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IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

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SAN FRANCISCO DIVISION

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ESPANOLA JACKSON, PAUL COLVIN,) CASE NO. C09-2143 RS

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THOMAS BOYER, LARRY BARSETTI,)

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DAVID GOLDEN, NOEMI MARGARET)

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ROBINSON, NATIONAL RIFLE)

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ASSOCIATION OF AMERICA, INC. SAN)

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FRANCISCO VETERAN POLICE)

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OFFICERS ASSOCIATION,)

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Plaintiffs)

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vs.)

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CITY AND COUNTY OF SAN)

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FRANCISCO, MAYOR GAVIN)

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NEWSOM, in his official capacity; POLICE)

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CHIEF GEORGE GASCÓN, in his official)

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capacity, and Does 1-10,)

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Defendants.)

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DECLARATION OF CLINTON B. MONFORT IN SUPPORT OF PLAINTIFFS' SUPPLEMENTAL BRIEF IN OPPOSITION TO MOTION TO DISMISS

Hearing Date: April 28, 2011
Time: 1:30 p.m.
Place: Courtroom 3, 17th Fl.

Hon. Richard Seeborg

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

ESPANOLA JACKSON, PAUL COLVIN,) **CASE NO.: CV-09-2143-PJH**
THOMAS BOYER, LARRY BARSETTI,)
DAVID GOLDEN, NOEMI MARGARET)
ROBINSON, NATIONAL RIFLE)
ASSOCIATION OF AMERICA, INC. SAN)
FRANCISCO VETERAN POLICE)
OFFICERS ASSOCIATION,)

Plaintiffs

vs.

CITY AND COUNTY OF SAN)
FRANCISCO, MAYOR EDWIN LEE, in)
his official capacity; ACTING POLICE)
CHIEF JEFF GODOWN, in his official)
capacity, and Does 1-10,)

Defendants.

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 180 E. Ocean Blvd., Suite 200, Long Beach, California, 90802.

I am not a party to the above-entitled action. I have caused service of:
**DECLARATION OF CLINTON B. MONFORT IN SUPPORT OF PLAINTIFFS’
SUPPLEMENTAL BRIEF IN OPPOSITION TO MOTION TO DISMISS**
on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

Wayne Snodgrass, Deputy City Attorney
Sherri Sokeland Kaiser, Deputy City Attorney
sherri.kaiser@sfgov.org
City and County of San Francisco
Office of the City Attorney
City Hall 1 Drive Carlton B.
San Francisco, CA 94102

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 15, 2011.

_____/S/_____
C. D. Michel
Attorney for Plaintiffs

EXHIBIT A

TO

**REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF DEFENDANTS' MOTION TO
DISMISS AMENDED COMPLAINT FOR LACK OF JURISDICTION**

GENERAL ORDERS

OF THE

Board of Supervisors

PROVIDING REGULATIONS FOR THE GOVERNMENT

CITY AND COUNTY OF SAN FRANCISCO

(To November 10th, 1898)

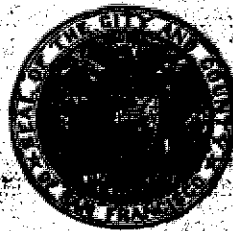
INCLUDING ORDER No. 131 (FOURTH SERIES.)

ALSO

ORDINANCE OF PARK COMMISSIONERS

AND

Rules and Regulations Adopted by the Board of Health



SAN FRANCISCO:

PHILLIPS & SMYTH, PRINTERS, 518 CLAY STREET.

1898.

BOARD OF SUPERVISORS.

23

The Sheriff is hereby empowered and required to feed any refractory prisoner or prisoners on a diet of bread and water during the time that such prisoner or prisoners refuse to labor, or does not labor on said public works when required, or otherwise violate the discipline of the jail, and to inflict upon such prisoner or prisoners such other and additional punishment by solitary confinement as may be deemed necessary and proper, in the judgment of the Committee on Health and Police, during the time that such prisoner or prisoners remain refractory.

Each and every male prisoner incarcerated or imprisoned in the County Jail of this city and county, under and pursuant to a judgment or conviction had by any court having jurisdiction of criminal cases in this city and county, shall, immediately upon their arrival at said County Jail, under and pursuant to a judgment or sentence as aforesaid, have the hair of their head cut or clipped to a uniform length of one inch from the scalp thereof. It shall be and is hereby made the duty of the Sheriff to have enforced the provisions of this [Section] Order.

In Board of Supervisors, San Francisco, September 13, 1880.

After having been published five successive days, according to law, taken up and passed by the following vote:

Ayes—Supervisors Schottler, Mason, Litchfield, Whitney, Eastman, Fraser, Taylor, Doane, Bayly, Torrey.

Absent—Supervisors Drake, Stetson.

JNO. A. RUSSELL, Clerk.

Approved, San Francisco, September 17, 1880.

I. S. KALLOCH,

Mayor and ex-officio President Board of Sup.

ORDER No. 1,587.

PROHIBITING OFFENSIVE TRADES, OCCUPATIONS AND NUISANCES, AND DEFINING MISDEMEANORS.

The People of the City and County of San Francisco do ordain as follows:

[Penalty.]

Section 1. Any person violating any of the provisions of this

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GENERAL ORDERS OF THE

Order shall be deemed guilty of a misdemeanor, and be punished by a fine not exceeding one thousand dollars, or imprisonment not exceeding six months, or by both such fine and imprisonment.

[Slaughter Houses, Hog Ranches, Tallow Factories, etc., Still Slops and Unwholesome Milk, etc.]

Section 7. No person shall:

- Establish or maintain any slaughter house;
- Slaughter cattle, hogs, calves, sheep, or any other kind of animals;
- Expose, maintain or carry on any other business or occupation offensive to the senses, or prejudicial to the public health or comfort.

Within the limits of the City and County of San Francisco, except within that tract of land described as follows: Commencing at the intersection of the easterly line of Kentucky street with the southwesterly line of First avenue South; thence southeasterly along the southwesterly line of First avenue South to the northwesterly line of I street South; thence southwesterly along the northwesterly line of I street South to the southwesterly line of Seventh avenue South; thence northwesterly along the southwesterly line of Seventh avenue South to the southeasterly line of Railroad avenue; thence northeasterly along the southeasterly line of Railroad avenue to Kentucky street; thence northerly along the easterly line of Kentucky street to the southwesterly line of First avenue South and place of commencement.

Within the tract of land last aforesaid no person shall keep any number of hogs or other animals in such a manner as to be offensive to the senses or prejudicial to the public health or comfort.

No person shall:

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Within the limits of the City and County of San Francisco, except within the tract of land bounded and described as follows: Commencing at the intersection of the easterly line of Kentucky street and the southwesterly line of First avenue South; thence southeasterly along the line of First avenue South to I street South; thence southwesterly along the northwesterly line of I street South to the bay shore; thence westerly along the line of the bay shore to the southeasterly line of Railroad avenue; thence northeasterly along the southeasterly line of Railroad avenue to Kentucky street; thence northerly along the easterly line of Kentucky street to First avenue South and place of commencement.

No person shall:

Feed, or cause to be fed, to any milch cow any still slops or other

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Section 14.

BOARD OF SUPERVISORS.

[To Prohibit the Hauling of Loads exceeding ten thousand pounds in weight, and to Regulate the Width of the Tires of certain Vehicles.]

Section 11. No person shall cause or permit to be carried, hauled, or drawn on any truck, dray, or other vehicle belonging to him or in his charge, or under his control, any load exceeding ten thousand pounds in weight; provided, the hauling or moving of a single article weighing more than ten thousand pounds, which cannot be divided or reduced in weight, shall not be prohibited by this section.

No person shall cause or permit to be carried, hauled or drawn on any truck, dray, or other vehicle belonging to him, or in his charge, or under his control, any load exceeding four thousand pounds in weight, unless the tires to the wheels of such truck, dray or other vehicle shall be at least four inches in width, when a load exceeding four thousand pounds, and not exceeding seven thousand pounds, is carried; and at least five (5) inches in width, when a load exceeding seven thousand pounds, and not exceeding ten thousand pounds, is carried.

[Washing Animals and Vehicles, and repairing Vehicles on Streets within certain limits prohibited.]

Section 12. No person shall wash, or caused to be washed, any horse, mule, or other animal, or any carriage or any other vehicle in any public street in this city and county, east of the line of Van Ness avenue to Market street; thence along the southwesterly line of Market street to Ninth street; thence along the northeasterly line of Ninth street to the bay, between the hours of eight o'clock a. m., and ten o'clock, p. m.

No person shall construct or repair any wheeled vehicle, or the wheels or tires of any vehicle, upon a public street within the limits mentioned in this section.

[Standing of Vehicles on Public Streets, Lanes, etc.]

Section 13. No person owning, driving, or having control of any wheeled vehicle, excepting hand-carts, shall allow the same to stand or remain, while unharnessed for more than one hour, at any time between the hours of daylight in the morning and sunset, on any sidewalk or public ground, or in any public street, lane, alley, place or court, within the limits mentioned in section twelve of this chapter.

[Horses Afflicted with Glanders.]

Section 14. First—Any person who shall keep or have in his

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GENERAL ORDERS OF THE

possession, within this city and county, any horse afflicted with the disease known as the glanders, shall, within twenty-four hours after having knowledge or being notified thereof by any person, kill and bury the same, or remove it without the limits of this city and county.

[Prohibiting the Sale or Use of Animals having Glanders or any Infectious Disease.]

Second—Any person who shall knowingly sell, or offer for sale, or use or expose, or who shall cause or procure to be sold, or offered for sale, or used, or to be exposed, any horse, or other animal, having the disease known as glanders or farcy, or any other contagious or infectious disease, by such person known to be dangerous to human life, or which shall be diseased past recovery, shall be guilty of a misdemeanor.

[Animals having Glanders or Farcy to be Deprived of Life.]

Third—Every animal having glanders or farcy shall at once be deprived of life by the owner, or person having charge thereof, upon discovery or knowledge of its condition; and any such owner or person omitting or refusing to comply with the provisions of this section, shall be guilty of a misdemeanor.

[Horses, etc., must be fastened, and wheels locked—Fastening to Lamp Posts, Hydrants and Trees forbidden—Trucks, Drays and Carts must have Lock-chains.]

Section 15. No person having or using any animal:

Shall leave the same without securely fastening the same, except it be attached to a dray, truck or water cart; or, if attached to a dray, truck or water-cart, shall leave such animal without first securely locking the wheels of the vehicle to which it is attached.

No person shall:

Hitch or fasten any animal to, or place any placard or notice upon, or otherwise destroy or injure any lamp-post, hydrant, or any growing or living tree, or any box or case around such tree;

Drive or use any truck, dray, cart, or water-cart, without having attached to the body thereof a suitable chain for locking the wheels thereof.

Any animal hitched or fastened, or left unfastened, in violation of this section may be impounded.

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BOARD OF SUPERVISORS.

[Injuring Public Lamp-Posts or Street Guides—Extinguishing Lights—Vehicles or Beasts of Burden on Sidewalks or Street Crossings; and Prohibiting Street Cars from Obstructing Street Crossings— or Ring Bells or Gongs when not in Motion.]

Section 16. No person shall:

Break or injure any public lamp-post; extinguish during the night any public light, or any light maintained at any place for public convenience or safety, or in compliance with any of the provisions of law or the orders of the Board of Supervisors; except he be authorized so to do; remove or cause the removal of any street guide, or any portion thereof from any public lamp-post; obliterate, deface, destroy or interfere with any street guide, or any portion thereof, upon or attached to any public lamp-post.

Drive, wheel or draw upon any public sidewalk any vehicle except hand-carriages for children.

No person having the charge or control of any beast of burden shall cause or permit the same to stand or go upon any public sidewalk or to stand upon any street crossing, or upon the crosswalks thereof, or so near a street crossing or the crosswalks thereof as to obstruct the same; nor shall any driver, engineer or conductor of any street car permit such car to stop or remain upon any street crossing or upon the crosswalks thereof so as in any manner to obstruct the travel over such crossing or crosswalks; provided, however, that the foregoing provision shall not apply to cable lines, where the grade of the street is such that the car cannot be stopped beyond a crossing on account of the incline of the street.

No bell or gong of any street car shall be rung or sounded when such car is not in motion, except for the purpose of giving the usual signal for starting; nor shall such starting signal be sounded unless for the purpose of actually starting said car in motion. (As amended May 7, 1888, by Order No. 1716.)

[Prohibiting Interference with Fire Alarm and Police Telegraph Boxes.]

Section 17. No person shall put or place, maintain or suffer to be or remain, any article, thing or matter on or upon the sidewalk, so as to obstruct or interfere with the free access or approach to any signal box of the Fire Alarm and Police Telegraph.

[Houses Not to be Moved Without Permit—Conditions.]

No person shall move any house or building in, on, upon, across or along or into any street or streets in this city and county without first obtaining permission so to do from this Board, designating

GENERAL ORDERS OF THE

the street or streets and portions of streets, and the time in and during which said house or building may be moved; and no permission shall be granted or be of any force or effect unless the following conditions are strictly complied with and observed:

First—That all applications to move a house or building, as aforesaid, must contain a certificate of some competent architect or builder, stating the value of the house or building proposed to be moved.

Second—That upon the granting of any permission by this Board the same shall be of no force or effect until security in coin not exceeding one hundred (\$100) dollars is deposited in the office of the Superintendent of Public Streets to defray any expense incurred in repairing the street or streets or portions of streets, the surface of which may be torn up or disturbed in consequence of the moving of any house or building.

Also, a further sum not exceeding twenty-five (\$25) dollars in coin is deposited with the Superintendent of the Fire Alarm and Police Telegraph to defray all expenses of said Superintendent in taking charge of, taking down, removing, fixing and repairing said telegraph or any portion thereof, or any damage thereto, in consequence of the moving or removal of any house or building.

Third—On the granting of permission by this Board, and on making the deposits of money herein provided for, the said work of moving a house or building may be proceeded with under the direction and to the satisfaction of the Superintendent of Streets; provided, that no permit granted under the provisions of this section shall be valid after a period of fifteen days from the date of its approval.

[Permit not to be given unless a deposit of money is made with the Superintendent to cover Expenses of fixing and repairing telegraph.]

The Superintendent of Public Streets and Highways and the Chairman of the Committee on Fire Department shall not give permission for the moving or removal of any house or building, unless security in coin, not exceeding twenty-five dollars, is first given to the Superintendent of the Fire Alarm and Police Telegraph to defray all expenses of said Superintendent in taking charge of, taking down, removing, fixing and repairing said telegraph, or any portion thereof, or any damage thereto, in consequence of the moving or removal of the house or building.

[Injury to Fire Alarm and Police Telegraph, Fitting Key to Lock of Signal Box, False Alarms, etc.]

No person shall:

Break, remove or Fire Alarm and Police Telegraph of the Superintendent

Make or fit any key, and Police Telegraph

Have or retain in long to or fitted to lawful authority so

Pick or force the lock or consent of the Superintendent

Willfully make, or false or frivolous call wagon, by means of

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Whenever it shall be lawful object, to remove Fire Alarm and Police Telegraph to the Superintendent at the office thereof, before it shall be necessary of said Fire Alarm which and the man interfere with or disturb given between the hours

If the Superintendent take charge of and supervise, the person giving may proceed, and, when Superintendent, take down a portion thereof, by the Superintendent, shall, in the afternoon, at six o'clock in the evening Order No. 2399, approved

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Section 18. It shall be unlawful for any car, or train of cars, to travel in any direction within the city between sunset and sunrise, lamps, such as are placed in front of such

BOARD OF SUPERVISORS.

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Break, remove or injure any of the parts or appurtenances of the Fire Alarm and Police Telegraph without authority or permission of the Superintendent thereof;

Make or fit any key to the lock of any signal box of the Fire Alarm and Police Telegraph;

Have or retain in his possession, or under his control, a key belonging to or fitted to open the lock of any such signal box, without lawful authority so to do;

Pick or force the lock of any such signal box without the authority or consent of the Superintendent of said Telegraph;

Willfully make, or cause to be made, any false alarm of fire, or any false or frivolous call for police assistance or for the police patrol wagon, by means of said telegraph or otherwise.

[Notice of Removal of any Portion of Telegraph.]

Whenever it shall be necessary for any person, in the pursuit of a lawful object, to remove, interfere with or disturb any portion of the Fire Alarm and Police Telegraph, he shall give or cause to be given, to the Superintendent of said telegraph, or to the operator on duty at the office thereof, a notice, which shall be given at least two hours before it shall be necessary to interfere with or disturb any portion of said Fire Alarm and Police Telegraph, stating the locality at which and the manner in which it shall be necessary to remove, interfere with or disturb the same; provided, no such notice shall be given between the hours of 4 o'clock, p. m., and 6 o'clock, a. m.

If the Superintendent shall not, within six hours after such notice, take charge of and attend to such removal, disturbance or interference, the person giving, or causing to be given, the notice aforesaid, may proceed, and, without the authority or consent of said Superintendent, take down and remove any portion of said telegraph; provided, that no such removal or taking down of the telegraph, or any portion thereof, by any person or persons other than said Superintendent, shall, in any event, take place between the hours of 4 o'clock in the evening and 8 o'clock in morning. (As amended by Order No. 2399, approved June 23, 1891.)

[Providing for the Use of Lamps by Railroad Companies.]

Section 19. It shall be unlawful for any locomotive engine, tender, car, or train of cars driven or propelled by steam, to move in any direction within the limits of the City and County of San Francisco, between sunset and sunrise, without having one or more reflecting lamps, such as are generally used by steam cars, conspicuously placed in front of such engine, tender, car or train of cars, facing the

GENERAL ORDERS OF THE

direction in which it may be moving, or when backing in, on the first car, or of a train of cars, facing the direction to which the same is moving, so that the light may be fully reflected upon the track.

Any engineer, brakeman, driver, conductor or other person in charge, running or driving any engine, tender, car or train of cars without the light provided for, shall, upon conviction thereof, be fined in a sum not less than fifty nor more than two hundred dollars, or shall be imprisoned in the County Jail not less than ten nor more than thirty days.

Upon such conviction, the company or companies whose servant or agent shall be so convicted, shall be fined in a sum not less than one hundred dollars and not exceeding five hundred dollars.

[Brick Kilns—Burning Brick Prohibited within Certain Limits.]

Section 19. No person shall build or cause to be built any brick kiln, or burn or cause to be burned any brick within that portion of the city and county bounded by Steiner, Sanchez, Market and Seventeenth streets, Corbett and Ocean House Roads, [avenues] Bellevue, Thirteenth and Mission streets, Serpentine avenue, York, Twenty-fifth and Yojo streets and the waters of the bay. (As amended June 30, 1888, by Order No. 1868.)

[Disturb, etc., Lawful Procession or Assemblage or Funeral, etc. Exhibit, etc., Obscene, Lewd or Indecent Books, etc., or possess the same; Indecent Exposure, etc. Solicit or employ another to commit Public Offense, have any Slingshot or Knuckles; Lewd Solicitations, etc., be Drunk, etc.; Urinate or Stool Publicly.]

Section 20. No person shall, without authority of law, disturb, disquiet or interrupt any

1. School, or school procession;
2. Funeral, or funeral procession;
3. Lawful procession;
4. Assemblage of people met for the purpose of a funeral, or attending a funeral, or the burial of the dead.

No person shall:

3. Offer for sale, exhibit, pass, give or deliver to another any obscene, lewd or indecent book, pamphlet, picture, card, print, paper, writing, model, cast or figure, or have the same in his or her possession unless it is shown that the possession is innocent, or for a lawful purpose;

4. Circulate any pamphlets the diseases of

7. Appear in his or her sex,

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BOARD OF SUPERVISORS.

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6. Circulate or distribute, or cause to be circulated or distributed, any pamphlets, books or circulars treating of, or illustrating, any of the diseases of the sexual organs;

7. Appear in a public place naked, or in a dress not belonging to his or her sex, or in an indecent or lewd dress;

8. Make any indecent exposure of his or her person;

9. Be guilty of any lewd or indecent act or behavior;

10. Exhibit or perform any indecent, immoral or lewd play or other representation, or be present as a spectator at any such play or representation, or distribute, circulate or post upon any wall, fence or other public place, or print any bill or placard announcing the performance of any such play or representation;

11. Solicit, employ or engage another to commit a public offense;

12. Make use of or have in his possession any slingshot or other instrument or device by means of which missiles of any kind or description are hurled or projected;

13. Wear, or carry, any slingshot or knuckles, or instruments of a similar character;

14. Solicit, by words, gestures or knocks, any person passing or being on a public street or place, to enter any house for lewd purposes;

15. Be drunk in a public place, or place open to public view;

16. Be on any public highway, or in any public place in a state of drunkenness or intoxication, or be on any private premises or in any private house in a state of drunkenness or intoxication, to the annoyance of any other person. (As amended by Order No. 1694, approved November 16, 1882.)

[Bathing in the Waters of the Bay.]

Section 21. No person shall bathe in the waters of the Bay of San Francisco within the limits of the city and county,

Between the hours of seven and one-half o'clock, a. m., and sunset, without wearing a suitable bathing dress, or

On Sunday within three hundred yards of the shore or off any pier or wharf, between the hours of seven and one-half, a. m., and sunset.

[Discharging of Cannon—Permit to be Given by the Mayor—Discharge of Firearms, etc., Within Certain Limits Prohibited.]

Section 22. No person shall discharge any cannon within the limits

