units</u></b>

1           (2) A Designated Child Care Unit shall have two or more bedrooms and shall  
2 be 1,000 square feet or more;

3           (3) A Designated Child Care Unit shall be offered only for rent and only to a tenant  
4 who agrees to operate a licensed Small Family Daycare Home in the Unit; and

5           (4) A Designated Child Care Unit shall be reserved for a period of at least ten years  
6 from the date the Designated Unit is first leased to a tenant for use as a licensed Small Family Daycare  
7 Home; and

8           (5) A Designated Child Care Unit may not be an On-site or Off-site Unit, as  
9 defined in Planning Code Section 415 et seq. establishing the Inclusionary Affordable Housing  
10 Program.

11           (b) Calculation of Value of Designated Child Care Unit in Lieu of Residential Child Care  
12 Impact Fee.

13           For purposes of determining the value of a Designated Child Care Unit to calculate a waiver of  
14 the Child Care Fee, the City shall calculate the number Designated Child Care Units being provided  
15 multiplied by the average number of children per Unit multiplied by the cost per childcare space. The  
16 following formula, using numbers derived from the 2014 San Francisco Citywide Nexus Study shall be  
17 used:

18           Total number of gross square feet of the unit or units designated as Child Care Units \*  
19 Residential Child Care Impact Fee \* 20.

20           This value shall be deducted from the amount of the Residential Child Care Impact Fee owed.

21           (c) Responsibilities of Operators of Small Family Daycare Homes in Designated Child Care  
22 Units.

23           The Office of Early Care and Education shall monitor Designated Child Care Units and refer  
24 any instances of noncompliance to the Planning Department for enforcement. A tenant of any  
25

1 Designated Child Care Unit shall agree to operate a licensed Small Family Daycare Home in the unit  
2 for a minimum of 10 years as follows:

3 ~~(1) Except as provided herein, the tenant must meet the income qualifications~~  
4 ~~to occupy the Unit and shall comply with all other requirements of the City's Inclusionary~~  
5 ~~Affordable Housing Program, Planning Code Section 415 et seq., as it may be amended from~~  
6 ~~time to time. Compliance with the Inclusionary Housing Program requirements shall be~~  
7 ~~determined by MOHCD or its successor. Notwithstanding the Inclusionary Housing Program~~  
8 ~~requirements, for the duration of a tenant's occupancy of a Designated Child Care Unit and~~  
9 ~~operation of a licensed Small Family Daycare Home in the Designated Child Care Unit,~~  
10 ~~MOHCD shall not enforce against the tenant any income requirements that otherwise apply to~~  
11 ~~current tenants;~~

12 (1)(2) If, in the determination of the Office of Early Care and Education, the tenant  
13 does not begin to operate a licensed Small Family Daycare Home in the unit within nine months of  
14 occupying the unit, or if the tenant ceases to operate a licensed Small Family Daycare Home at any  
15 point in time within ten years from the date the Designated Unit is first leased to a tenant to operate a  
16 licensed Small Family Daycare Home, all tenants in the Unit shall be required to vacate the unit within  
17 180 days;

18 (2)(3) At least 1/3 of the children served by the Small Family Daycare Home shall be  
19 from Households of Low- or Moderate-income, as defined in Section 401; and

20 (3)(4) The Small Family Daycare Home established in any Designated Child Care Unit  
21 shall serve at least four children of whom the operator of the Small Family Daycare Home is not a  
22 parent or guardian, based on an average over the previous 12 months.

23  
24 **SEC. 414A.7. USE OF FEES.**  
25

1 All monies contributed pursuant to the provisions of Section 414A shall be deposited in the  
2 Child Care Capital Fund established by Section 414.14 of this Code.

3  
4 **SEC. 414A.8. NOTICE OF AVAILABLE DESIGNATED UNITS.**

5 Whenever a Designated Unit becomes available for rent, within 5 business days, the owner of  
6 the Unit shall notify governmental and nonprofit entities that can assist in publicizing the availability of  
7 the Unit, including, at a minimum, the following entities: the Office of Early Care and Education, the  
8 Family Child Care Association of San Francisco, the Children's Council, and Wu Yee Children's  
9 Services.

10  
11 Section 3. Effective and Operative Date. This ordinance shall become effective 30  
12 days after enactment. The operative date of the provisions in Section 414A.6 will be six  
13 months after enactment. The operative date for all of the other provisions of this ordinance  
14 shall be the effective date. Enactment occurs when the Mayor signs the ordinance, the Mayor  
15 returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it,  
16 or the Board of Supervisors overrides the Mayor's veto of the ordinance.

17  
18 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
19 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
20 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
21 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
22 additions, and Board amendment deletions in accordance with the "Note" that appears under  
23 the official title of the ordinance.

24  
25 APPROVED AS TO FORM:

1 DENNIS J. HERRERA, City Attorney

2 By:

3 Susan Cleveland-Knowles  
4 Deputy City Attorney

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Print Form

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [ ] inquires"
- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission     Youth Commission     Ethics Commission
- Planning Commission     Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.**

**Sponsor(s):**

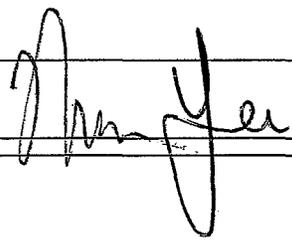
Supervisor Yee

**Subject:**

Planning Code - Child Care Requirements for Office and Residential Projects

**The text is listed below or attached:**

See attached

Signature of Sponsoring Supervisor: 

**For Clerk's Use Only:**

