

1 [Fair Housing Implementation Ordinance]
 2 AMENDING THE SAN FRANCISCO ADMINISTRATIVE CODE BY ADDING CHAPTER 87
 3 TO DESCRIBE FEDERAL, STATE AND LOCAL FAIR HOUSING LAWS WHICH PROTECT
 4 CERTAIN CLASSES OF INDIVIDUALS FROM HOUSING DISCRIMINATION THAT MAY
 5 OCCUR THROUGH ZONING LAWS, LAND USE AUTHORIZATIONS, FUNDING
 6 DECISIONS, AND OTHER ACTIVITIES OF LOCAL GOVERNMENT; AND TO REQUIRE
 7 AND FACILITATE LOCAL COMPLIANCE WITH SUCH LAWS AND PROMOTE HOUSING
 8 OPPORTUNITIES FOR RESIDENTS OF SAN FRANCISCO.

9 Note: This entire section is new.

10
 11 Be it ordained by the People of the City and County of San Francisco:

12 Section 1. The San Francisco Administrative Code is hereby amended by adding Chapter 87,
 13 to read as follows:

14 **CHAPTER 87**

15 **FAIR HOUSING IMPLEMENTATION ORDINANCE**

- 16 Sec. 87.1. Short Title.
- 17 Sec. 87.2. Findings.
- 18 Sec. 87.3. Definitions.
- 19 Sec. 87.4. Compliance with Fair Housing Laws.
- 20 Sec. 87.5. No Decisions Based on Discriminatory Information.
- 21 Sec. 87.6. Nondiscriminatory Conditions of Approval.
- 22 Sec. 87.7. Reasonable Accommodations.
- 23 Sec. 87.8. Nondiscriminatory Application Standards.
- 24 Sec. 87.9. Applicability.
- 25 Sec. 87.10. Compliance by State Authorized Agencies.

SUPERVISOR TENG, BIERMAN, BECERRIL
 BOARD OF SUPERVISORS

1 Sec. 87.11. Severability.

2 **SEC. 87.1. SHORT TITLE.** This ordinance shall be entitled the "Fair Housing
3 Implementation Ordinance."

4 **SEC 87.2. FINDINGS.** The Board of Supervisors finds that:

5 (a) Federal, state and local fair housing laws protect certain classes of individuals from
6 housing discrimination that may occur through zoning laws, land use authorizations, funding
7 decisions and other activities of local government. These laws include, but are not limited to:

8 (1) The federal Fair Housing Act, 42 U.S.C. §§ 3601 et seq. This law prohibits,
9 among other things, local government from making dwellings unavailable because of the
10 race, color, religion, sex, familial status, national origin, or handicap of the individual(s)
11 seeking such dwellings.

12 (2) California Government Code Section 12955 (the "California Fair
13 Employment and Housing Act"). This law prohibits local government from (i) making housing
14 unavailable, and (ii) discriminating through land use practices, decisions, and authorizations,
15 because of race, color, religion, sex, familial status, marital status, disability, national origin, or
16 ancestry. Prohibited practices include, but are not limited to, zoning laws, denials of use
17 permits, and other actions under the Planning and Zoning Law, Government Code § 65000 et
18 seq., that make housing opportunities unavailable because of protected class status.

19 (3) California Government Code Section 12955.8(a) (the "California Fair
20 Employment and Housing Act"). This law establishes that a local government engages in
21 unlawful housing discrimination if race, color, religion, sex, familial status, marital status,
22 disability, national origin, or ancestry is a motivating factor when a land use practice, decision,
23 authorization, or other local action makes housing unavailable to members of a protected
24 class.

25 ///

SUPERVISOR TENG
BOARD OF SUPERVISORS

1 (4) California Government Code Section 12955.8(b) ("the California Fair
2 Employment and Housing Act"). This law establishes that a local government engages in
3 unlawful housing discrimination if a land use practice, decision, authorization, or other local
4 action has an unjustified discriminatory effect, regardless of intent, on the basis of race, color,
5 religion, sex, familial status, marital status, disability, national origin, or ancestry.

6 (5) California Government Code Section 65008 (the "California Planning and
7 Zoning Law"). This law prohibits, among other things, local government, in the enactment or
8 administration of zoning laws, from discriminating against a residential development because
9 the development is intended for occupancy by low and moderate income persons. This Act
10 also prohibits local government from imposing different requirements on residential
11 developments because of race, sex, color, religion, ethnicity, national origin, ancestry, lawful
12 occupation or age of the intended occupants of the development, or because of the income
13 level of the intended occupants of the development, unless the local government imposes
14 those requirements on developments generally or the requirements promote the availability of
15 the residential development for lower income persons.

16 (6) California Government Code Section 65589.5 (the "California Planning and
17 Zoning Law"). This law prohibits a local government agency from disapproving a housing
18 development for low- and moderate-income households or conditioning approval in a manner
19 which renders the project infeasible for development for use by low- and moderate-income
20 households unless the local agency makes one of six findings justifying such disapproval or
21 conditions.

22 (7) Section 3604 (f)(B)(3) of Title 42 of the United State Code (the "Fair
23 Housing Act") and Section 12927 (c)(1) of the California Government Code (the "California
24 Fair Employment and Housing Act"). These laws prohibit local government from refusing to

25 ///

1 make reasonable accommodations in policies and practices when these accommodations
2 are necessary to afford persons with disabilities equal opportunity to use and enjoy a
3 dwelling.

4 (8) Section 3304 of Article 33 of the San Francisco Police Code. This
5 ordinance establishes, among other things, that local government engages in unlawful
6 housing discrimination if the inclusion of restrictions, terms or conditions on real property
7 transactions, the imposition of different conditions on financing for the construction,
8 rehabilitation, or maintenance of real property, or the restriction of facilities for any tenant or
9 lessee is based wholly or partially on race, religion, color, ancestry, age, sex, sexual
10 orientation, gender identity, disability or place of birth.

11 (b) Federal, state and local fair housing laws require that departments, agencies,
12 commissions, officers, and employees of the City and County of San Francisco shall not base
13 any decision about housing development on evidence that discriminates against the classes
14 protected by these laws.

15 (c) Federal, state and local fair housing laws require that departments, agencies,
16 commissions, officers and employees of the City and County of San Francisco shall not
17 impose, when approving a housing development, any conditions that discriminate against the
18 classes protected by these laws.

19 (D) This ordinance will facilitate compliance with federal, state and local fair housing
20 laws, and promote housing opportunities for residents of San Francisco.

21 **SEC. 87.3. DEFINITIONS.**

22 (a) **Protected Class.** "Protected class" means those groups that receive protection
23 from housing discrimination under the Fair Housing Act, 42 U.S.C. §§ 3601 et seq., the
24 California Fair Employment and Housing Act., Government Code §§ 12900 et seq.,
25 ///

1 Sections 65008 and 65589.5 of the Government Code, and Section 3304 of Article 33 of the
2 San Francisco Police Code.

3 (b) **City Entity.** "City entity" includes the Board of Supervisors, the Executive Branch
4 as described in Articles III, IV, and V of the Charter of the City and County of San Francisco,
5 and any department, agency, commission, officer, employee, or advisory group of the City
6 and County of San Francisco.

7 (c) **Dwelling.** "Dwelling" shall have the same meaning as the definition of "dwelling" in
8 Section 3602 of Title 42 of the United State Code (the "Fair Housing Act").

9 (d) **Fair Housing Laws.** "Fair housing laws" shall mean those laws described in
10 Section 87.2, above, together with any other federal, state or local laws related to housing
11 discrimination.

12 (e) **Family.** "Family" shall have the same meaning as in Section 401 of the San
13 Francisco Housing Code.

14 (f) **Supportive Services.** "Supportive services" means services that are provided to
15 residents of a housing development and that are based on their particular needs and
16 circumstances. These services include, but are not limited to, counseling, vocational training,
17 case management, medical services, peer-based services, rehabilitative services, skills
18 development, and recreational activities. The use of a portion of a residential building to
19 provide supportive services for the building's residents shall be a permissible accessory use
20 to the building.

21 **SEC. 87.4. COMPLIANCE WITH FAIR HOUSING LAWS.** When any City entity
22 considers an application or proposal for the development, use, or funding of dwellings in
23 which protected class members are likely to reside, or when any City entity applies existing
24 city codes, regulations, or other standards to such dwellings, the City entity shall comply with

25 ///

1 all applicable fair housing laws and administer local policies, procedures, and practices in a
2 manner that affirmatively furthers those laws.

3 **SEC. 87.5. NO DECISIONS BASED ON DISCRIMINATORY INFORMATION.** With
4 respect to applications or proposals for the development, use, or funding of dwellings in which
5 protected class members are likely to reside, a City entity shall not base any decision
6 regarding the development, use, or funding of the dwellings on information which may be
7 discriminatory to any member of a protected class. This discriminatory information includes,
8 but is not limited to, the following:

9 (a) That the dwellings will lower the property values of surrounding parcels of land
10 because members of a protected class will reside in the dwellings;

11 (b) That the dwellings will increase crime in the neighborhood because members of a
12 protected class will reside in the dwellings;

13 (c) That the dwellings will generate an increased demand for parking or generate
14 more traffic because members of a protected class will reside in the dwellings;

15 (d) That the dwellings will not be compatible with a neighborhood or community
16 because members of a protected class will reside in the dwellings;

17 (e) That the dwellings will increase the concentration of dwellings or services for
18 members of a protected class in a particular neighborhood or area of the city;

19 (f) That the dwellings will be detrimental to, or have a specific, adverse impact upon,
20 the health, safety, convenience or general welfare of persons residing or working in the
21 vicinity because members of a protected class will reside in the dwellings;

22 (g) That the dwellings will be injurious to property, improvements or potential
23 development in the vicinity because members of a protected class will reside in the dwellings;

24 (h) That the dwellings will generate an increased demand for city services because
25 members of a protected class will reside in the dwellings.

1 (i) That the dwellings will not be appropriate for the neighborhood because supportive
2 services will be provided to members of a protected class residing in the dwellings.

3 **SEC. 87.6. NONDISCRIMINATORY CONDITIONS OF APPROVAL.** With respect to
4 applications or proposals for the development, use, or funding of dwellings in which protected
5 class members are likely to reside, a City entity shall not impose on the approval of the
6 dwellings (a) any condition that it does not impose on other dwellings of similar scale and size
7 in the use district or zoning classification specified in the San Francisco Planning Code, or (b)
8 any conditions of approval which are based on the fact that protected class members are
9 likely to reside in the dwellings, including but not limited to restrictions on the activities of
10 residents in or around the dwellings, restrictions on visitors to the dwellings, requirements for
11 additional off-street parking, special review or monitoring of the dwellings by a City entity or
12 neighborhood group, restrictions on services provided to residents, special design or
13 maintenance requirements for the dwellings, and restrictions on future development on or
14 near the site.

15 **SEC. 87.7. REASONABLE ACCOMMODATIONS.** With respect to applications or
16 proposals for the development, use, or funding of dwellings in which protected class members
17 are likely to reside, a City entity shall make reasonable accommodations in its rules, policies,
18 practices, or services when those accommodations may be necessary to afford persons with
19 disabilities equal opportunities to use and enjoy the dwellings.

20 **SEC. 87.8. NONDISCRIMINATORY APPLICATION OF STANDARDS.** Nothing in this
21 Chapter shall be construed to prohibit a City entity from applying building and planning
22 standards, design review, health and safety standards, environmental standards, or any other
23 standards within the jurisdiction of the City entity as long as those standards are identical to
24 those applied to other dwellings of similar scale and size in the use district or zoning

25 ///

SUPERVISOR TENG
BOARD OF SUPERVISORS

1 classification specified in the San Francisco Planning Code, unless the City entity is required
2 to make a reasonable accommodation under Section 87.7 of this Chapter.

3 **SEC. 87.9. APPLICABILITY.** This Chapter shall, among other things, apply to all
4 actions, practices, and other decisions of any City entity having discretionary authority over
5 permits, funding, conditions of approval, or other matters related to the development of
6 dwellings. These actions, practices, and decisions include, but are not limited to, conditional
7 use authorizations under Section 303 of the San Francisco Planning Code, variances under
8 Section 305 of the San Francisco Planning Code, permits under Article 1 of Part III of the San
9 Francisco Municipal Code, discretionary review of permits under Section 26 of Article 1 of
10 Part III of the San Francisco Municipal Code, subdivision approvals under the San Francisco
11 Subdivision Code, permit approvals under the San Francisco Public Works Code, and any
12 actions authorized under law by the Board of Appeals, the Building Inspection Commission,
13 the Health Commission, and other city entities, regardless of whether the laws or regulations
14 describing such discretionary authority specifically refer to the City entity's obligations under
15 this Chapter.

16 **SEC. 87.10. COMPLIANCE BY STATE-AUTHORIZED AGENCIES.** Upon the
17 effective date of this ordinance, the Mayor shall request, in writing, compliance with this
18 ordinance by any state-authorized agency operating solely within the City and County of San
19 Francisco and having authority over permits, funding, conditions of approval, or other matters
20 related to the development of dwellings.

21 ///

22 ///

23 ///

24 ///

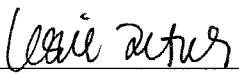
25 ///

SUPERVISOR TENG
BOARD OF SUPERVISORS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SEC. 87.11. SEVERABILITY. If any part or provision of this Chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the Chapter, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Chapter are severable.

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

By: 
Deputy City Attorney



City and County of San Francisco

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

Tails Ordinance

File Number: 990494

Date Passed:

Ordinance amending Administrative Code by adding Chapter 87, Sections 87.1 through 87.11, to describe federal, state and local fair housing laws which protect certain classes of individuals from housing discrimination that may occur through zoning laws, land use authorizations, funding decisions and other activities of local government; and to require and facilitate local compliance with such laws and promote housing opportunities for residents of San Francisco.

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. 990494

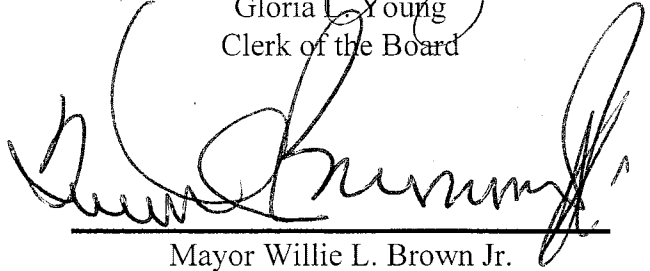
I hereby certify that the foregoing Ordinance
was FINALLY PASSED on November 22,
1999 by the Board of Supervisors of the City
and County of San Francisco.



Gloria L. Young
Clerk of the Board

DEC - 3 1999

Date Approved



Mayor Willie L. Brown Jr.