

1 [Fair Housing Requirements for Variances]
2 AMENDING ARTICLE 3, SECTION 305, OF THE SAN FRANCISCO PLANNING CODE TO
3 PROVIDE THAT, IN CONSIDERING APPLICATIONS FOR VARIANCES FOR "DWELLINGS"
4 IN WHICH "PROTECTED CLASS MEMBERS" (EACH AS DEFINED IN SAN FRANCISCO
5 ADMINISTRATIVE CODE CHAPTER 87) ARE LIKELY TO RESIDE, THE ZONING
6 ADMINISTRATOR AND THE BOARD OF APPEALS SHALL COMPLY WITH THE
7 REQUIREMENTS OF CHAPTER 87 OF THE SAN FRANCISCO ADMINISTRATIVE CODE.

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

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

12 Section 1. Article 3 of the San Francisco Planning Code is hereby amended by
13 amending Section 305 to read as follows:

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

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

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

5 (c) **Determination.** The Zoning Administrator shall hold a hearing on the
6 application, provided, however, that if the variance requested involves a deviation of less than
7 10 percent from the Code requirement, the Zoning Administrator may at his option either hold
8 or not hold such a hearing. No variance shall be granted in whole or in part unless there exist,
9 and the Zoning Administrator specifies in his findings as part of a written decision, facts
10 sufficient to establish:

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

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

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

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

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

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

6 (d) **Conditions.** When considering an application for a variance as provided herein
7 with respect to applications for development of “dwellings” as defined in Chapter 87 of the San
8 Francisco Administrative Code, the Zoning Administrator, or the Board of Appeals on appeal,
9 shall comply with that Chapter which requires, among other things, that the Zoning
10 Administrator and the Board of Appeals not base any decision regarding the development of
11 “dwellings” in which “protected class” members are likely to reside on information which may
12 be discriminatory to any member of a “protected class” (as all such terms are defined in
13 Chapter 87 of the San Francisco Administrative Code). In addition, ((In)) in granting any
14 variance as provided herein, the Zoning Administrator, or the Board of ((Permit)) Appeals on
15 appeal, shall specify the character and extent thereof, and shall also prescribe such
16 conditions as are necessary to secure the objectives of this Code. Once any portion of the
17 granted variance is utilized, all such specifications and conditions pertaining to such

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

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7 APPROVED AS TO FORM:

8 LOUISE H. RENNE, City Attorney

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11 By:



Deputy City Attorney

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SUPERVISOR TENG
BOARD OF SUPERVISORS



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails

Ordinance

File Number: 990496

Date Passed:

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

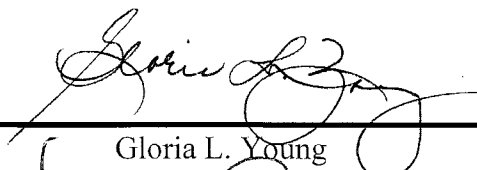
Ayes: 11 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng, Yaki, Yee

File No. 990496

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.

DEC - 3 1999

Date Approved



Gloria L. Young
Clerk of the Board



Mayor Willie L. Brown Jr.