[Fair Housing Requirements for Variances]

AMENDING ARTICLE 3, SECTION 305, OF THE SAN FRANCISCO PLANNING CODE TO PROVIDE THAT, IN CONSIDERING APPLICATIONS FOR VARIANCES FOR "DWELLINGS" IN WHICH "PROTECTED CLASS MEMBERS" (EACH AS DEFINED IN SAN FRANCISCO ADMINISTRATIVE CODE CHAPTER 87) ARE LIKELY TO RESIDE, THE ZONING ADMINISTRATOR AND THE BOARD OF APPEALS SHALL COMPLY WITH THE REQUIREMENTS OF CHAPTER 87 OF THE SAN FRANCISCO ADMINISTRATIVE CODE.

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 305 to read as follows:

SEC. 305. VARIANCES. (a) General. The Zoning Administrator shall hear and make determinations regarding applications for variances from the strict application of quantitative standards in this Code. He shall have power to grant only such variances as may be in harmony with the general purpose and intent of this Code and in accordance with the general and specific rules contained herein, and he shall have power to grant such variances only to the extent necessary to overcome such practical difficulty or unnecessary hardship as may be established in accordance with the provisions of this Section. No variance shall be granted in whole or in part which would have an effect substantially equivalent to a reclassification of property; or which would permit any use, any height or bulk of a building or structure, or any type or size or height of sign not expressly permitted by the provisions of this Code for the district or districts in which the property in question is located; or which would grant a privilege for which a conditional use procedure is provided by this Code; or which would change a

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definition in this Code. The procedures for variances shall be as specified in this Section and in Sections 306 through 306.5.

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

(c) **Determination.** The Zoning Administrator shall hold a hearing on the application, provided, however, that if the variance requested involves a deviation of less than 10 percent from the Code requirement, the Zoning Administrator may at his option either hold or not hold such a hearing. No variance shall be granted in whole or in part unless there exist, and the Zoning Administrator specifies in his findings as part of a written decision, facts sufficient to establish:

1. That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other property or uses in the same class of district;

2. That owing to such exceptional or extraordinary circumstances the literal enforcement of specified provisions of this Code would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property;

3. That such variance is necessary for the preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district;

4. That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity; and

5. That the granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the Master Plan.

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Upon issuing his written decision either granting or denying the variance in whole or in part, the Zoning Administrator shall forthwith transmit a copy thereof to the applicant. The action of the Zoning Administrator shall be final and shall become effective 10 days after the date of his written decision except upon the filing of a valid appeal to the Board of (Permit) Appeals as provided in Section 308.2.

(d) **Conditions.** When considering an application for a variance as provided herein with respect to applications for development of “dwellings” as defined in Chapter 87 of the San Francisco Administrative Code, the Zoning Administrator, or the Board of Appeals on appeal, shall comply with that Chapter which requires, among other things, that the Zoning Administrator and the Board of Appeals 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, (In) in granting any variance as provided herein, the Zoning Administrator, or the Board of (Permit) Appeals on appeal, shall specify the character and extent thereof, and shall also prescribe such conditions as are necessary to secure the objectives of this Code. Once any portion of the granted variance is utilized, all such specifications and conditions pertaining to such

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authorization shall become immediately operative. The violation of any specification or
condition so imposed shall constitute a violation of this Code and may constitute grounds for
revocation of the variance. Such conditions may include time limits for exercise of the granted
variance; otherwise, any exercise of such variance must commence within a reasonable time.

APPROVED AS TO FORM:

LOUISE H. RENNE, City Attorney

By: [Signature]
Deputy City Attorney

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Ordinance amending Planning Code, Article 3, Section 305 to provide that, in considering applications for variances for "dwellings" in which "protected class members" (each as defined in Administrative Code Chapter 87) are likely to reside, the Zoning Administrator and the Board of Appeals 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.