

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

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

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

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

15 Section 1. Findings.

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

20 (b) General Findings.

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

Supervisors Dufty, Alioto-Pier  
BOARD OF SUPERVISORS

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

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

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

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

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

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

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

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

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

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

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

10 SEC. 29B.1. Applicability.

11 (a) This Chapter shall be applicable to:

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

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

17 SEC. 29B.2. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (1) Project Description:

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

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

25 (2) Population and Need:

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

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

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

6           (3) Community Impact:

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

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

11           (4) Cost:

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

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

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

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

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

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

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

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

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

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

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

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

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

20           SEC. 29A.6. Severability.

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



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

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

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

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