

1 [Integrated Pest Management.]

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3 **Ordinance amending the San Francisco Environment Code by amending Section 304,**
4 **to increase notice requirements for the use of pesticides on City property, and adding**
5 **Section 310, to provide a process for residents to appeal the use of pesticides on City**
6 **property to the Director of the Department of the Environment.**

7 NOTE: Additions are *single-underline italics Times New Roman*;
8 deletions are ~~*strike-through 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 San Francisco Environment Code is hereby amended by amending
12 Section 304 and adding Section 310, to read as follows:

13 **SEC. 304. NOTICE OF PESTICIDE USE.**

14 (a) Except as provided in Subdivisions (b) through (e) hereof, ~~within 120 days of the~~
15 ~~effective date of this ordinance~~, any City department that uses any pesticide shall comply with
16 the following notification procedures:

17 (1) At least 12 days before the application of the pesticide product, the department shall
18 mail notice of the proposed pesticide use to residents within 300 feet of the property where the pesticide
19 is to be used, and mail notice to any person or group who specifically requests notice. The notice shall
20 contain the location where the pesticide will be used, the name and active ingredient of the pesticide
21 product, the target pest, the date of pesticide use, the signal word indicating the toxicity category of the
22 pesticide product, the date for re-entry to the area treated, the name and contact number for the City
23 department responsible for the application, and a summary of the appeal process available under
24 Section 310.

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1 (2) ~~(1)~~ Signs shall be posted at least three days before application of the
2 pesticide product and remain posted at least four days after application of the pesticide.

3 (3) ~~(2)~~ Signs shall be posted (i) at every entry point where the pesticide is
4 applied if the pesticide is applied in an enclosed area, and (ii) in highly visible locations around
5 the perimeter of the area where the pesticide is applied if the pesticide is applied in an open
6 area.

7 (4) ~~(3)~~ Signs shall be of a standardized design that are easily recognizable to
8 the public and workers.

9 (5) ~~(4)~~ Signs shall contain the name and active ingredient of the pesticide
10 product, the target pest, the date of pesticide use, the signal word indicating the toxicity
11 category of the pesticide product, the date for re-entry to the area treated, and the name and
12 contact number for the City department responsible for the application. A department may use
13 permanent signs at a location, so long as the department meets the notice-by-mail requirements of
14 subsection (a)(1), and updates the relevant information on the sign for each application to meet the
15 requirements of subsection (a)(2)-(5).

16 (b) City departments shall not be required to post signs or provide notice by mail in
17 accordance with Subsection (a) in right-of-way locations that the general public does not use
18 for recreational purposes. However, each City department that uses pesticides in such right-
19 of-way locations shall develop and maintain a public access telephone number about
20 pesticide applications in the right-of-way areas. Information readily available by calling the
21 public access number shall include for any pesticide that will be applied within the next three
22 days or has been applied within the last four days: A description of the area of the pesticide
23 application, the name and active ingredient of the pesticide product, the target pest, the date
24 of pesticide use, the signal word indicating the toxicity category of the pesticide product, the
25 re-entry period of the area treated and the name and contact number for the City department

1 responsible for the application. Information about the public access telephone number shall be
2 posted in a public location at the City department's main office building.

3 (c) City departments using baits or other pesticides granted an exemption by the
4 Department pursuant to Subsection (e) shall not be required to post signs *or provide notice by*
5 *mail* in accordance with Subsection (a). However, each City department that uses pesticidal
6 baits or other pesticides granted an exemption by the Department pursuant to Subsection (e)
7 shall post a permanent sign: (1) in each building or vehicle where such pesticides are used,
8 (2) at the City department's main office or a similar location where the public obtains
9 information regarding the building or vehicle, and (3) when such pesticides are used outdoors
10 to control rats and other pests, in a conspicuous location outside of the area where they are
11 used. The sign shall indicate the name and active ingredient of the pesticides used in and
12 around the building or vehicle, the target pests, the signal word indicating the toxicity category
13 of the pesticide product, the area or areas where the pesticides are commonly placed, and the
14 contact number for the City department responsible for the application.

15 (d) City departments may obtain authorization from the Department to apply a
16 pesticide without providing a three-day advance notification *or notice by mail* in the event of a
17 public health emergency or to comply with worker safety requirements. Signs meeting the
18 requirements of Subsection (a)(2) through Subsection (a)(4) shall be posted at the time of
19 application and remain posted four days following the application.

20 (e) The Department may grant exemptions to the notification requirements for one-
21 time pesticide uses and may authorize permanent changes in the way City departments notify
22 the public about pesticide use in specific circumstances, upon a finding that good cause exists
23 to allow an exemption to the notification requirements. Prior to granting an exemption
24 pursuant to this subsection, the City department requesting the exemption shall identify the
25 specific situations in which it is not possible to comply with the notification requirements and

1 propose alternative notification procedures. The Department shall review and approve the
2 alternative notification procedures.

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4 **SEC. 310. APPEALS TO THE DIRECTOR OF THE ENVIRONMENT.**

5 (a) Subject to the exemptions in Section 307(a) for protection of water quality and 307(e) for
6 emergencies, any person may appeal a City department's use of a pesticide at a particular location to
7 the Director of the Department of the Environment. For purposes of this Section, "City department"
8 shall include a contractor acting on behalf of a City department, and "Director" shall include the
9 Director's designee.

10 (b) The appellant shall file a notice of appeal with the Director, either at the offices of the
11 Department or using an on-line form to be developed by the Department and available on the
12 Department's website.

13 (c) The Director shall immediately inform the department that has given notice of the proposed
14 use of the pesticide under Section 304 of the filing of the appeal. Upon receiving the Director's
15 notification, the department shall delay use of the pesticide for no less than 10 calendar days, unless
16 the appeal is resolved before that time. The department shall not use the pesticide while an appeal
17 under subsection (e) is pending.

18 (d) During the 10 days, the Director shall first attempt to resolve the appeal informally by
19 helping the appellant and the department to reach their own voluntary agreement on the use of the
20 pesticide.

21 (e) If the Director is unable to resolve the appeal informally, the Director shall conduct a
22 hearing on the appeal. The Director shall make all reasonable efforts to issue a decision on an appeal
23 within 20 calendar days after the appeal is first filed. If the Director decides to prohibit or
24 substantially modify the department's proposed use of the pesticide, the Director shall issue a written
25 statement of his reasons and conclusions. The Director's decision shall be final, but the Director's

1 decision shall not prevent the department from using the same or a different pesticide at the location in
2 the future, subject to all the requirements of this Chapter.

3 (f) The Commission on the Environment may adopt regulations to implement this Section and to
4 govern the appeal process.

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9 APPROVED AS TO FORM:
10 DENNIS J. HERRERA, City Attorney

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12 By: _____
13 THOMAS J. OWEN
14 Deputy City Attorney