

File No. 100427

Committee Item No. 5

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: City Operations & Neighborhood Ser. Date: April 26, 2010

Board of Supervisors Meeting

Date _____

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
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OTHER

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Completed by: Victor Young

Date April 22, 2010

Completed by: Victor Young

Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

1 [Barring the Use of Certain Pesticides for Weed Abatement]

2
3 Ordinance amending the San Francisco Environment Code by amending Section 307,
4 to bar the Department of Environment from granting exemptions from the ban on the
5 use of certain pesticides by City departments, where the intended use of the pesticide
6 is solely or primarily for weed abatement, and making environmental findings.

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;
10 Board amendment deletions are ~~strikethrough normal~~.

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

12 Section 1. The San Francisco Environment Code is hereby amended by amending
13 Section 307, to read as follows:

14 **SEC. 307. EXEMPTIONS.**

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

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

22 (b) **One-year exemptions.** A City department may apply to the Department for up to
23 a one-year exemption from the pesticide ban imposed by Sections 302 or 303 for use of a
24 particular pesticide for a particular use. The application for an exemption shall be filed on a
25 form specified by the Department and shall be signed by the City department's IPM

1 Coordinator. The Department of the Environment may grant the one-year exemption upon a
2 finding that the City department has:

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

8 (c) **Limited use exemption.** A City department may apply to the Department for a
9 limited use exemption for a particular pesticide banned pursuant to Section 302 or 303 and
10 not covered by a one-year exemption. The application for an exemption shall be filed on a
11 form specified by the Department and shall be signed by the City department's IPM
12 Coordinator. The Department may grant a limited-use exemption provided that the
13 Department finds that the City department will use the pesticide for a specific and limited
14 purpose and for a short and defined period and the City department has identified a
15 compelling need to use the pesticide.

16 (d) **Reduced-risk pesticide.** The Commission on the Environment may exempt a
17 reduced-risk pesticide from the ban imposed by Section 303 upon a finding that the reduced-
18 risk pesticide is commonly used as part of an IPM strategy. Based on recommendations by
19 the Department, the Commission shall maintain a list of reduced-risk pesticides granted an
20 exemption pursuant to this subsection. The Commission shall review the list annually and
21 make necessary changes. The Commission may review and revise the list more frequently
22 upon recommendation by the Department.

23 (e) **Emergency exemption.** A City department may apply to the Department for an
24 emergency exemption in the event that an emergency pest outbreak poses an immediate
25 threat to public health or significant economic damage will result from failure to use a pesticide

1 banned pursuant to Section 302 or Section 303. The application for an exemption shall be
2 filed on a form specified by the Department. The Department shall respond to the application
3 in a timely manner. If the requesting department is unable to reach the Department, the
4 departmental IPM Coordinator may authorize the one-time emergency use of the required
5 pesticide. The department IPM Coordinator must notify the Department of the determination to
6 use the pesticide by facsimile prior to its application in the event that the department IPM
7 Coordinator is unable to reach the Department. Signs meeting the requirements of Subsection
8 (a)(2) through Subsection (a)(4) shall be posted at the time of application and remain posted
9 four days following the application. The Department may impose additional conditions for
10 emergency applications.

11 (f) The Department of the Environment shall not grant an exemption under subsection (c) or (d)
12 where the City department applying for the exemption intends to use the pesticide solely or primarily
13 for weed abatement.

14 Section 2. Additional Provisions.

15 (a) **Disclaimer.** In adopting and implementing this ordinance, the City and County of
16 San Francisco is assuming an undertaking only to promote the general welfare. It is not
17 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
18 is liable in money damages to any person who claims that such breach proximately caused
19 injury.
20

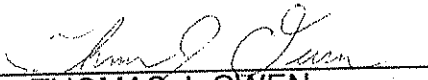
21 (b) **Conflict with State or Federal Law.** This ordinance shall be construed so as not
22 to conflict with applicable federal or State laws, rules or regulations. Nothing in this ordinance
23 shall authorize any City agency or department to impose any duties or obligations in conflict
24 with limitations on municipal authority established by State or federal law at the time such
25 agency or department action is taken.

1 (c) **Severability.** If any of the provisions of this ordinance or the application thereof to
2 any person or circumstance is held invalid, the remainder of those provisions, including the
3 application of such part or provisions to persons or circumstances other than those to which it
4 is held invalid, shall not be affected thereby and shall continue in full force and effect. To this
5 end, the provisions of this ordinance are severable.

6 (d) **Environmental Findings.** The Planning Department has determined that the
7 actions contemplated in this ordinance are in compliance with the California Environmental
8 Quality Act (Cal. Pub. Res. Code §§ 21000 et seq.). Said determination is on file with the
9 Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by
10 reference.

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

15
16 By:


THOMAS J. OWEN
Deputy City Attorney

FILE NO.

LEGISLATIVE DIGEST

[Barring the use of certain pesticides for weed abatement.]

Ordinance amending the San Francisco Environment Code by amending Section 307, to bar the Department of the Environment from granting exemptions from the ban on the use of certain pesticides by City departments, where the intended use of the pesticide is solely or primarily for weed abatement, and making environmental findings.

Existing Law

Chapter 3 of the San Francisco Environment Code creates the City's Integrated Pest Management Program. As part of that program, City departments are barred from using certain pesticides. But the Department of the Environment is authorized to grant exemptions to that rule.

Amendments to Current Law

The proposal is an ordinance that would amend the Environment Code to eliminate the ability of the Department to grant certain types of exemptions, where the sole or primary use of the pesticide would be for weed abatement, as opposed to, for example, vermin control.


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(c) **Severability.** If any of the provisions of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of those provisions, including the application of such part or provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this ordinance are severable.

(d) **Environmental Findings.** The Planning Department has determined that the actions contemplated in this ordinance are in compliance with the California Environmental Quality Act (Cal. Pub. Res. Code §§ 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by reference.

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

By:


THOMAS J. OWEN
Deputy City Attorney

Not a "Project" per CEQA
Guidelines Section 15378.

 4/22/10
Approved Planning Capt. Brett Bollinger