[Fair Housing Requirements for Conditional Uses]
AMENDING ARTICLE 3, SECTION 303, OF THE SAN FRANCISCO PLANNING CODE TO PROVIDE THAT, IN CONSIDERING APPLICATIONS FOR CONDITIONAL USES FOR "DWELLINGS" IN WHICH "PROTECTED CLASS MEMBERS" (EACH AS DEFINED IN SAN FRANCISCO ADMINISTRATIVE CODE CHAPTER 87) ARE LIKELY TO RESIDE, THE PLANNING COMMISSION SHALL COMPLY WITH THE REQUIREMENTS OF CHAPTER 87 OF THE SAN FRANCISCO ADMINISTRATIVE CODE.

Note: Additions are underlined; deletions are in ((double parentheses)).

Be it ordained by the People of the City and County of San Francisco:
Section 1. Article 3 of the San Francisco Planning Code is hereby amended by amending Section 303 to read as follows:

SEC. 303. CONDITIONAL USES. (a) General. The City Planning Commission shall hear and make determinations regarding applications for the authorization of conditional uses in the specific situations in which such authorization is provided for elsewhere in this Code. The procedures for conditional uses shall be as specified in this Section and in Sections 306 through 306.6, except that Planned Unit Developments shall in addition be subject to Section 304, medical institutions and post-secondary educational institutions shall in addition be subject to the institutional master plan requirements of Section 304.5, and conditional use and Planned Unit Development applications filed pursuant to Article 7, or otherwise required by this Code for uses or features in Neighborhood Commercial Districts, and conditional use applications within South of Market Districts, shall be subject to the provisions set forth in Sections 316 through 316.8 of this Code, in lieu of those provided for in Sections 306.2 and 306.3 of this Code, with respect to scheduling and notice of hearings, and in addition to those
provided for in Sections 306.4 and 306.5 of this Code, with respect to conduct of hearings and reconsideration.

(b) **Initiation.** A conditional use action may be initiated by application of the owner, or authorized agent for the owner, of the property for which the conditional use is sought.

(c) **Determination.** After its hearing on the application, or upon the recommendation of the Director of Planning if the application is filed pursuant to Sections 316 through 316.8 of this Code and no hearing is required, the City Planning Commission shall approve the application and authorize a conditional use if the facts presented are such to establish:

(1) That the proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community; and

(2) That such use or feature as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:

(A) The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

(B) The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

(C) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

(D) Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs; and

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(3) That such use or feature as proposed will comply with the applicable provisions of this Code and will not adversely affect the Master Plan; and

(4) With respect to applications filed pursuant to Article 7 of this Code, that such use or feature as proposed will provide development that is in conformity with the stated purpose of the applicable Neighborhood Commercial District, as set forth in zoning control category .1 of Sections 710 through 729 of this Code; and

(5)(A) With respect to applications filed pursuant to Article 7, Section 703.2(a), zoning categories .46, .47, and .48, in lieu of the criteria set forth above in Section 303(c)(1—4), that such use or feature will:
   
   (i) Not be located within 1,000 feet of another such use, if the proposed use or feature is included in zoning category .47, as defined by Section 790.36 of this Code; and/or
   
   (ii) Not be open between two a.m. and six a.m.; and
   
   (iii) Not use electronic amplification between midnight and six a.m.; and
   
   (iv) Be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.

   (B) Notwithstanding the above, the City Planning Commission may authorize a conditional use which does not satisfy the criteria set forth in (5)(A)(ii) and/or (5)(A)(iii) above, if facts presented are such to establish that the use will be operated in such a way as to minimize disruption to residences in and around the district with respect to noise and crowd control.

(6) With respect to applications for live/work units in RH and RM Districts filed pursuant to Section 209.9(f) or 209.9(h) of this Code, that:

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(A) Each live/work unit is within a building envelope in existence on the effective
date of Ordinance No. 412-88 (effective October 10, 1988) and also within a portion of the
building which lawfully contains at the time of application a nonconforming, nonresidential use;

(B) There shall be no more than one live/work unit for each 1,000 gross square feet
of floor area devoted to live/work units within the subject structure; and

(C) The project sponsor will provide any off-street parking, in addition to that
otherwise required by this Code, needed to satisfy the reasonably anticipated auto usage by
residents of and visitors to the project.

Such action of the City Planning Commission, in either approving or
disapproving the application, shall be final except upon the filing of a valid appeal to the Board
of Supervisors as provided in Section 308.1.

(d) **Conditions.** When considering an application for a conditional use as provided
herein with respect to applications for development of “dwellings” as defined in Chapter 87 of
the San Francisco Administrative Code, the Commission shall comply with that Chapter which
requires, among other things, that the Commission not base any decision regarding the
development of “dwellings” in which “protected class” members are likely to reside on
information which may be discriminatory to any member of a “protected class” (as all such
terms are defined in Chapter 87 of the San Francisco Administrative Code). In addition, when
((When)) authorizing a conditional use as provided herein, the City Planning Commission, or
the Board of Supervisors on appeal, shall prescribe such additional conditions, beyond those
specified in this Code, as are in its opinion necessary to secure the objectives of the Code.

Once any portion of the conditional use authorization is utilized, all such conditions pertaining
to such authorization shall become immediately operative. The violation of any condition so
imposed shall constitute a violation of this Code and may constitute grounds for revocation of
the conditional use authorization. Such conditions may include time limits for exercise of the
conditional use authorization; otherwise, any exercise of such authorization must commence within a reasonable time.

(e) **Modification of Conditions.** Authorization of a change in any condition previously imposed in the authorization of a conditional use shall be subject to the same procedures as a new conditional use. Such procedures shall also apply to applications for modification or waiver of conditions set forth in prior stipulations and covenants relative thereto continued in effect by the provisions of Section 174 of this Code.

(f) **Hotels and Motels.**

(1) With respect to applications for development of tourist hotels and motels, the Planning Commission shall consider, in addition to the criteria set forth in Subsections (c) and (d) above:

(A) The impact of the employees of the hotel or motel on the demand in the City for housing, public transit, childcare, and other social services. To the extent relevant, the Commission shall also consider the seasonal and part-time nature of employment in the hotel or motel;

(B) The measures that will be taken by the project sponsor to employ residents of San Francisco in order to minimize increased demand for regional transportation; and

(C) The market demand for a hotel or motel of the type proposed.

(2) Notwithstanding the provisions of Subsections (f)(1) above, the Planning Commission shall not consider the impact of the employees of a proposed hotel or motel project on the demand in the City for housing where:

(A) The proposed project would be located on property under the jurisdiction of the San Francisco Port Commission; and

(B) The sponsor of the proposed project has been granted exclusive rights to propose the project by the San Francisco Port Commission prior to June 1, 1991.
(3) Notwithstanding the provisions of Subsection (f)(1) above, with respect to the conversion of residential units to tourist hotel or motel use pursuant to an application filed on or before June 1, 1990 under the provisions of Chapter 41 of the San Francisco Administrative Code, the Planning Commission shall not consider the criteria contained in Subsection (f)(1) above; provided, however, that the Planning Commission shall consider the criteria contained in Subsection (f)(1)(B) at a separate public hearing if the applicant applies for a permit for new construction or alteration where the cost of such construction or alteration exceeds $100,000. Furthermore, no change in classification from principal permitted use to conditional use in Section 216(b)(i) of this Code shall apply to hotels or motels that have filed applications on or before June 1, 1990 to convert residential units to tourist units pursuant to Chapter 41 of the San Francisco Administrative Code.

APPROVED AS TO FORM:
LOUISE H. RENNE, City Attorney

By: [Signature]
Deputy City Attorney

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BOARD OF SUPERVISORS
Ordinance amending Planning Code, Article 3, Section 303 to provide that, in considering applications for conditional uses for "dwellings" in which "protected class members" (each as defined in Administrative Code Chapter 87) are likely to reside, the Planning Commission shall comply with the requirements of Chapter 87 of the Administrative Code.

November 15, 1999 Board of Supervisors — PASSED, ON FIRST READING
Ayes: 11 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng, Yaki, Yee

November 22, 1999 Board of Supervisors — FINALLY PASSED
Ayes: 11 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng, Yaki, Yee
I hereby certify that the foregoing Ordinance was FINALLY PASSED on November 22, 1999 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young
Clerk of the Board

Mayor Willie L. Brown Jr.