

**REVISED LEGISLATIVE DIGEST**  
(Amended in Committee, 12/10/2018)

[Planning–Small Family Child Care in an Affordable Dwelling Unit on the Ground Floor]

**Ordinance amending the Planning Code to permit an affordable dwelling unit with a State-licensed Small Family Child Care Home on the ground floor on certain commercial streets; excluding certain child care units from the calculation of maximum density permitted on the site; making environmental findings; and making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.**

Existing Law

The Planning Code currently requires active commercial uses to be provided on the ground floor in certain commercial areas and streets of the City. Residential uses are not considered active commercial uses.

The Planning Code allows certain dwelling units to be designated as Child Care units in lieu of paying the City's Residential Child Care Impact Fee. Such child care units would be considered in calculating maximum density allowed on the site. These Child Care units must remain in child care use for a minimum of 10 years. The Office of Early Care and Education monitors the designated Child Care units.

Amendments to Current Law

The amendments would consider a State-licensed Small Family Child Care Home in a dwelling unit to be an active commercial use on the ground floor in certain commercial areas and streets, provided it met the following criteria: (1) the Dwelling Unit is a Rental Unit; (2) the dwelling unit has two or more bedrooms and 1,000 square feet or more; (3) If the dwelling unit is being added to an existing building in the ground floor commercial space, and it is not physically possible to provide two code-complying bedrooms, the unit may have one bedroom and 1,000 square feet or more; (4) no more than one Designated Child Care Unit would be permitted in each building; (5) the Dwelling Unit is eligible to be designated a below market rate unit affordable to moderate-income households, which shall have an affordable rent set at 80% of Area Median Income or less, with households earning from 65% to 90% of Area Median Income eligible to apply for such dwelling unit, but the Dwelling Unit may not be an On-site or Off-site Affordable Housing Unit; (6) a State-licensed Small Family Child Care Home is provided in such Dwelling Unit and complies with the applicable requirements set forth in Planning Code Section 414A.6(d) for a Designated Child Care Unit; (7) if a Designated Child Care Unit no longer provides a State-licensed Small Family Child Care Home in the unit, the tenants would be required to vacate within 180 days. MOHCD, as assisted by the Office

of Early Care and Education, would attempt to fill that unit with a Tenant eligible under the Inclusionary Affordable Housing Program who is also an eligible operator of a Small Family Child Care Home. If the tenant fraudulently did not intend to operate a State-licensed Small Family Child Care Home in the unit within nine months of occupying the unit, all tenants in such unit would be required to vacate the unit within 60 days; and (8) The dwelling unit shall remain a designated child care unit for a minimum of 15 years. Each tenant occupying the Designated Child Care Unit would be obligated to provide a State-licensed Small Family Child Care Home in the Designated Child Care Unit for a cumulative total of at least 15 years. In the event child care has been provided in the unit for such 15-year period, an existing tenant who has provided child care shall not thereafter be obligated to vacate the unit if it ceases to provide child care. Once this tenant vacates the unit, the Unit shall not be designated a below market rate unit, and the owner may rent the Unit at market rate.

The amendments would exclude a designated child care unit from the calculation of maximum density on each site.

The amendments obligate the Office of Early Care and Education and MOHCD to develop procedures and eligibility standards within 9 months, and to provide outreach to the eligible communities about these child care opportunities.

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