

FILE NO. 060151

ORDINANCE NO.

55-06

[Implementation of Proposition H, which prohibits the sale, manufacture or distribution of firearms and limits possession of handguns within the City and County of San Francisco, by placement in the Police Code and by enacting penalties for violation.]

Ordinance implementing Proposition H, which was enacted by the voters on November 8, 2005, and which prohibits the sale, distribution, transfer, and manufacture of firearms and ammunition and limits possession of handguns within the City and County of San Francisco, by placing the text of Proposition H in the Police Code and by enacting penalties for its violation.

Note: Additions are single-underline italics Times New Roman; deletions are ~~striketrough italics Times New Roman~~. Board amendment additions are double underlined. Board amendment deletions are ~~striketrough normal~~.

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

Section 1. The San Francisco Police Code is hereby amended by adding Article 36A, Sections 3600A and 3601A, to read as follows:

SEC. 3600A. STATEMENT OF FINDINGS AND TEXT OF ORDINANCE PROHIBITING THE SALE, MANUFACTURE AND DISTRIBUTION OF FIREARMS AND AMMUNITION IN THE CITY AND COUNTY OF SAN FRANCISCO AND LIMITING THE POSSESSION OF HANDGUNS IN THE CITY AND COUNTY OF SAN FRANCISCO.

This ordinance is enacted to implement an initiative ordinance approved by the electors of San Francisco as Proposition "H" at the election held on November 8, 2005. The provisions of Proposition "H" are set forth herein for convenience and may only be amended as provided by law. Proposition "H" reads as follows:

"Section 1. Findings

The people of the City and County of San Francisco hereby find and declare:

MAYOR
BOARD OF SUPERVISORS

1 1. Handgun violence is a serious problem in San Francisco. According to a
2 San Francisco Department of Public Health report published in 2002, 176 handgun incidents
3 in San Francisco affected 213 victims in 1999, the last year for which data is available. Only
4 26.8% of firearms were recovered. Of all firearms used to cause injury or death, 67% were
5 handguns.

6 2. San Franciscans have a right to live in a safe and secure City. The presence of
7 handguns poses a significant threat to the safety of San Franciscans.

8 3. It is not the intent of the people of the City and County of San Francisco to affect
9 any resident of other jurisdictions with regard to handgun possession, including those who
10 may temporarily be within the boundaries of the City and County.

11 4. Article XI of the California Constitution provides Charter created counties with
12 the "home rule" power. This power allows counties to enact laws that exclusively apply to
13 residents within their borders, even when such a law conflicts with state law or when state law
14 is silent. San Francisco adopted its most recent comprehensive Charter revision in 1996.

15 5. Since it is not the intent of the people of the City and County of San Francisco to
16 impose an undue burden on inter-county commerce and transit, the provisions of Section 3
17 apply exclusively to residents of the City and County of San Francisco.

18 "Section 2. Ban on Sale, Manufacture, Transfer or Distribution of Firearms in the City
19 and County of San Francisco

20 Within the limits of the City and County of San Francisco, the sale, distribution,
21 transfer and manufacture of all firearms and ammunition shall be prohibited.

22 "Section 3. Limiting Handgun Possession in the City and County of San Francisco

23 Within the limits of the City and County of San Francisco, no resident of the City and
24 County of San Francisco shall possess any handgun unless required for professional
25

1 purposes, as enumerated herein. Specifically, any City, state or federal employee carrying out
2 the functions of his or her government employment, including but not limited to peace officers
3 as defined by California Penal Code Section 830 et.seq. and animal control officers may
4 possess a handgun. Active members of the United States armed forces or the National Guard
5 and security guards, regularly employed and compensated by a person engaged in any lawful
6 business, while actually employed and engaged in protecting and preserving property or life
7 within the scope of his or her employment, may also possess handguns. Within 90 days from
8 the effective date of this section, any resident of the City and County of San Francisco may
9 surrender his or her handgun at any district station of the San Francisco Police Department,
10 or to the San Francisco Sheriff's Department without penalty under this section.

11 "Section 4. Effective Date

12 This ordinance shall become effective January 1, 2006.

13 "Section 5. Penalties

14 Within 90 days of the effective date of this section, the Board of Supervisors shall
15 enact penalties for violations of this ordinance. The Mayor, after consultation with the District
16 Attorney, Sheriff and Chief of Police shall, within 30 days from the effective date, provide
17 recommendations about penalties to the Board.

18 "Section 6. State Law

19 Nothing in this ordinance is designed to duplicate or conflict with California state law.
20 Accordingly, any person currently denied the privilege of possessing a handgun under state
21 law shall not be covered by this ordinance, but shall be covered by the California state law
22 which denies that privilege. Nothing in this ordinance shall be construed to create or require
23 any local license or registration for any firearm, or create an additional class of citizens who
24 must seek licensing or registration.

1 "Section 7. Severability

2 If any provision of this ordinance or the application thereof to any person or
3 circumstances is held invalid or unconstitutional, such invalidity or unconstitutionality shall not
4 affect other provisions or applications of this ordinance which can be given effect without the
5 invalid or unconstitutional provision or application. To this end, the provisions of this ordinance
6 shall be deemed severable.

7 "Section 8. Amendment

8 By a two-thirds vote and upon making findings, the Board of Supervisors may amend
9 this ordinance in the furtherance of reducing handgun violence."
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11 SEC. 3601A. PENALTY FOR SALE, DISTRIBUTION, TRANSFER, AND MANUFACTURE OF
12 FIREARMS AND AMMUNITION OR POSSESSION OF HANDGUNS WITHIN CITY AND COUNTY
13 OF SAN FRANCISCO.

14 (a) In enacting Proposition "H" the voters required the Board of Supervisors to enact penalties
15 for its violation. The following sections set forth the penalties for violation of Proposition H.


16 (b) Any person who shall violate the provisions of Police Code Section 3600A that prohibit the
17 sale, distribution, transfer and manufacture of all firearms and ammunition within the limits of the City
18 and County of San Francisco or that prohibit the possession of any handgun within the limits of the
19 City and County of San Francisco shall be guilty of a misdemeanor and upon conviction shall be
20 punished by a fine not to exceed \$1,000 and by imprisonment in the County Jail not to exceed six
21 months, or by both.

22 (c) Any firearm or ammunition sold, distributed, transferred, or manufactured or any handgun
23 possessed within the City and County of San Francisco in violation of the provisions of Police Code
24 Section 3600A is hereby declared to be a nuisance, and shall be surrendered to the Police Department
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1 of the City and County of San Francisco. The Chief of Police is authorized to seize such firearms,
2 ammunition and handguns and shall destroy or cause to be destroyed such firearms, ammunition and
3 handguns, except upon the certificate of a judge of a court of record, or of the District Attorney that the
4 preservation thereof is necessary or proper to the ends of justice.

5 (d) This Section shall be enforced to the full extent of the authority of the City and County of
6 San Francisco. If any subsection, sentence, clause, phrase, or word of this Section or the application
7 thereof to any person or circumstances is held invalid or unconstitutional, such invalidity or
8 unconstitutionality shall not affect other provisions or applications of this Section which can be given
9 effect without the invalid or unconstitutional provision or application. To this end, the provisions of this
10 section shall be deemed severable.

11
12 APPROVED AS TO FORM:
13 DENNIS J. HERRERA, City Attorney

14 By: 
15 LINDA M. ROSS
16 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: 060151

Date Passed:

Ordinance implementing Proposition H, which was enacted by the voters on November 8, 2005, and which prohibits the sale, distribution, transfer, and manufacture of firearms and ammunition and limits possession of handguns within the City and County of San Francisco, by placing the text of Proposition H in the Police Code and by enacting penalties for its violation.

March 14, 2006 Board of Supervisors — PASSED ON FIRST READING

Ayes: 10 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell,
Mirkarimi, Peskin, Sandoval

Excused: 1 - McGoldrick

March 21, 2006 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell,
McGoldrick, Mirkarimi, Peskin, Sandoval

File No. 060151

I hereby certify that the foregoing Ordinance
was **FINALLY PASSED** on March 21, 2006
by the Board of Supervisors of the City and
County of San Francisco.

MAR 31 2006

Date Approved

Kay Gulberg

Gloria L. Young
Clerk of the Board

[Signature]

Mayor Gavin Newsom