



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Text Amendment

HEARING DATE: MAY 18, 2017

*Project Name:* **Child Care Facilities**  
*Case Number:* **2016-011947CWP**  
*Initiated by:* **Planning Commission**  
*Staff Contact:* Sheila Nickolopoulos, Citywide Planning  
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*Reviewed by:* AnMarie Rodgers, Senior Policy Advisor  
*Recommendation:* **Recommend Approval**

### PLANNING CODE AMENDMENT

On May 4, 2017, the Commission initiated amendments to the Planning Code controls for child care facilities. At that hearing and pursuant to Planning Code Section 306.3, the Planning Commission authorized the Department to provide notice for a hearing to consider the Planning Code amendments contained in the draft Ordinance.

The proposed ordinance would amend the Planning Code to facilitate the entitlement of Child Care Facilities by

- 1) Allowing residential uses and Child Care Facility uses to share required open space
- 2) Removing a conditional use authorization requirement in certain residential zoning districts for Child Care Facilities for 15 or more children
- 3) Making Child Care Facilities principally permitted in the Downtown Commercial (Downtown Support) (C-3-S), and Public (P) zoning districts and conditionally permitted in the Production, Distribution, and Repair (General) (PDR-1-G), and Production, Distribution, and Repair (Light Industrial Buffer) (PDR-1-B) zoning district
- 4) Removing certain notice requirements for Child Care Facilities
- 5) Making other conforming changes to the definition of Child Care Facility
- 6) Affirming the Planning Department's determination under the California Environmental Quality Act
- 7) Making findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1.

### The Way It Is Now:

**Definitions:** Child Care Facilities are defined in five different sections of the Planning Code.

1. Section 102 defines Child Care Facilities as "An Institutional Community Use defined in California Health and Safety Code Section 1596.750 that provides less than 24-hour care for

children by licensed personnel and meets the open-space and other requirements of the State of California and other authorities.”

2. Although Tables 209.1, 209.2, 209.3, and 209.4 refer to Section 102, Child Care Facilities in general, this use is further defined in Article 7 and Article 8 into two further categories: those with 14 or fewer children, and those with 15 or more children.
3. Section 790.50 defines a Child Care Facility as “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.” It is categorized as an Other Large Institution along with social services, educational services, religious facilities, and residential care.
4. Section 790.51 defines a Child Care Facility as “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” as part of Other Small Institutions. This also includes residential care.
5. Section 890.50 defines a Child Care Facility as “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.” It is categorized as an Other Institution along with social services, educational services, religious facilities, residential care, and job training.

**Allowable Use:** Within San Francisco zoning districts, Child Care Facilities are principally permitted, conditional, or not permitted as follows.

- 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.
- In Commercial Districts, Child Care Facilities are Permitted, except in C-3-S, where a Conditional Use is required.
- In PDR Districts, Child Care Facilities are only Permitted in PDR-1-D.
- In M Districts, Child Care Facilities are only Permitted in M-1.
- In P Districts, Child Care Facilities require Conditional Use.
- In Neighborhood Commercial Districts (Article 7), Child Care Facilities are generally Permitted on the first floor regardless of enrollment and Permitted on the second and third floor when serving 12 or fewer children. Conditional Use is generally required when operating a Child Care Facility on the second or third floor with 13 or more children.
- In Mixed Use Districts (Article 8), 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 Notification**

1. Section 311 requires neighborhood notification for all Child Care Facilities in Residential Districts.
2. Neighborhood notification requirements under Section 312 are required for change of use to both Other Large Institutions and Other Small Institutions, which currently includes Child Care Facilities under Section 790.50 and 790.51.

**Open Space Requirements:** Section 135 requires open space in mixed use developments to meet both

residential open space requirements, which vary by use district, and child care open space requirements, which per State regulations is currently 75 square feet per child user.

### **The Way It Would Be:**

**Definitions:** All references in the Planning Code to the definition of Child Care Facilities would refer to Section 102, which defines a Child Care Facility as “An Institutional Community Use defined in California Health and Safety Code Section 1596.750 that provides less than 24-hour care for children by licensed personnel and meets the open-space and other requirements of the State of California and other authorities.” This definition aligns the Planning Code with the California Department of Social Services’ Child Care Licensing Program. This change to the Code would remove conflicting definitions. For example, the State currently licenses family child care for up to 12 to 14 children, depending on age, but Article 7 of the Planning Code regulates Child Care Facilities based 12 or less and 13 or more.

**Allowable Use:** Child Care Facilities will be principally permitted in all zoning districts, except the following.

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

This simplification replaces the patchwork of permitted and conditional uses.

**Neighborhood Notification:** The proposed ordinance would eliminate 311 and 312 neighborhood notification requirements for Child Care Facilities.

**Open Space Requirements:** The ordinance would allow a residential development to use required residential open space to meet child care open space requirements during set hours (Monday-Friday, 8am-6pm). The space would still have to meet State licensing requirements and not more than 50% of the single common open space may be used by the Child Care Facility.

## **BACKGROUND**

### *Ordinance History*

In fall 2016, Planning Commissioner Christine Johnson requested that Planning staff look at a number of issues impacting the entitlement of child care. The goals of the proposed ordinance are to decrease the approval time for Child Care Facilities; decrease the uncertainty of the approvals process, which can be onerous for child care operators and the family who depend on them; and decrease the confusion for project sponsors that results from having Child Care Facilities permitted or conditional in a patchwork across the city. Given the significant dearth of Child Care Facilities in San Francisco, it is critical to allow Child Care Facilities in all appropriate zoning districts. Child Care Facilities still must comply with numerous health and safety requirements of other regulating agencies, so simplifying the Planning-related work of opening a new Child Care Facility will decrease the time and cost to providers without jeopardizing health and safety.

*Process*

The proposed changes to the Planning Code that are included in this ordinance were vetted with San Francisco's Office of Early Care and Education, as well as the Child Care Facilities Interagency group, which includes the Office of Early Care and Education, the Mayor's Office of Housing and Community Development, and the Low Income Investment Fund, a community development financial institution (CDFI) that administers the City's child care funds.

In addition, Planning Commissioner Johnson discussed the proposed changes with Parents for Public Schools, Children's Council, and the Parent PAC. She also met with Supervisors Tang, Kim, and Yee.

*The Importance of Child Care*

Child care helps families thrive. When parents are able to find child care that meets their needs, they can maintain employment or enrollment in school, improve their ability to support their families, and advance economically.

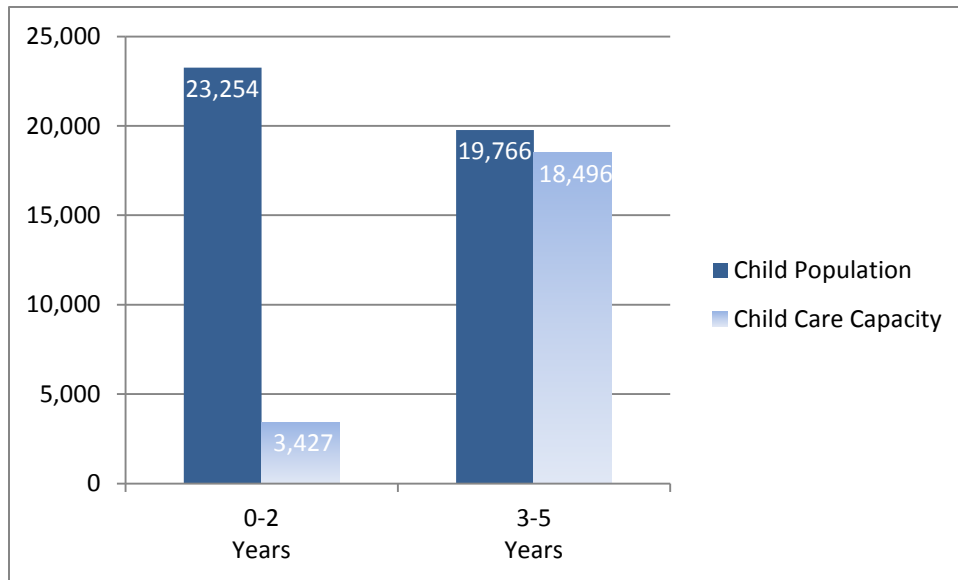
Quality child care also means more success down the road. A child's brain develops most significantly during the first five years of life—and the quality of child care in these early years can make a difference between a healthy start and falling behind. Substantial research demonstrates that accessible high quality early care and education positively affects childhood growth, physical development, health, cognitive, behavioral and school related outcomes.

*Child Care Options in San Francisco Today*

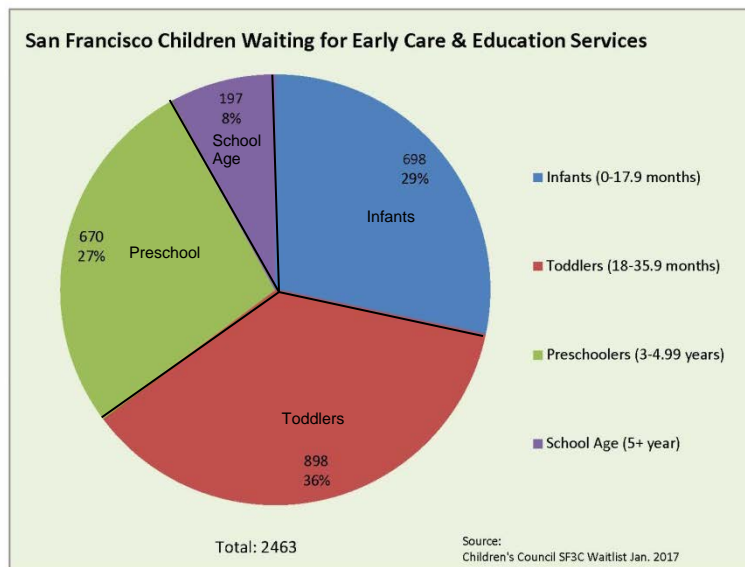
Broadly speaking, there are four types of child care available to families with children between the ages of zero and five: parents and relatives; nannies; licensed family child care (in-home care for up to 14 children); and child care facilities (facilities for 15 and more children). Family child care and child care facilities are licensed by the California Department of Social Services' Child Care Licensing Program. In addition to meeting State licensing requirements, these two types of Child Care Facilities are subject to the Planning Code, Building Code, and Fire Code.

San Francisco has a severe shortage of child care spots in family child care and facilities for all age levels between 0 and 5 years old, but the lack of facilities is particularly acute for infants: in 2014-16, San Francisco had 1,414 spots for an infant population of 23,254 (see attachment B:2). Throughout San Francisco, there are 21,991 child care spots for 43,020 children (51% of the City's child population), but the majority (at least 64%) of those spots are for preschoolers. San Francisco offers far fewer child care spots than what are needed, creating a significant burden for families.

Child Care in San Francisco (2014-16)



These numbers convey the limited number of spots, but they don't paint the full picture of how hard it is to match child care to families' needs. Location, daily hours of operation, seasonal closures, price, and program structure are all factors that make securing child care even more difficult for families. Commutes to child care can be difficult because child care is not necessarily located where children live, and waitlists are very long--as of January 2017, San Francisco child care facilities had wait lists totally 2,463 children.



## ISSUES AND CONSIDERATIONS

The current process for expanding and opening new Child Care Facilities is too cumbersome and complex. Conditional Use and neighborhood notification requirements can add 8 to 18 months to the approvals process. The additional costs for fees associated with these requirements are a minimum of approximately \$2,000. Child care providers must also bear the costs of leasing vacant space while they wait for approvals. In addition, the uncertainty of timing makes it difficult for child care providers to commit to families trying to plan for child care.

Neighborhood concerns about child care primarily focus on two issues: traffic at drop-off and pick-up, and noise.

For traffic concerns, the Planning Department currently requires Child Care Facilities with enrollment of 20 or more children to complete a school drop-off and pick-up management plan as part of the Environmental Review Application. This plan must include information relevant to school/ child care circulation, such as driveways, off-street parking, bicycle parking, and loading; vehicular, bicycle, and pedestrian access to the site; bus stops near the site (within 150 feet); sidewalk widths; and curbside loading (white zones) where drop-off and pick-up would occur. Plans would highlight existing conditions and proposed project-related changes to or near the site. In addition, the project sponsor may be required by Planning Department staff to provide supplemental data or studies to determine if there are any potential transportation-related impacts resulting from the proposed project.

Noise concerns related to child care facilities are also addressed through environmental review. For larger child care facilities with outdoor play areas, the Planning Department would require a noise study through the environmental review process. Typical measures to reduce noise from these projects may include fences, walls, and vegetation.

If the proposed Ordinance were to be adopted, these CEQA processes related to traffic and noise review would continue. The proposed Ordinance would not impact the requirement to produce a school drop-off and pick-up management plan for facilities with more than 20 children. Similarly, noise studies would be required for larger child care facilities. Given the urgent need for child care in San Francisco, staff feels these existing review mechanisms are sufficient to address neighborhood concerns.

## RECOMMENDATION

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

## BASIS FOR RECOMMENDATION

The legislation will simplify the process of expanding and opening new Child Care Facilities in a number of ways:

- The current the patchwork of definitions, as well as permitted and conditional uses, have made it difficult for Child Care Facilities to navigate the permitting process, sometimes adding months to

the process. Simplifying the code will smooth the process for project sponsors.

- Neighbors' primary concerns about Child Care Facilities are noise and traffic. Both of these concerns are appropriately addressed through existing review mechanisms that would remain in place.
- Allowing residential developments to meet residential open space requirements and child care open space requirements within the same open space will provide more opportunities for child care facilities to operate in mixed use buildings. Child care facilities will still be required to meet all the safety and egress requirements for open spaces, as determined by the California Child Care Licensing Program, the Fire Department, and other relevant agencies with jurisdiction over health and safety regulations.

### **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.

### **IMPLEMENTATION**

The Department determined that this ordinance will impact our current implementation procedures in the following ways:

- This ordinance would reduce the amount of time required to review applications for child care facilities.

### **ENVIRONMENTAL REVIEW**

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.

### **PUBLIC COMMENT**

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

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

- Exhibit A: Draft Planning Commission Resolution
- Exhibit C: Draft Ordinance [Board of Supervisors File No. pending]