

1 [Administrative Code - Child Care Centers for City Projects and City-Funded Private Projects;
2 Feasibility Study Required]

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.**

10 NOTE: Additions are *single-underline italics Times New Roman*;
11 deletions are *strike-through italics Times New Roman*.
12 Board amendment additions are double-underlined;
13 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. 101094.

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 21st 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

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 ensure that San Francisco is a
6 leader in the provision of child care, that City agencies understand their employee's child care
7 needs, and that any new demand for child care services that a proposed development project
8 would generate is considered early in the project development process and included as part of
9 the total project budget. This will enhance the performance and morale of City employees by offering
10 the opportunity for quality child care in a City-owned or controlled space, and to increase the
11 availability of quality child care options in the City and County of San Francisco.

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

13 (a) Preparation of Study. A City agency or private developer that is subject to the
14 requirements of this Chapter shall prepare a Child Care Feasibility Study that considers the build out
15 and tenant improvements of a child care center on the project site that contains the information
16 required in subsection (d) below and has the minimum features described in subsection (e). The
17 Feasibility Study shall be prepared at an early stage in the project design when budgeting and other
18 planning decisions are made and must be completed and submitted as required by subsection
19 (b)(ii) below prior to any funding approvals.

20 A City agency proposing a development project of 50,000 square feet or more shall
21 consult with the San Francisco Department of Children, Youth and their Families (DCYF) in
22 preparing the Child Care Feasibility Study. DCYF shall be responsible for providing all of the
23 necessary data on the child care needs generated by a specific project. The sponsoring City
24 agency shall be responsible for providing the information requested by DCYF and for paying
25 DCYF for its services.

1 **(b) Submission to the City Administrator, funding entities, and Board of Supervisors.**

2 **(i) The Feasibility Study shall be submitted to the City Administrator by the City agency**
3 **involved in either proposing or funding the development project prior to either (1) the purchase or**
4 **lease of the building or (2) the submission of an environmental evaluation application, application for**
5 **a building permit, or application for other project approvals by the City, whichever is applicable.**

6 **(ii) Prior to the City's approval of funding for the development project, the sponsor**
7 **shall submit the Child Care Feasibility Study to the funding entity for its consideration,**
8 **including the Mayor, the Board of Supervisors, and any applicable agencies or commissions.**

9 **(iii) If the project is subject to the Fiscal Responsibility and Feasibility requirements of**
10 **Chapter 29 of this Code, the Child Care Feasibility Study shall be presented to the Board of**
11 **Supervisors at the same time the information required by Chapter 29 is required to be presented.**

12 **(c) Waiver of Requirement. The City Administrator is authorized to waive the requirement**
13 **to prepare a Child Care Feasibility Study under the following circumstances. Any waiver granted by**
14 **the City Administrator must be in writing and shall set forth the specific reason or reasons why the**
15 **waiver has been granted.**

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

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

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

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

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

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

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

11 (1) Project Description:

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

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

14 (2) Population and Need:

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

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

18 and

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

20 (3) Community Impact:

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

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

25 (4) Cost:

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

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

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

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

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

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

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

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

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

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

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

22 (f) ~~(e)~~ Approval by the Department of Children, Youth and their Families. The consultant that
23 prepares the Child Care Feasibility Study required by this Chapter shall be on the list of consultants
24 approved by the San Francisco Department of Children, Youth and their Families as qualified to
25 prepare the Feasibility Study. If the City agency or private sponsor of a development project subject to

1 this Chapter wishes to use either its own staff or a consultant that is not on the Department of Children,
2 Youth and their Families' list, it must obtain the prior written approval of that Department.

3 (g) If a City agency proposes an office development project, as defined in Section
4 401 of the San Francisco Planning Code, that creates a need for additional child care services
5 and has decided not to provide new child care services as part of the proposed project, the
6 sponsoring agency shall provide evidence to the agencies approving the project that the
7 sponsor fairly considered providing child care services early in project development and why
8 such services would not be provided.

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

14 SEC. 29A.6. Severability.

15 If any section, paragraph, sentence, clause or phrase of this Chapter 29B is for any
16 reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction,
17 such decision shall not affect the validity or effectiveness of the remaining portions of this
18 Chapter 29B. The Board of Supervisors declares that it would have passed each section,
19 paragraph, sentence, clause, or phrase of this Chapter 29B irrespective of the fact that any
20 portion of this Chapter 29B could be declared unconstitutional, invalid, or ineffective.

21
22 APPROVED AS TO FORM:
23 DENNIS J. HERRERA, City Attorney

24 By: _____
25 JUDITH A. BOYAJIAN
Deputy City Attorney