

1 [Repealing local assault weapons prohibition.]

2  
3 **Ordinance repealing Article 35A of the City and County of San Francisco Police Code,**  
4 **relating to the possession, sale, or transfer of assault weapons, in light of subsequent**  
5 **legislation by the State of California to regulate the possession, sale, transfer,**  
6 **manufacture, importation, distribution, and transportation of assault weapons.**

7 Note: Additions are *single-underline italics Times New Roman*;  
8 deletions are *strikethrough italics Times New Roman*.  
9 Board amendment additions are double underlined.  
Board amendment deletions are ~~strikethrough normal~~.

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

11 Section 1. The Board of Supervisors hereby finds:

12 (1) As of May 1989, no laws of the State of California specifically regulated the  
13 possession, sale, or transfer of firearms known as assault weapons.

14 (2) In order to regulate the possession, sale, and transfer of assault weapons within the  
15 City and County of San Francisco, the Board of Supervisors, in May 1989, adopted Ordinance  
16 170-89, which added Article 35A, Sections 3500A.1 through 3500A.7, inclusive, to the San  
17 Francisco Police Code. In Section 3500A.1 of the San Francisco Police Code, the Board  
18 found that “[e]xisting state statutory provisions do not specifically restrict the sale and  
19 possession of semiautomatic assault firearms.”

20 (3) After the Board of Supervisors adopted Ordinance 170-89, the State of California  
21 adopted the Roberti-Roos Assault Weapons Control Act of 1989 (the “Assault Weapons  
22 Control Act”), codified at Sections 12275 through 12290, inclusive, of the California Penal  
23 Code. The Assault Weapons Control Act regulates the possession, sale, transfer,  
24 manufacture, distribution, transportation, and importation of assault weapons throughout the  
25

1 State of California. In 2000, the California Supreme Court upheld the constitutionality of the  
2 Assault Weapons Control Act in *Kasler v. Lockyer* (2000) 23 Cal.4<sup>th</sup> 472.

3 (4) The Board of Supervisors reaffirms its finding that the proliferation and uncontrolled  
4 use of assault weapons pose a serious threat to the health, safety, welfare and security of the  
5 residents of the City and County of San Francisco. In light of the State of California's adoption  
6 of the Assault Weapons Control Act, however, the Board of Supervisors hereby finds that  
7 Article 35A of the San Francisco Police Code is no longer necessary, and should be repealed.

8 Section 2. San Francisco Police Code Article 35A, Sections 3500A.1 through 3500A.7,  
9 inclusive, is hereby repealed as follows:

10 **~~SEC. 3500A.1. FINDINGS.~~**

11 ~~———— The Board of Supervisors hereby finds:~~

12 ~~———— (1) ——— The proliferation and uncontrolled use of assault weapons pose a serious~~  
13 ~~threat to the health, safety, welfare and security of the residents of the City and County of San~~  
14 ~~Francisco, the most densely populated city or county in the State of California. The danger of~~  
15 ~~assault weapons increases in proportion to population density. Thus, there is no community in~~  
16 ~~the state where assault weapons pose a particularly greater danger than in the City and~~  
17 ~~County of San Francisco.~~

18 ~~———— (2) ——— Evidence indicates that assault weapons have virtually no socially~~  
19 ~~acceptable utility in a densely populated urban community and are used primarily as offensive~~  
20 ~~weapons to cause injury and death to human beings.~~

21 ~~———— (3) ——— Existing state statutory provisions do not specifically restrict the sale and~~  
22 ~~possession of semiautomatic assault firearms.~~

23 ~~———— (4) ——— Commercial availability and possession of a variety of types of~~  
24 ~~semiautomatic firearms for civilian use, even for self-defense, pose enormous risks of injury~~  
25 ~~and death to many innocent citizens.~~

1           ~~(5) There is paramount local interest in protecting the public peace, health,~~  
2 ~~and safety of the City and County of San Francisco by restricting the sale and possession of~~  
3 ~~assault weapons.~~

4           **SEC. 3500A.2. DEFINITIONS.**

5           ~~(a) For the purpose of this section, "assault weapon" shall include:~~

6           ~~(1) Any semiautomatic action, center-fire rifle or carbine that accepts a~~  
7 ~~detachable magazine with a capacity of six rounds or more, including but not limited to the~~  
8 ~~following firearms or firearms resembling or are copies of the following: AR 15 semiautomatic~~  
9 ~~assault rifles, Uzi semiautomatic assault rifles or carbines, Heckler and Koch 93~~  
10 ~~semiautomatic assault rifles, Heckler and Koch 91 semiautomatic assault rifles, AK-47~~  
11 ~~semiautomatic assault rifles, all Avtomat Kalashnikov weapons, M1-A semiautomatic assault~~  
12 ~~rifles, Thompson semiautomatic carbines, M-1 carbine;~~

13           ~~(2) Any shotguns with a barrel of less than 18 inches and a folding stock or~~  
14 ~~magazine capacity of more than six rounds;~~

15           ~~(3) Any weapon that may be restored to an operable assault weapon, as~~  
16 ~~defined above in Paragraphs (1) and (2); and~~

17           ~~(4) Any part, or combination of parts, designed or intended to convert a~~  
18 ~~weapon into an assault weapon, as defined in Subsections (1) and (2), or any combination of~~  
19 ~~parts from which an assault weapon may be readily assembled, if those parts are in the~~  
20 ~~possession or under the control of the same person.~~

21           ~~(b) As used in this Section, the term "semiautomatic" means a weapon that~~  
22 ~~fires a single projectile for each single pull of the trigger and that employs a magazine.~~

23           ~~(c) The term "assault weapon" does not include any of the following:~~

24           ~~(1) Any of the weapons generally and specifically described in the above~~  
25 ~~Subsections (1) and (2) which is a "machine gun," as defined by provisions of Section 12200~~

1 ~~of the Penal Code of the State of California; any pistol, revolver or other firearm which is~~  
2 ~~capable of being concealed upon one's person, as defined by provisions of Section 12001 of~~  
3 ~~the Penal Code and regulated by the provisions of Sections 12021 and 12025 of the Penal~~  
4 ~~Code of the State of California;~~

5 ~~———(2)—— Weapons that do not use fixed ammunition, weapons which were~~  
6 ~~manufactured prior to 1898, manually operated bolt-action weapons, lever action weapons,~~  
7 ~~slide action weapons, single-shot weapons, multiple-barrel weapons, revolving cylinder~~  
8 ~~weapons, semiautomatic weapons which use exclusively Mannlicher-style clips,~~  
9 ~~semiautomatic weapons manufactured prior to 1954, rim-fire weapons that employ a tubular~~  
10 ~~magazine;~~

11 ~~———(3)—— Any assault weapon which is an antique, or relic firearm or other weapon~~  
12 ~~falling within the specifications of Paragraphs (5), (7) and (8) of Subdivision (b) of Section~~  
13 ~~12020 of the Penal Code of the State of California;~~

14 ~~———(4)—— Any short-barreled rifle or shotgun as defined in Subdivision (c) of Section~~  
15 ~~12020 of the Penal Code; or~~

16 ~~———(5)—— Any assault weapon which has been modified either to render it~~  
17 ~~permanently inoperable or to permanently make it a device no longer defined as an assault~~  
18 ~~weapon.~~

19 **~~SEC. 3500A.3. UNLAWFUL CONDUCT — PENALTY.~~**

20 ~~——— Except as provided herein, no person, including but not limited to wholesale and~~  
21 ~~retail gun dealers, shall sell, offer for sale, transfer, or possess any assault weapon. Any~~  
22 ~~person who sells, offers for sale, transfers, or possesses any assault weapon in the City and~~  
23 ~~County of San Francisco in violation of this Article is guilty of a misdemeanor.~~

24 **~~SEC. 3500A.4. CONFISCATION AND DESTRUCTION OF ASSAULT WEAPONS.~~**

1           ~~Any assault weapon sold, transferred, or possessed by any person and found to~~  
2 ~~be in violation of the provisions of this Article, shall be ordered confiscated as contraband by~~  
3 ~~the Court and the Police Department shall be directed to destroy the assault weapon so as to~~  
4 ~~render it unsuitable and unrepairable as a firearm.~~

5           ~~**SEC. 3500A.5. GRACE PERIOD FOR LAWFULLY POSSESSED ASSAULT**~~  
6 ~~**WEAPONS.**~~

7           ~~(a) Any person or other entity in the City and County of San Francisco which~~  
8 ~~is in lawful possession of an assault weapon, at the time of the effective date of this~~  
9 ~~ordinance, may continue to possess the firearm for a period of 30 days after the Mayor~~  
10 ~~approves the ordinance, in order to provide a reasonable time for the orderly disposition of~~  
11 ~~assault weapons, which may include transferring title of the weapon to a dealer licensed~~  
12 ~~pursuant to Article 4 of the State of California Penal Code, commencing at Section 12250, or~~  
13 ~~to the San Francisco Police Department, or their modification to render them permanently~~  
14 ~~inoperable.~~

15           ~~(b) Notwithstanding the provisions of Section 35A.3, any person who obtains~~  
16 ~~title to an assault weapon by bequest or intestate succession may retain possession for a~~  
17 ~~period of time not to exceed 90 days, and shall within that time transfer title of the weapon to a~~  
18 ~~dealer licensed pursuant to Article 4 of the State of California Penal Code, commencing at~~  
19 ~~Section 12250, or to the San Francisco Police Department.~~

20           ~~**SEC. 3500A.6. EXCEPTIONS FROM THIS ARTICLE'S PROHIBITIONS.**~~

21           ~~(a) Nothing in this Section shall prohibit the acquisition, possession, or~~  
22 ~~disposition of assault weapons by any person as otherwise authorized by state or federal law~~  
23 ~~for use in the discharge of official duties; nor shall any of these provisions prohibit the~~  
24 ~~possession of assault weapons or magazines therefor by lawfully authorized officers,~~  
25

1 ~~employees, or agents when on duty and the possession of an assault weapon is authorized~~  
2 ~~and within the scope of their duties.~~

3 ~~————(b)————The provisions of this Section shall not apply to the possession of any~~  
4 ~~assault weapon when such possession is prohibited by the provisions of Section 12031 of the~~  
5 ~~California Penal Code or Section 2010 of the California Fish and Game Code.~~

6 ~~————(c)————Notwithstanding the provisions of Paragraph (a) of this Section:~~

7 ~~————(1)————An assault weapon may be maintained in the possession of an entity or~~  
8 ~~establishment engaged in the business of motion picture, television or video production, but~~  
9 ~~only for the purpose of being utilized as a prop during the course of motion picture, television~~  
10 ~~or video production by an authorized agent or employee of the entity or establishment, and~~  
11 ~~only if the entity or establishment properly secures such assault weapon from an authorized~~  
12 ~~source; and~~

13 ~~————(2)————An assault weapon may be possessed by any federal, state or local~~  
14 ~~historical society, museum or institutional collection which is open to the public, provided any~~  
15 ~~such weapon is properly housed, secured from unauthorized handling and is unloaded.~~

16 **~~SEC. 3500A.7. SEVERABILITY.~~**

17 ~~————If any Section, Subsection, sentence, clause or phrase of this Article is for any~~  
18 ~~reason held to be unconstitutional, or invalid, such decision shall not affect the validity of the~~  
19 ~~remaining portions of this Article. In adopting this ordinance, the Board of Supervisors does~~  
20 ~~not intend to duplicate or preempt any state or federal laws that may regulate the provisions of~~  
21 ~~this ordinance.~~

22  
23 APPROVED AS TO FORM:  
24 DENNIS J. HERRERA, City Attorney

25 By:   
WAYNE SNODGRASS  
Deputy City Attorney

SUPERVISORS GONZALEZ, PESKIN  
BOARD OF SUPERVISORS



# City and County of San Francisco

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

## Tails Ordinance

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**File Number:** 021814

**Date Passed:**

Ordinance repealing Article 35A of the City and County of San Francisco Police Code, relating to the possession, sale, or transfer of assault weapons, in light of subsequent legislation by the State of California to regulate the possession, sale, transfer, manufacture, importation, distribution, and transportation of assault weapons.

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December 9, 2002 Board of Supervisors — PASSED ON FIRST READING

Ayes: 9 - Ammiano, Daly, Gonzalez, Hall, Maxwell, McGoldrick, Newsom,  
Peskin, Sandoval

December 16, 2002 Board of Supervisors — FINALLY PASSED

Ayes: 10 - Ammiano, Dufty, Gonzalez, Hall, Ma, Maxwell, McGoldrick, Newsom,  
Peskin, Sandoval  
Absent: 1 - Daly


File No. 021814

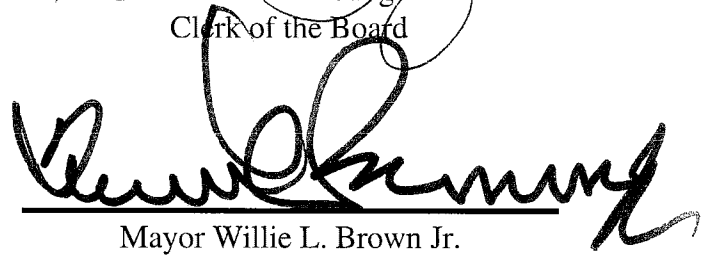
I hereby certify that the foregoing Ordinance was FINALLY PASSED on December 16, 2002 by the Board of Supervisors of the City and County of San Francisco.

DEC 20 2002

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Date Approved

  
Gloria L. Young  
Clerk of the Board

  
Mayor Willie L. Brown Jr.