



CITY OF BOSTON, MASSACHUSETTS
OFFICE OF THE MAYOR
MICHELLE WU

EXECUTIVE ORDER OF MAYOR MICHELLE WU

An Executive Order Establishing Additional Policy Guidance for Inclusion of Day Care Facilities (IDF)
Zoning Provisions

SUMMARY

On behalf of the City of Boston, this Executive Order asserts Mayor Michelle Wu's commitment to strengthening Boston's childcare and early education sector by clarifying and modernizing existing Inclusion of Daycare Facilities zoning regulations, creating a consistent revenue source for the Office of Early Childhood while also ensuring predictability for downtown developers.

WHEREAS: Boston has an inadequate number of child care seats, the availability of which varies across neighborhoods and age groups. Some neighborhoods have as much as twice as many children under 5 as seats available, while others have a surplus of seats; *and*

WHEREAS: The access gap is largest for children 2 years and younger, reaching over 80 percent. Licensed care for these children is only available through center-based and family-based childcare providers, while children aged 3-5 sometimes have access to care in the K-12 education system; *and*

WHEREAS: The COVID-19 pandemic has exacerbated child care gaps in Boston. From December 2017 to March 2021, Boston saw a 21 percent decrease in the number of center-based and family-based child care providers, while the pandemic also caused many providers to reduce their hours of operation; *and*

WHEREAS: Parents and guardians state that they would like more access to licensed child care. In the City of Boston's 2021 Child Care Survey, 58 percent of respondents utilizing a parent or guardian arrangement for care stated they would prefer a "formal" care arrangement; *and*

WHEREAS: Child care in Boston is unaffordable for many families. Massachusetts is the second most expensive state in the country for child care, and in Boston, families pay higher than the state average. The average cost for child care in Boston is 28.6 percent and 19.8 percent of the City's median income for children under 3 and children 3-5, respectively, while federal guidelines recommend spending no more than 10 percent of income on child care, and the lack of affordable options is particularly acute for families of color, who live at or near the poverty line at higher rates; *and*

- WHEREAS:* Access to affordable, high quality child care is vital for addressing issues of racial and economic inequities in Boston. Child care access can help close academic opportunity and achievement gaps, as children who receive quality care and education in the early years of development are shown to be more successful in school and later life. Child care access also ties directly to increased household income by allowing parents and guardians, particularly women, to pursue career and educational opportunities; *and*
- WHEREAS:* The creation of new child care programs can also provide economic opportunities for child care providers, who are predominantly women, and particularly women of color and immigrants; *and*
- WHEREAS:* The Boston Zoning Code currently contains several Inclusion of Day Care Facilities (IDF, also known as Childcare Facilities) provisions for large scale developments within the underlying zoning for 14 downtown districts, requiring Proposed Projects of a certain size to create child care facilities on-site or cause such facilities to be created elsewhere in the City; *and*
- WHEREAS:* The inclusion of on-site child care may not be necessary or appropriate for all projects that trigger the IDF provision, particularly given ongoing changes to Boston's work and commute patterns throughout the COVID-19 pandemic, creating a need for clear guidance on additional ways that the IDF zoning provisions can support the creation of high quality child care throughout the City; *and*
- WHEREAS:* In 2022, the City of Boston created the Office of Early Childhood to advance and expand universal, affordable, high quality early education and care for all children under five; *now*
- THEREFORE:* Pursuant to St. 1948, c. 452, s. 11, as amended, and every other power hereto enabling, *I hereby order and direct as follows:*

I, Michelle Wu, Mayor of Boston, hereby affirm the City's commitment to leveraging the City's economic growth to strengthen our childcare and early education sector, close access gaps for families, and provide expanded employment opportunities for Boston residents.

To this end, I hereby order the Boston Redevelopment Authority d/b/a Boston Planning & Development Agency ("BPDA") to develop and adopt the appropriate policies and/or regulations to allow for payment in lieu of on-site child care creation, as directed by this Executive Order. The Office of Early Childhood will work with BPDA to collect, administer and award the funds for the creation or improvement of child care facilities throughout the City.

ARTICLE I. Applicability

The Boston Planning & Development Agency will remain responsible for ensuring that any Proposed Project within the applicable 14 zoning districts adhere to the IDF requirements. The BPDA will continue to enter into Cooperation Agreements outlining the creation of on-site child care facilities or the decision to pursue the creation of child care facilities elsewhere, including the provision of off-site facilities or a direct payment to the Office of Early Childhood. Any payment in lieu of the direct creation of child care facilities will be calculated based on a per-square-foot child care obligation, reflecting the square footage required under each IDF provision in the 14 affected zoning districts.

Based on an assessment of tenant improvement costs for child care facilities, an appropriate payment in lieu of physical creation value is equivalent to \$100 per-square-foot of child care obligation. For example, if a Proposed Project is required to cause the creation of 4,000 square feet of child care space, its payment in lieu of physical creation would be \$400,000. This payment will then be utilized by the Office of Early Childhood to support the provision of high quality child care in high need areas of Boston.

In conjunction with the Office of Early Childhood, the BPDA will determine the appropriateness of a payment in lieu of the direct provision of an on-site or off-site child care facility. This assessment will be based on a yearly needs analysis performed by The Boston Opportunity Agenda and outlined in the *Boston's Child-Care Supply Crisis* brief or similar analysis.

ARTICLE II. Administration of Funds


The BPDA will notify the Office of Early Childhood upon execution of every Cooperation Agreement with an IDF requirement. Pursuant to the IDF zoning language and this Mayor's Executive Order, the Office of Early Childhood or a City of Boston designee will collect and administer the funds and award funds for the creation or improvement of child care facilities throughout the City. Improvement of child care facilities may include retrofits or other building upgrades for energy efficiency, decarbonization, climate resilience, and environmental justice.

Beginning in Fiscal Year 2023 the BPDA and the Office of Early Childhood shall clarify roles and responsibilities for reporting funds anticipated and received.

Additionally, the Office of Early Childhood shall develop annual reporting for pre-existing and new child care facilities created by IDF, including number and location of child care seats created, development of reduced fee seats, funding for child care programing, and other measures meant to improve quality, including the environmental health and safety of child care facilities.

The Office of Early Childhood shall create a publicly accessible list of physical childcare facilities created under IDF and report non-compliance to the Inspectional Services Department.

SIGNED THIS 26 DAY OF July, 2022



Michelle Wu
Mayor of Boston