

BOARD of SUPERVISORS



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MEMORANDUM

TO: John Rahaim, Director, Planning Department
Maria Su, Director, Department of Children, Youth and Their Families
September Jarrett, Director, Office of Early Care and Education

FROM: Erica Major, Assistant Clerk
Land Use and Transportation Committee

DATE: June 14, 2017

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Yee on June 6, 2017:

File No. 170693

Ordinance amending the Planning Code to allow residential uses and Child Care Facility uses to share required open space; make Child Care Facilities principally permitted in all zoning districts except the Production, Distribution, and Repair (Light Industrial Buffer) (PDR-1-B), Production, Distribution, and Repair (General) (PDR-1-G) and Industrial (Light Industrial) (M-1) zoning districts, where they would be conditionally permitted, and in the Production, Distribution, and Repair (Core Production, Distribution, and Repair) (PDR-2) and Industrial (Heavy Industrial) (M-2) zoning districts, where they would not be permitted; remove certain notice requirements for Child Care Facilities; and make other conforming changes to references to the definition of Child Care Facility; 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 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 or by email at: erica.major@sfgov.org.

c: Scott Sanchez, Planning Department
Lisa Gibson, Planning Department
AnMarie Rodgers, Planning Department
Aaron Starr, Planning Department
Joy Navarrete, Planning Department
Laura Lynch, Planning Department
Vanessa Price-Cooper, Office of Early Care and Education

1 [Planning Code - Child Care Facilities]

2
3 **Ordinance amending the Planning Code to allow residential uses and Child Care**
4 **Facility uses to share required open space; make Child Care Facilities principally**
5 **permitted in all zoning districts except the Production, Distribution, and Repair (Light**
6 **Industrial Buffer) (PDR-1-B), Production, Distribution, and Repair (General) (PDR-1-G)**
7 **and Industrial (Light Industrial) (M-1) zoning districts, where they would be**
8 **conditionally permitted, and in the Production, Distribution, and Repair (Core**
9 **Production, Distribution, and Repair) (PDR-2) and Industrial (Heavy Industrial) (M-2)**
10 **zoning districts, where they would not be permitted; remove certain notice**
11 **requirements for Child Care Facilities; and make other conforming changes to**
12 **references to the definition of Child Care Facility; affirming the Planning Department's**
13 **determination under the California Environmental Quality Act; and making findings of**
14 **consistency with the General Plan, and the eight priority policies of Planning Code,**
15 **Section 101.1.**

16
17 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.
18 **Additions to Codes** are in *single-underline italics Times New Roman font*.
19 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
20 **Board amendment additions** are in double-underlined Arial font.
21 **Board amendment deletions** are in ~~strikethrough Arial font~~.
22 **Asterisks (* * * *)** indicate the omission of unchanged Code
23 subsections or parts of tables.

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

25 Section 1. Findings

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

6 (b) On May 18, 2017, the Planning Commission, in Resolution No. _____,
7 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
8 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
9 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
10 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

11 (c) Pursuant to Planning Code Section 302, this Board finds that this Planning Code
12 Amendment will serve the public necessity, convenience, and welfare for the reasons set forth
13 in Planning Commission Resolution No. _____, and the Board incorporates such
14 reasons herein by reference.

15
16 Section 2. The Planning Code is hereby amended by revising Sections 135, 209.1,
17 209.2, 209.3, 209.4, 210.2, 210.3, 211.2, 311, 312, 710, 711, 712, 713, 714, 715, 716, 717,
18 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 733A, 734,
19 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 790.50, 790.51, 813,
20 814, 815, 816, 817, 818, 827, 829, 840, 841, 842, 843, 844, 845, 846, 847, and 890.50, to
21 read as follows:

22
23 **SEC. 135. USABLE OPEN SPACE FOR DWELLING UNITS AND GROUP**
24 **HOUSING, R, NC, MIXED USE, C, AND M DISTRICTS.**
25

1 Except as provided in Sections 134.1, 172 and 188 of this Code, usable open space
 2 shall be provided for each dwelling and each group housing structure in R, NC, C, Mixed Use,
 3 and M Districts according to the standards set forth in this Section unless otherwise specified
 4 in specific district controls elsewhere in this Code.

5 * * * *

6 (c) **Permitted Obstructions.** In the calculation of either private or common usable
 7 open space, those obstructions listed in Sections 136 and 136.1 of this Code for usable open
 8 space shall be permitted. Additionally, required common useable open space may be partially used
 9 for the provision of open space associated with an on-site Child Care Facility as follows:

10 (1) The open space shall meet all state licensing requirements;

11 (2) Not more than 50% of a single common open space may be used by the Child Care
 12 Facility; and

13 (3) The hours of use of the common open space by the Child Care Facility are limited to
 14 Monday through Friday, 9 am to 6 pm.

15 * * * *

16 **Table 209.1**

17 **Zoning Control Table for RH Districts**

Zoning Category	§ References	RH-1(D)	RH-1	RH-1(S)	RH-2	RH-3
* * * *						
Institutional Use Category						
Institutional Uses*	§ 102	NP	NP	NP	NP	NP
Child Care Facility	§ 102	P (2)				
* * * *						

1 * * * *

2 (2) ~~C required for 15 or more children [Note Deleted]~~

3 * * * *

4 **Table 209.2**

5 **Zoning Control Table for RM Districts**

Zoning Category	§ References	RM-1	RM-2	RM-3	RM-4
* * * *					
Institutional Use Category					
Institutional Uses*	§ 102	NP	NP	NP	NP
Child Care Facility	§ 102	P (2)	P (2)	P (2)	P (2)
* * * *					

13 * * * *

14 (2) ~~C required for 15 or more children [Note Deleted]~~

15 * * * *

16 **Table 209.3**

17 **Zoning Control Table for Residential-Commercial Districts**

Zoning Category	§ References	RC-3	RC-4
* * * *			
Institutional Use Category			
Institutional Uses*	§ 102	C	C
Child Care Facility	§ 102	P (2)	P (2)
* * * *			

* * * *

(2) ~~C required for 15 or more children [Note Deleted]~~

* * * *

Table 209.4

Zoning Control Table for RTO Districts

Zoning Category	§ References	RTO	RTO-M
* * * *			
Institutional Use Category			
Institutional Uses*	§ 102	NP	NP
Child Care Facility	§ 102	P (2)	P (2)
* * * *			

* * * *

(2) ~~C required for 15 or more children [Note Deleted]~~

* * * *

Table 210.2

Zoning Control Table for C-3 Districts

Zoning Category	§ References	C-3-O	C-3-O (SD)	C-3-R	C-3-G	C-3-S
* * * *						
Institutional Use Category						
Institutional Uses*	§§ 102, 202.2(e)					
Child Care Facility	§ 102	P	P	P	P	C-P
* * * *						

Table 210.3

Zoning Control Table for PDR Districts

Zoning Category	§ References	PDR-1-B	PDR-1-D	PDR-1-G	PDR-2
* * * *					
Institutional Use Category					
Child Care Facility	§ 102	<i>NP-C</i>	P	<i>NP-C</i>	NP
* * * *					

* * * *

SEC. 211.2. CONDITIONAL USES, P DISTRICTS.

The following uses shall require Conditional Use authorization from the Planning Commission, as provided in Section 303 of this Code, unless otherwise permitted under Section 211.1 of this Code:

(a) For any P District, Social Service and Philanthropic Facility, ~~Child Care Facility~~, School, Post-Secondary Educational Institution, Religious Institution, Community Facility, Open Recreation Area, Passive Outdoor Recreation and Neighborhood Agriculture as defined in Section 102 of this Code. Additionally, Neighborhood Agriculture, as defined in Section 102 of this Code, if it does not comply with the performance and operational standards contained in Section 202.2(c), and a Wireless Telecommunications Services Facility, as defined in Section 102 of this Code, if used for commercial communication systems.

* * * *

SEC. 311. RESIDENTIAL PERMIT REVIEW PROCEDURES FOR RH, RM, AND RTO DISTRICTS.

1 (a) Purpose. The purpose of this Section is to establish procedures for reviewing
2 building permit applications for lots in R Districts in order to determine compatibility of the
3 proposal with the neighborhood and for providing notice to property owners and residents on
4 the site and neighboring the site of the proposed project and to interested neighborhood
5 organizations, so that concerns about a project may be identified and resolved during the
6 review of the permit.

7 (b) Applicability. Except as indicated herein, all building permit applications for
8 demolition and/or new construction, and/or alteration of residential buildings, including the
9 removal of an authorized or unauthorized residential unit, in RH, RM, and RTO Districts shall
10 be subject to the notification and review procedures required by this Section. Subsection
11 311(e) regarding demolition permits and approval of replacement structures shall apply to all
12 R Districts.

13 (1) For the purposes of this Section, an alteration in RH and RM Districts shall
14 be defined as any change in use, removal of more than 75 percent of a residential building's
15 existing interior wall framing or the removal of more than 75 percent of the area of the existing
16 framing, or an increase to the exterior dimensions of a residential building except those
17 features listed in Section 136(c)(1) through 136(c)(24) and 136(c)(26). Notwithstanding the
18 foregoing or any other requirement of this Section 311, a change of use to a Child Care Facility, as
19 defined in Section 102, shall not be subject to the notification requirements of this Section 311.

20 (2) For the purposes of this Section, an alteration in RTO Districts shall be defined as
21 a change of use described in Section 312(c), removal of more than 75 percent of a building's
22 existing interior wall framing or the removal of more than 75 percent of the area of the existing
23 framing, or an increase to the exterior dimensions of a building except those features listed in
24 Section 136(c)(1) through 136(c)(24) and 136(c)(26). Notwithstanding the foregoing or any other
25

1 requirement of this Section 311, a change of use to a Child Care Facility, as defined in Section 102,
2 shall not be subject to the notification requirements of this Section 311.

3 * * * *

4 **SEC. 312. PERMIT REVIEW PROCEDURES FOR ALL NC AND EASTERN**
5 **NEIGHBORHOODS MIXED USE DISTRICTS.**

6 (a) Purpose. The purpose of this Section is to establish procedures for reviewing
7 building permit applications for lots in NC and Eastern Neighborhoods Mixed Use Districts in
8 order to determine compatibility of the proposal with the neighborhood and for providing notice
9 to property owners, occupants and residents on the site and neighboring the site of the
10 proposed project and to interested neighborhood organizations, so that concerns about a
11 project may be identified and resolved during the review of the permit.

12 (b) Applicability. Except as indicated herein, all building permit applications for
13 demolition, new construction, the removal of an authorized or unauthorized residential unit,
14 changes in use to a formula retail use as defined in Section 303.1 of this Code or alterations
15 which expand the exterior dimensions of a building shall be subject to the notification and
16 review procedures required by Subsection 312(d). Subsection 312(f) regarding demolition
17 permits and approval of replacement structures shall apply to all NC and Eastern
18 Neighborhoods Mixed Use Districts. For the purposes of this Section, addition to a building of
19 the features listed in Section 136(c)(1) through 136(c)(24) and 136(c)(26) shall not be subject
20 to notification under this Section.

21 (c) Changes of Use. In NC Districts, all building permit applications for a change of
22 use to a Bar as defined in Sections 102 and 790.22, a Liquor Store as defined in Sections 102
23 and 790.55, Other Large Institutions as defined in Section 790.50, Other Small Institutions as
24 defined in Section 790.51, a Limited Restaurant as defined in Sections 102 and 790.90, a
25 Restaurant as defined in Sections 102 and 790.91, a Massage Establishment as defined in

Sections 102 and 790.60, an Outdoor Activity Area as defined in Section 790.70, an Adult or Other Entertainment use as defined in Sections 790.36 and 790.38, a Fringe Financial Service use as defined in Sections 102 and 790.111, Tobacco Paraphernalia Establishments as defined in Sections 102 and 790.123, or Group Housing as defined in Sections 102 and 790.88(b) shall be subject to the provisions of Subsection 312(d); provided, however, that a change of use from a Restaurant to a Limited-Restaurant shall not be subject to the provisions of Subsection 312(d). In all Eastern Neighborhoods Mixed Use Districts all building permit applications for a change of use from any one land use category to another land use category shall be subject to the provisions of Subsection 312(d). In addition, any accessory massage use in the Ocean Avenue Neighborhood Commercial Transit District shall be subject to the provisions of Subsection 312(d). Notwithstanding the foregoing or any other requirement of this Section 312, a change of use to a Child Care Facility, as defined in Section 102, shall not be subject to the notification requirements of this Section 312.

* * * *

**Table 710. NEIGHBORHOOD COMMERCIAL CLUSTER DISTRICT NC-1
ZONING CONTROL TABLE**

* * * *					
No.	Zoning Category	§ References	NC-1 Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>710.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

* * * *

1 **Table 711. SMALL-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-2**

2 **ZONING CONTROL TABLE**

3 * * * *

No.	Zoning Category	§ References	NC-2 Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>711.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

11 * * * *

12 **Table 712. MODERATE-SCALE NEIGHBORHOOD COMMERCIAL DISTRICT NC-3**

13 **ZONING CONTROL TABLE**

14 * * * *

No.	Zoning Category	§ References	NC-3 Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>712.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

21 * * * *

22 **Table 713. NEIGHBORHOOD COMMERCIAL SHOPPING CENTER DISTRICT NC-S**

23 **ZONING CONTROL TABLE**

24 * * * *

No.	Zoning Category	§ References	NC-S Controls by Story		
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25

			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>713.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

* * * *

**Table 714. BROADWAY NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

* * * *					
No.	Zoning Category	§ References	Broadway Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>714.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

* * * *

**Table 715. CASTRO STREET NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

* * * *					
No.	Zoning Category	§ References	Castro Street Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>715.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

* * * *

**Table 716. INNER CLEMENT STREET NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

* * * *					
No.	Zoning Category	§ References	Inner Clement Street Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>716.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

* * * *

**Table 717. OUTER CLEMENT STREET NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

* * * *					
No.	Zoning Category	§ References	Outer Clement Street Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>717.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

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1 **Table 718. UPPER FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT**
 2 **ZONING CONTROL TABLE**

3 * * * *

No.	Zoning Category	§ References	Upper Fillmore Street Controls by Story		
			1st	2nd	3rd+
* * * *					
<u>718.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

7 * * * *

8 **Institutions and Non-Retail Sales and Services**

13 **Table 719. HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT**
 14 **ZONING CONTROL TABLE**

15 * * * *

No.	Zoning Category	§ References	Haight Street Controls by Story		
			1st	2nd	3rd+
* * * *					
<u>719.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

23 * * * *

**Table 720. HAYES-GOUGH NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT
ZONING CONTROL TABLE**

* * * * *					
No.	Zoning Category	§ References	Hayes-Gough Transit Controls by Story		
			1st	2nd	3rd+
* * * * *					
Institutions and Non-Retail Sales and Services					
* * * * *					
<u>720.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * * *					

* * * * *

**Table 721. UPPER MARKET STREET COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

* * * * *					
No.	Zoning Category	§ References	Upper Market Street Controls by Story		
			1st	2nd	3rd+
* * * * *					
Institutions and Non-Retail Sales and Services					
* * * * *					
<u>721.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * * *					

* * * * *

1 **Table 722. NORTH BEACH COMMERCIAL DISTRICT**

2 **ZONING CONTROL TABLE**

3 * * * *

No.	Zoning Category	§ References	North Beach Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>722.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

11 * * * *

12 **Table 723. POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT**

13 **ZONING CONTROL TABLE**

14 * * * *

No.	Zoning Category	§ References	Polk Street Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>723.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

22 * * * *

23 **Table 724. SACRAMENTO STREET NEIGHBORHOOD COMMERCIAL DISTRICT**

24 **ZONING CONTROL TABLE**

* * * *					
No.	Zoning Category	§ References	Sacramento Street Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>724.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

* * * *

**Table 725. UNION STREET NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

* * * *					
No.	Zoning Category	§ References	Union Street Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>725.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

* * * *

**Table 726. VALENCIA STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT
ZONING CONTROL TABLE**

* * * *

No.	Zoning Category	§ References	Valencia Street Transit Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>726.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

* * * *

**Table 727. 24TH – MISSION NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT
ZONING CONTROL TABLE**

* * * *					
No.	Zoning Category	§ References	24th Street – Mission Transit Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>727.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

* * * *

**Table 728. 24TH – NOE VALLEY NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

* * * *

No.	Zoning Category	§ References	24th Street – Noe Valley Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>728.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

* * * *

**Table 729. WEST PORTAL AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

* * * *					
No.	Zoning Category	§ References	West Portal Avenue Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>729.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

* * * *

**Table 730. INNER SUNSET NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

* * * *

No.	Zoning Category	§ References	Inner Sunset Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>730.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

* * * *

**Table 730. INNER SUNSET NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

* * * *					
No.	Zoning Category	§ References	Inner Sunset Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>730.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

* * * *

**Table 731. MODERATE-SCALE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT
NCT-3
ZONING CONTROL TABLE**

* * * *			
No.	Zoning Category	§ References	NCT-3 Controls by Story

			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>731.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

* * * *

**Table 732. PACIFIC AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

* * * *					
No.	Zoning Category	§ References	Pacific Avenue Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>732.84</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

* * * *

**Table 733. UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL TRANSIT
DISTRICT
ZONING CONTROL TABLE**

* * * *			
No.	Zoning Category	§ References	Upper Market Street Transit Controls by Story

			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>733.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

* * * *

**Table 733A. NEIGHBORHOOD COMMERCIAL TRANSIT CLUSTER DISTRICT NCT-1
ZONING CONTROL TABLE**

* * * *					
No.	Zoning Category	§ References	NCT-1 Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>733A.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

* * * *

**Table 734. SMALL-SCALE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT NCT-2
ZONING CONTROL TABLE**

* * * *					
No.	Zoning Category	§ References	NCT-2 Controls by Story		
			1st	2nd	3rd+
* * * *					

Institutions and Non-Retail Sales and Services					
* * * *					
<u>734.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

* * * *

**Table 735. SOMA NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT
ZONING CONTROL TABLE**

* * * *					
No.	Zoning Category	§ References	SoMa Transit Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>735.86</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

* * * *

**Table 736. MISSION STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT
ZONING CONTROL TABLE**

* * * *					
No.	Zoning Category	§ References	Mission Street Transit Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					

1	* * * *				
2	<u>736.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>
3	* * * *				

4 * * * *

5 **Table 737. OCEAN AVENUE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT**
6 **ZONING CONTROL TABLE**

7	* * * *				
8	No.	Zoning Category	§ References	Ocean Avenue Transit Controls by Story	
9					
10				1st	2nd
11					3rd+
12	* * * *				
13	Institutions and Non-Retail Sales and Services				
14	* * * *				
15	<u>737.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>
16	* * * *				

16 * * * *

17 **Table 738. GLEN PARK NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT**
18 **ZONING CONTROL TABLE**

19	* * * *				
20	No.	Zoning Category	§ References	Glen Park Transit Controls by Story	
21					
22				1st	2nd
23					3rd+
24	* * * *				
25	Institutions and Non-Retail Sales and Services				
	* * * *				

1	<u>738.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
2	* * * *					

3 * * * *

4 **Table 739. NORIEGA STREET NEIGHBORHOOD COMMERCIAL DISTRICT**
5 **ZONING CONTROL TABLE**

6	* * * *					
7	No.	Zoning Category	§ References	Noriega Street Controls by Story		
8				1st	2nd	3rd+
9	* * * *					
10	Institutions and Non-Retail Sales and Services					
11	* * * *					
12	<u>739.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
13	* * * *					

14 * * * *

15 **Table 740. IRVING STREET NEIGHBORHOOD COMMERCIAL DISTRICT**
16 **ZONING CONTROL TABLE**

17						
18	No.	Zoning Category	§ References	Irving Street Controls by Story		
19				1st	2nd	3rd+
20	* * * *					
21	Institutions and Non-Retail Sales and Services					
22	* * * *					
23	<u>740.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
24	* * * *					
25						

1 * * * *

2 **Table 741. TARAVAL STREET NEIGHBORHOOD COMMERCIAL DISTRICT**
3 **ZONING CONTROL TABLE**

4 * * * *

No.	Zoning Category	§ References	Taraval Street Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>741.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

12 * * * *

13 **Table 742. JUDAH STREET NEIGHBORHOOD COMMERCIAL DISTRICT**
14 **ZONING CONTROL TABLE**

15 * * * *

No.	Zoning Category	§ References	Judah Street Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>742.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

23 * * * *

1 **Table 743. FOLSOM STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT**
 2 **ZONING CONTROL TABLE**

3 * * * *

No.	Zoning Category	§ References	Folsom Street Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
743.82a	Child Care <i>Facility</i>	§ § 790.50(b) , 790.51 (a) § <u>102</u>	P	P	<u>P</u>
* * * *					

13 * * * *

14 **Table 744. REGIONAL COMMERCIAL DISTRICT**
 15 **ZONING CONTROL TABLE**

16 * * * *

No.	Zoning Category	§ References	Regional Commercial Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					

1	744.82a	Child Care <u>Facility</u>	§ § 790.50(b), 790.51 (a) § <u>102</u>	P for 12 children or fewer. C for 13 children or more	P for 12 children or fewer. C for 13 children or more	<u>P</u>
7	* * * *					

8 * * * *

9 **Table 745. EXCELSIOR OUTER MISSION STREET NEIGHBORHOOD COMMERCIAL**
10 **DISTRICT**
11 **ZONING CONTROL TABLE**

12 * * * *					
13 No.	Zoning Category	§ References	Excelsior Outer Mission Street		
			14 Controls by Story		
15			1st	2nd	3rd+
16 * * * *					
17 Institutions and Non-Retail Sales and Services					
18 * * * *					
19 <u>745.85</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
20 * * * *					

21 * * * *

22 **Table 746. DIVISADERO STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT**
23 **ZONING CONTROL TABLE**

24 * * * *			
25 No.	Zoning Category	§ References	Divisadero Street Controls by Story

			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>746.86</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

* * * *

**Table 747. FILLMORE STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT
ZONING CONTROL TABLE**

* * * *					
No.	Zoning Category	§ References	Fillmore Street Transit Controls by Story		
			1st	2nd	3rd+
* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>747.86</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

* * * *

**Table 748. JAPANTOWN NEIGHBORHOOD COMMERCIAL DISTRICT
ZONING CONTROL TABLE**

* * * *					
No.	Zoning Category	§ References	Japantown Controls by Story		
			1st	2nd	3rd+

* * * *					
Institutions and Non-Retail Sales and Services					
* * * *					
<u>748.86</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>	<u>P</u>	<u>P</u>
* * * *					

* * * *

SEC. 790.50. INSTITUTIONS, OTHER LARGE.

A public or private, nonprofit or profit-making use, excluding hospitals and medical centers, which provides services to the community and meets the applicable provisions of Section 304.5 of this Code concerning institutional master plans, including but not limited to the following:

(a) Assembly and Social Service. A use which provides social, fraternal, counseling or recreational gathering services to the community. It includes a private noncommercial club house, lodge, meeting hall, recreation building, or community facility not publicly owned. It also includes an unenclosed recreation area.

(b) ~~Child Care. A use which provides less than 24-hour care for 13 or more children by licensed personnel and which meets the requirements of the State of California and other authorities.~~ [Definition Deleted]

(c) Educational Service. A use certified by the Western Association of Schools and Colleges which provides educational services, such as a school, college or university. It may include, on the same premises, employee or student dormitories and other housing operated by and affiliated with the institution.

(d) Religious Facility. A use which provides religious services to the community, such as a church, temple or synagogue. It may include on the same lot, the housing of persons who engage in supportive activity for the institution.

(e) Residential Care. A medical use which provides lodging, board, and care 24 hours or more to seven or more persons in need of specialized aid by personnel licensed by the State of California and which provides no outpatient services; including but not limited to, a board and care home, rest home, or home for the treatment of the addictive, contagious, or other diseases or physiological disorders.

SEC. 790.51. INSTITUTIONS, OTHER SMALL.

A public or private, nonprofit or profit-making use which provides services to the community and limited to the following:

(a) ~~Child Care. A use which provides less than 24-hour care for 12 or fewer children by licensed personnel and which meets the requirements of the State of California and other authorities.~~ *[Definition Deleted]*

(b) Residential Care. A medical use which provides lodging, board and care 24 hours or more to six or fewer persons in need of specialized aid by personnel licensed by the State of California and which provides no outpatient services, including but not limited to, a board and care home, rest home, or home for the treatment of the addictive, contagious, or other diseases or physiological disorders.

* * * *

Table 813

RED – RESIDENTIAL ENCLAVE DISTRICT ZONING CONTROL TABLE

No.	Zoning Category	§ References	Residential Enclave Controls
* * * *			
Institutions			
* * * *			
813.22	Child Care <i>Facility</i>	§ 102 § 890.50 (b)	P
* * * *			

1 * * * *

2 Table 814

3 SPD – SOUTH PARK DISTRICT ZONING CONTROL TABLE

No.	Zoning Category	§ References	South Park District Controls
* * * *			
Institutions			
* * * *			
814.22	Child Care <i>Facility</i>	<u>§ 102</u> § 890.50 (b)	P
* * * *			

9 * * * *

11 Table 815

12 RSD – RESIDENTIAL/SERVICE MIXED USE DISTRICT ZONING CONTROL TABLE

No.	Zoning Category	§ References	Residential/Service Mixed Use District Controls
* * * *			
Institutions			
* * * *			
815.22	Child Care <i>Facility</i>	<u>§ 102</u> § 890.50 (b)	P
* * * *			

20 * * * *

22 Table 816

23 SLR – SERVICE/LIGHT INDUSTRIAL/RESIDENTIAL MIXED USED DISTRICT ZONING CONTROL TABLE

No.	Zoning Category	§ References	Residential/Service Mixed Use District Controls
* * * *			
Institutions			
* * * *			
816.22	Child Care <i>Facility</i>	§ 102 § 890.50 (b)	P
* * * *			

* * * *

Table 817

SLI – SERVICE/LIGHT INDUSTRIAL DISTRICT ZONING CONTROL TABLE

No.	Zoning Category	§ References	Service/Light Industrial District Controls
* * * *			
Institutions			
* * * *			
817.22	Child Care <i>Facility</i>	§ 102 § 890.50 (b)	P
* * * *			

* * * *

Table 818

SSO – SERVICE/SECONDARY OFFICE DISTRICT ZONING CONTROL TABLE

No.	Zoning Category	§ References	Service/Secondary Office District Controls
* * * *			
Institutions			

1	* * * *			
2	818.22	Child Care <i>Facility</i>	<u>§ 102</u> § 890.50 (b)	P
3	* * * *			

4 * * * *

5 **Table 827**

6 **RINCON HILL DOWNTOWN RESIDENTIAL MIXED USE DISTRICT ZONING CONTROL**
7 **TABLE**

8	No.	Zoning Category	§ References	Rincon Hill Downtown Residential Mixed Use District Zoning Controls
9				
10				
11	* * * *			
12	Non-Residential Standards and Uses			
13	* * * *			
14	<u>.45b</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>
15	* * * *			

16 * * * *

17 **Table 829**

18 **SOUTH BEACH DOWNTOWN RESIDENTIAL DISTRICT ZONING CONTROL TABLE**

19	No.	Zoning Category	§ References	South Beach Downtown Residential District Zoning Controls
20				
21				
22	* * * *			
23	Non-Residential Standards and Uses			
24	* * * *			
25				

1	<u>.45a</u>	<u>Child Care Facility</u>	<u>§ 102</u>	<u>P</u>
2	* * * *			

3 * * * *

4 **Table 840**

5 **MUG – MIXED USE-GENERAL DISTRICT ZONING CONTROL TABLE**

6 No.	Zoning Category	§ References	Mixed Use-General District Controls	
7				
8	* * * *			
9	Institutions			
10	* * * *			
11	840.35	Child Care <u>Facility</u>	<u>§ 102</u> § 890.50 (b)	P
12	* * * *			

13 * * * *

14 **Table 841**

15 **MUR – MIXED USE-RESIDENTIAL DISTRICT ZONING CONTROL TABLE**

16 No.	Zoning Category	§ References	Mixed Use-Residential District Controls	
17				
18	* * * *			
19	Institutions			
20	* * * *			
21	841.35	Child Care <u>Facility</u>	<u>§ 102</u> § 890.50 (b)	P
22	* * * *			

23 * * * *

24 **Table 842**

1 **MUO – MIXED USE-OFFICE DISTRICT ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Mixed Use-Office District Controls
* * * *			
Institutions			
* * * *			
842.35	Child Care <i>Facility</i>	<i>§ 102 § 890.50 (b)</i>	P
* * * *			

9 * * * *

10 **Table 843**

11 **UMU – URBAN MIXED USE DISTRICT ZONING CONTROL TABLE**

No.	Zoning Category	§ References	Urban Mixed Use District Controls
* * * *			
Institutions			
* * * *			
843.35	Child Care <i>Facility</i>	<i>§ 102 § 890.50 (b)</i>	P
* * * *			

19 * * * *

20 **Table 844**

21 **WMUG – WSOMA MIXED USE-GENERAL DISTRICT ZONING CONTROL TABLE**

No.	Zoning Category	§ References	WSoMa Mixed Use-General District Controls
* * * *			

Institutions			
* * * *			
844.35	Child Care <i>Facility</i>	<u>§ 102</u> § 890.50 (b)	P
* * * *			

* * * *

Table 845

WMUO – WSOMA MIXED USE-OFFICE DISTRICT ZONING CONTROL TABLE

No.	Zoning Category	§ References	WSoMa Mixed Use-Office District Controls
* * * *			
Institutions			
* * * *			
845.35	Child Care <i>Facility</i>	<u>§ 102</u> § 890.50 (b)	P
* * * *			

* * * *

Table 846

SALI – SERVICE/ARTS/LIGHT INDUSTRIAL DISTRICT ZONING CONTROL TABLE

No.	Zoning Category	§ References	SALI District Controls
* * * *			
Institutions			
* * * *			
846.35	Child Care <i>Facility</i>	<u>§ 102</u> § 890.50 (b)	<u>PE</u>
* * * *			

* * * *

Table 847

RED-MX – RESIDENTIAL ENCLAVE-MIXED DISTRICT ZONING CONTROL TABLE

No.	Zoning Category	§ References	Residential Enclave-Mixed District Controls
* * * *			
Institutions			
* * * *			
847.22	Child Care <i>Facility</i>	§ 102 § 890.50 (b)	P
* * * *			

* * * *

SEC. 890.50. INSTITUTIONS, OTHER.

A public or private, nonprofit or profit-making use, excluding hospitals and medical centers, which provides services to the community, and meets the applicable provisions of Section 304.5 of this Code concerning institutional master plans, including but not limited to the following:

(a) Assembly and Social Service. A use which provides social, fraternal, counseling or recreational gathering services to the community. It includes a private noncommercial clubhouse, lodge, meeting hall, family or district association, recreation building, or community facility not publicly owned. It also includes an unenclosed recreation area.

(b) ~~Child Care. A use which provides less than 24-hour care for children by licensed personnel and which meets the requirements of the State of California and other authorities. [Definition Deleted]~~

(c) Educational Service. A use certified by the Western Association of Schools and Colleges which provides educational services such as a school, college or university. It may include, on the same premises, employee or student dormitories and other housing operated by and affiliated with the institution.

1 * * * *

2 Section 3. Effective Date. This ordinance shall become effective 30 days after
3 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
4 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
5 of Supervisors overrides the Mayor's veto of the ordinance.
6

7 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
8 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
9 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
10 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
11 additions, and Board amendment deletions in accordance with the "Note" that appears under
12 the official title of the ordinance.
13

14
15 APPROVED AS TO FORM:
16 DENNIS J. HERRERA, City Attorney

17 By:


18 MARLENA BYRNE
Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code - Child Care Facilities]

Ordinance amending the Planning Code to allow residential uses and Child Care Facility uses to share required open space; make Child Care Facilities principally permitted in all zoning districts except the Production, Distribution, and Repair (Light Industrial Buffer) (PDR-1-B), Production, Distribution, and Repair (General) (PDR-1-G) and Industrial (Light Industrial) (M-1) zoning districts, where they would be conditionally permitted, and in the Production, Distribution, and Repair (Core Production, Distribution, and Repair) (PDR-2) and Industrial (Heavy Industrial) (M-2) zoning districts, where they would not be permitted; remove certain notice requirements for Child Care Facilities; and make other conforming changes to references to the definition of Child Care Facility; 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 currently contains several definitions of "Child Care Facilities." Across the City, Child Care Facilities are principally permitted, conditionally permitted, or not permitted, depending on the zoning district in which they are located. Specifically,

- In residential districts, child care facilities serving 14 children or fewer are permitted, and Child Care Facilities serving 15 children or more require conditional use authorization.
- In commercial districts, Child Care Facilities are permitted, except in C-3-S, where a conditional use authorization is required.
- In Production, Distribution, and Repair (PDR) Districts, Child Care Facilities are only permitted in PDR-1-G.
- In Manufacturing (M) Districts, Child Care Facilities are only permitted in M-1.
- In Public (P) Districts, Child Care Facilities require conditional use authorization.
- In Neighborhood Commercial Districts, Child Care Facilities are generally permitted on the first floor regardless of enrollment, permitted on the second and third floor when serving 12 or fewer children. Conditional use authorization is generally required when operating a Child Care Facility on the second or third floor with 13 or more children.
- In Mixed Use Districts, Child Care Facilities are permitted except in RH-DTR (Rincon Hill DT Residential), SB-DTR (South Beach DT Residential), and SALI (Service/Arts/Light Industrial).

Neighborhood notice is required for Section 311 requires neighborhood notification for all Child Care Facilities in residential districts, and in other districts, neighborhood notice is required for changes of use to both Other Large Institutions and Other Small Institutions,

which currently includes Child Care Facilities under Planning Code Sections 790.50 and 790.51.

Under current law, Child Care Facilities in mixed-use projects are required to meet both local residential open space requirements, which vary by zoning district, and State law requirements.

Amendments to Current Law

The proposed legislation would amend the Planning Code to provide only one definition of “Child Care Facility”, in Planning Code Section 102.

Child Care Facilities will be principally permitted in all zoning districts, except the following, which would be subject to the listed use controls.

- PDR-1-B: Conditional Use
- PDR-1-G: Conditional Use
- PDR-2: Not Permitted
- M-1: Conditional Use
- M-2: Not Permitted

The proposed legislation would eliminate the neighborhood notice requirements for Child Care Facilities.

The ordinance would allow a residential development to use required residential open space to meet child care open space requirements during weekday business hours. The space would be required to meet State licensing requirements, and not more than 50% of the single common open space may be used by the Child Care Facility.