

San Francisco Toxic Herbicides Reduction Act

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

SAN FRANCISCO
FILED

Section 1. Title This measure shall be known and may be cited as the “San Francisco Toxic Herbicides Reduction Act”.

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DEPARTMENT OF ELECTIONS

Section 2. Findings and Declarations The people of the City and County of San Francisco declare their findings and purposes in enacting this Initiative to be as follows:

WHEREAS, the City of San Francisco routinely uses high hazard herbicides on City properties, including parks and watersheds;

WHEREAS, glyphosate remains on the SF “Reduced Risk Pesticide List” and continues to be used after being classified as a “probable carcinogen” by the World Health Organization and placed by the State of California on its Proposition 65 list; after more than 100,000 lawsuits have been filed alleging that glyphosate caused plaintiffs’ cancers; and after \$2,325,000,000 in punitive damages have been awarded by juries in three concluded Roundup trial verdicts;

WHEREAS, herbicides are more toxic, dangerous, persistent, and mobile than their manufacturers disclose;

WHEREAS, the “danger” from weeds is aesthetic or ideological, rather than an actual danger to health and welfare;

WHEREAS, scientific studies associate exposure to herbicides with cancer, developmental and learning disabilities, nerve and immune system damage, liver and kidney damage, reproductive harm, birth defects, and disruption of the endocrine system;

WHEREAS, there is no safe level of exposure to these chemicals, due to their long-term persistence in soil, water, and animal tissue, so that even low levels of exposure is still harmful to humans, animals, and the environment;

WHEREAS, infants, children, pregnant women, the elderly, people with compromised immune systems and chemical sensitivities are especially vulnerable to herbicide effects and exposure;

WHEREAS, herbicides are harmful to pets, wildlife, including threatened and endangered species, soil microbiology, plants, and natural ecosystems;

WHEREAS, toxic runoff from herbicides pollutes streams and groundwater, and contaminates drinking water sources;

WHEREAS, people have a right to protection from involuntary exposure to herbicides in the air, water and soil that inevitably results from chemical drift and contaminated runoff;

WHEREAS, organic land management is possible and is practiced by other cities in California and the United States.

THEREFORE, BE IT RESOLVED by the people of San Francisco that only “Organic Certified Herbicides” or “EPA Minimum Risk Herbicides” be allowed for use on City property, with exemptions only for San Francisco International Airport’s airfields and for Harding Park Golf Course, which is under PGA contract;

BE IT FURTHER RESOLVED, that no other herbicide exemptions shall be granted for any other City property;

BE IT FURTHER RESOLVED, that all herbicides, except “Organic Certified Herbicides” or “EPA Minimum Risk Herbicides”, be immediately removed from the Reduced Risk Pesticide List with special exemptions for use only on San Francisco International Airport’s airfields and Harding Park Golf Course;

BE IT FURTHER RESOLVED, that all purchases by the City of such herbicides end immediately and any remaining stock be disposed of immediately, following the City’s hazardous waste disposal protocols, with exceptions of those to be used on San Francisco International Airport’s airfields and Harding Park Golf Course.

Section 3. San Francisco Toxic Herbicides Reduction Act.

NOTE: Unchanged Code text and uncodified text are in plain font. Additions are single-underline italics Times New Roman font. Deletions are strike-through italics Times New Roman font.

Section 300 of the San Francisco Environment Code is hereby amended as follows:

SEC. 300. PURPOSE AND FINDINGS.

(a) The Board of Supervisors hereby finds and declares that it shall be the policy of the City and County of San Francisco for City departments and City contractors who apply pesticides to City property to eliminate or reduce pesticide applications on City property to the maximum extent feasible.

(b) The people of San Francisco hereby find and declare that pesticides are dangerous to the health of the public and to the environment. Herbicides are used against plants which do not pose a threat to public health, and can always be removed by mechanical means, if necessary.

(c) No herbicides except Organic Certified Herbicides or EPA Minimum Risk Herbicides may be used on or applied to property owned by the City and County of San Francisco, with exceptions only for San Francisco International Airport’s airfields and Harding Park Golf Course, which is under PGA contract.

~~(b)~~ *(d)* Under this Chapter, the City and County of San Francisco wishes to exercise its power to make economic decisions involving its own funds as a participant in the marketplace and to conduct its own business as a municipal corporation to ensure that purchases and expenditures of public monies are made in a manner consistent with integrated pest management policies and practices.

~~(e)~~ *(e)* This Chapter 3 concerns the application of pesticides to property owned by the City and County of San Francisco only, and does not concern the application of pesticides to property that is not owned by the City and County of San Francisco.

~~(f)~~ *(f)* City departments shall implement the following City Integrated Pest Management (IPM) Policy:
CITY INTEGRATED PEST MANAGEMENT POLICY

The City, in carrying out its operations, shall assume pesticides are potentially hazardous to human and environmental health. City departments shall give preference to reasonably available nonpesticide alternatives when considering the use of pesticides on City property. For all pest problems on City property, City departments shall follow the integrated pest management (IPM) approach outlined below.

(1) Monitor each pest ecosystem to determine pest population, size, occurrence, and natural enemy population, if present. Identify decisions and practices that could affect pest populations. Keep records of such monitoring;

(2) Set for each pest at each site and identify in an IPM implementation plan, an injury level, based on how much biological, aesthetic or economic damage the site can tolerate;

(3) Consider a range of potential treatments for the pest problem. Employ nonpesticide management tactics first. Consider the use of chemicals only as a last resort and select and use chemicals only within an IPM program and in accordance with the provisions of this Chapter. *Only Organic Certified Herbicides or EPA Minimum Risk Herbicides may be used on property owned by the City and County of San Francisco, with exceptions for San Francisco International Airport’s airfields and Harding Park Golf Course, which is under PGA contract.*

- (A) Determine the most effective treatment time, based on pest biology and other variables, such as weather, seasonal changes in wildlife use and local conditions,
 - (B) Design and construct indoor and outdoor areas to reduce and eliminate pest habitats,
 - (C) Modify management practices, including watering, mulching, waste management, and food storage,
 - (D) Modify pest ecosystems to reduce food and living space,
 - (E) Use physical controls such as hand-weeding, traps and barriers,
 - (F) Use biological controls (introducing or enhancing pests' natural enemies);
 - (4) Conduct ongoing educational programs:
 - (A) Acquaint staff with pest biologies, the IPM approach, new pest management strategies as they become known, and toxicology of pesticides proposed for use,
 - (B) Inform the public of the City's attempt to reduce pesticide use and respond to questions from the public about the City's pest management practices;
 - (5) Monitor treatment to evaluate effectiveness. Keep monitoring records and include them in the IPM implementation plan. Stop ineffective treatment.
 - (e) Nothing in this Chapter is intended to apply to pesticide applications that are required to comply with Federal, or State ~~or local~~ laws or regulations.
 - (f) This Chapter applies the Precautionary Principle to the selection of reduced risk pesticides and other pest management techniques on City property with the intent of minimizing negative impacts on human health and the environment.
- (Added by Ord. 171-03, File No. 030422, App. 7/3/2003)
 (Derivation Former Administrative Code Section 39.1; added by Ord. 401-96, App. 10/21/96; amended Ord. 274-97, App. 7/3/97; Ord. 7-11, File No. 100761, App. 1/7/2011)

Section 301 of the San Francisco Environment Code is hereby amended as follows:

SEC. 301. DEFINITIONS.

Whenever used in this Chapter, the following terms shall have the meanings set forth below.

- (a) "Antimicrobial agents" means any substance or mixture of substances intended for inhibiting the growth of or destroying any bacteria, fungi pathogenic to human and other animals, or viruses declared to be pests by California Food and Agriculture Code § 12754.5. Antimicrobial agents do not include slime control agents, substances intended for the use in or on humans or other animals, or substances intended for use in or on processed food, beverages, or pharmaceuticals.
- (b) "City department" means any department of the City and County of San Francisco and includes any pesticide applicator hired by a City department to apply pesticides on City property. City department does not include any other local agency or any federal or State agency, including but not limited to the San Francisco Unified School District, the San Francisco Community College District, the San Francisco Redevelopment Agency and the San Francisco Housing Authority.
- (c) "Commission" means the Commission on the Environment provided for by San Francisco Charter Section 4.118.
- (d) "Contract" means a binding written agreement, including but not limited to a contract, lease, permit, license or easement between a person, firm, corporation or other entity, including a governmental entity, and a City department, which grants a right to use or occupy property of the City and County of San Francisco for a specified purpose or purposes.
- (e) "Contractor" means a person, firm, corporation or other entity, including a governmental entity, that enters into a contract with a City department.
- (f) "Department" means the Department of the Environment provided for by San Francisco Charter Section 4.118.

(g) "EPA Minimum Risk Herbicide" means a herbicide classified by the United States Environmental Protection Agency as an exempt material pursuant to 40 C.F.R. 152.25, as amended.

(h) "Herbicide" means a pesticide used to control unwanted plants.

(g) (i) "Integrated pest management" means a decision-making process for managing pests that uses monitoring to determine pest injury levels and combines biological, cultural, physical, and chemical tools to minimize health, environmental and financial risks. The method uses extensive knowledge about pests, such as

infestation thresholds, life histories, environmental requirements and natural enemies to complement and facilitate biological and other natural control of pests. The method uses the least toxic synthetic pesticides only as a last resort to controlling pests, and uses no herbicides except Organic Certified Herbicides or EPA Minimum Risk Herbicides with exceptions only for San Francisco International Airport's airfields and Harding Park Golf Course.

(h) (j) "Notification Sign" means a sign containing the name and active ingredient of the pesticide product, the target pest, the date of pesticide use, the signal word, the date for re entry to the area treated, and the City's 311 information number. Such signs shall be of a standardized design that is easily recognizable to the public and workers.

(k) "Organic Certified Herbicide" means a herbicide including no active ingredients other than those published in the National List at 7 C.F.R 205.601, as annotated and amended.

(i) (l) "Pesticide" means pesticide as defined in Section 12753 of Chapter 2 of Division 7 of the California Food and Agricultural Code, but does not include antimicrobial agents.

(j) (m) "Signal word" means the applicable word—"Danger," "Warning," or "Caution"—or some other word, signifying the level of toxicity of a pesticide designated by Federal law under 40 C.F.R. 156.64.

(k) (n) "San Francisco Hazard Tier Rating System" means the pesticide hazard screening protocol developed by the San Francisco Department of the Environment, which rates pesticide hazards as Tier I (most hazardous), Tier II (medium hazard), or Tier III (least hazardous).

(Added by Ord. 171-03, File No. 030422, App. 7/3/2003)

(Derivation Former Administrative Code Section 39.2; added by Ord. 401-96, App. 10/21/96; amended Ord. 274-97, App. 7/3/97; Ord. 36198, App. 12/11/98; Ord. 2-00, File No. 992000, App. 1/13/2000; Ord. 7-11, File No. 100761, App. 1/7/2011)

Section 302 of the San Francisco Environment Code is hereby amended as follows:

SEC. 302. PROHIBITED USE OF PESTICIDES.

No herbicides except Organic Certified Herbicides or EPA Minimum Risk Herbicides may be used on or applied to property owned by the City and County of San Francisco, with exceptions only for San Francisco International Airport's airfields and Harding Park Golf Course, which is under PGA contract. No other exemptions are allowed.

No pesticides may be used on or applied to property owned by the City and County of San Francisco, except for pesticides granted an exemption under Section 303.

(Added by Ord. 17103, File No. 030422, App. 7/3/2003)

(Derivation Former Administrative Code Section 39.3; added by Ord. 401-96, App. 10/21/96; amended Ord. 274-97, App. 7/3/97; Ord. 7-11, File No. 100761, App. 1/7/2011)

Section 303 of the San Francisco Environment Code is hereby amended as follows:

SEC. 303. EXEMPTIONS.

(a) Reduced Risk Pesticide List. Pesticides included on the most current Reduced Risk Pesticide List compiled by the Department of the Environment may be used within limitations stated on the List. No herbicides except Organic Certified Herbicides or EPA Minimum Risk Herbicides may be put on a Reduced Risk Pesticide List, exempting only those for use on San Francisco International Airport's airfields and Harding Park Golf Course, which is under PGA contract.

(b) Improving and maintaining water quality. Notwithstanding any other provision of this Chapter, this Chapter shall not apply to the use of any pesticide for the purpose of improving or maintaining water quality at:

- (1) Drinking water treatment plants;
- (2) Wastewater treatment plants;
- (3) Reservoirs; and,
- (4) Related collection, distribution and treatment facilities.

(c) Limited use exemptions. No Limited use exemptions are allowed for herbicides. A City department may apply to the Department for up to a one-year exemption from the pesticide ban imposed by Section 302 for use of a particular pesticide for a particular use. The application for an exemption shall be filed on a form specified by the Department and shall be signed by the City department's IPM Coordinator. The Department of the

Environment may grant the exemption for a specific and limited purpose for up to one year upon a finding that the City department has:

- (1) Made a good-faith effort to find alternatives to the banned pesticide;
- (2) Demonstrated that effective, economic alternatives to the banned pesticide do not exist for the particular use; and
- (3) Developed a reasonable plan for investigating alternatives to the banned pesticide during the exemption period.

(d) Pilot testing exemptions. No Pilot testing exemptions are allowed for herbicides. A City department may also apply to the Department for up to a one-year exemption from the pesticide ban imposed by Section 302 for pilot testing of a pesticide that has been categorized as a reduced-risk pesticide by the Department, but which has not yet been added to the Reduced-Risk Pesticide List. An application for exemption must be filed as in 303(c) above. The Department of the Environment may grant the exemption for a specific and limited purpose for up to one year upon a finding that:

- (1) The City department has made a good-faith effort to find non-chemical control methods for solving the pest problem;
- (2) The pesticide proposed for pilot testing shows potential for replacing more hazardous pest management methods, and

- (3) The pesticide proposed for pilot testing meets the Department's criteria for Reduced-Risk Pesticides.

(e) Reduced-risk pesticide. The Commission on the Environment may not issue exemptions for herbicides. The Commission on the Environment may exempt a reduced-risk pesticide from the ban imposed by Section 302 upon a finding that the reduced-risk pesticide is commonly used as part of an IPM strategy. Based on recommendations by the Department, the Commission shall maintain a list of reduced-risk pesticides granted an exemption pursuant to this subsection. The Commission shall review the list annually and make necessary changes. The Commission may review and revise the list more frequently upon recommendation by the Department.

(f) Emergency exemption. No emergency exemption can be granted for herbicides, since plants do not pose a threat to public health, and can always be removed by mechanical means, if necessary. A City department may apply to the Department for an emergency exemption in the event that an emergency pest outbreak poses an immediate threat to public health or significant economic damage will result from failure to use a pesticide banned pursuant to Section 302. The application for an exemption shall be filed on a form specified by the Department. The Department shall respond to the application in a timely manner. If the requesting department is unable to reach the Department, the departmental IPM Coordinator may authorize the one-time emergency use of the required pesticide. The department IPM Coordinator must notify the Department of the determination to use the pesticide by facsimile prior to its application in the event that the department IPM Coordinator is unable to reach the Department. Notification Signs shall be posted at the time of application and remain posted four days following the application. The Department may impose additional conditions for emergency applications.

(Added by Ord. 171-03, File No. 030422, App. 7/3/2003)

(Derivation Former Administrative Code Section 39.4; added by Ord. 401-96, App. 10/21/96; amended Ord. 274-97, App. 7/3/ 97; Ord.7-11, File No. 100761, App. 1/7/2011)

Section 4. Severability. If any provision of this Initiative or any application thereof to any person or circumstance is held invalid, such invalidity shall not invalidate any provision or application of this Initiative that can be given effect without invalid provision or application. To this end, the provisions of this Initiative are severable.

Section 5. Conflicting Ballot Measures. In the event that this Act and another measure relating to herbicide use by the city shall appear on the same municipal election ballot, the provisions of such other measures shall be deemed in conflict with this Act. In the event that this Act shall receive a greater number of affirmative votes, the provisions of this Act shall prevail in their entirety and each and every provision of the other measure that conflict, in whole or in part, with this Act shall be null and void in their entirety. In event that the other measure shall receive a greater number of affirmative votes the provisions of this Act shall take effect to the extent permitted by law.

Section 6. Effective Date. In accordance with the provisions of Municipal Election Code §390 and California Elections Code §9217, if a majority of the voters vote in favor of the Initiative, the Initiative shall go into effect 10 days after the vote is declared by the Board of Supervisors.

Section 7. Amendment. Pursuant to Municipal Election Code §390 and California Elections Code §9217 the provisions of this Initiative may only be amended by a vote of the people.