

1 [Preservative-treated Wood Containing Arsenic.]

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3 Ordinance amending the San Francisco Administrative Code by adding Chapter 21G,  
 4 requiring all City Departments and Contractors to purchase preservative-treated wood only  
 5 from the list of environmentally preferable alternatives adopted by the Department of the  
 6 Environment; requiring all City Departments that own or maintain play structures, park  
 7 equipment or other facilities constructed with preservative-treated wood containing arsenic to  
 8 undertake certain actions; requiring the Department of the Environment to report to the  
 9 Commission on the Environment on the programs mandated by this Chapter; requiring  
 10 disposal of preservative-treated wood containing arsenic at approved landfills; and directing  
 11 the Department of Building Inspection and the Department of the Environment to report on a  
 12 possible citywide ban on preservative-treated wood containing arsenic.

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Additions are single-underline italics Times New Roman;  
 deletions are ~~strikethrough italics Times New Roman~~.  
 Board amendment additions are double underlined.  
 Board amendment deletions are ~~strikethrough normal~~.

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

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19 Section 1. The San Francisco Administrative Code is hereby amended by adding

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21 Chapter 21.G, to read as follows:

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Sec. 21G.1 FINDINGS AND PURPOSE

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The Board of Supervisors finds and declares that:

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(a) Preservative-treated wood containing arsenic poses potential health risks to

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children in San Francisco who are potentially exposed to arsenic, a known human carcinogen,

by playing on City wooden playground and park equipment. Studies conducted in California,

1 Connecticut and Florida suggest that arsenic leaches from preservative-treated wood  
2 containing arsenic and can end up on children's hands and in their mouths.

3 (b) California Health and Safety Code Section 115775 requires that play structures  
4 constructed with preservative-treated wood containing arsenic be adequately sealed every two  
5 years.

6 (c) Preservative-treated wood containing arsenic poses potential human health and  
7 environmental risks through the release of arsenic during manufacture, installation, and  
8 disposal of wood.

9 (d) There are a variety of alternatives to preservative-treated wood containing  
10 arsenic compounds readily available throughout California.

11 (e) Preservative-treated wood is also used for saltwater immersion environments for  
12 structures such as pilings and piers, but until such time as a viable alternative is available, best  
13 management practices should be followed for these uses.

14 (f) Under this Chapter, the City and County of San Francisco wishes to exercise its  
15 power to make economic decisions involving its own funds as a participant in the marketplace  
16 and to conduct its own business as a municipal corporation to ensure that purchases and  
17 expenditures of public monies are made in a manner consistent with its policies.

18 Sec. 21G.2 DEFINITIONS

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

21 (a) "Preservative-treated wood containing arsenic" shall mean wood treated with a  
22 preservative that contains arsenic, elemental arsenic, or an arsenic copper combination,  
23 including but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc  
24 arsenate preservative, or ammoniacal copper arsenate preservative.

1                   **(b) "City Department" shall mean any department of the City and County of San**  
2 **Francisco. City Department does not include any other local agency or any federal or State**  
3 **agency, including but not limited to the San Francisco Unified School District, the San**  
4 **Francisco Community College District, the San Francisco Redevelopment Agency, and the San**  
5 **Francisco Housing Authority.**

6                   **(c) "Commission" shall mean the Commission on the Environment provided for by**  
7 **San Francisco Charter Section 4.118.**

8                   **(d) "Contract" means a binding written agreement, including, but not limited to a**  
9 **contract, lease, permit, license or easement between a person, firm, corporation or other entity,**  
10 **including a governmental entity, and a City Department for the purchase of preservative-treated**  
11 **wood.**

12                   **(e) "Contractor" shall mean an individual, trust, firm, joint stock company,**  
13 **corporation, partnership, and governmental entities, to the extent allowable by law, that enters**  
14 **into a Contract with a City Department.**

15                   **(f) "Department" shall mean the San Francisco Department of the Environment**  
16 **provided for by San Francisco Charter Section 4.118.**

17                   **(g) "Saltwater immersion" shall mean a pressure-treated wood that is used for**  
18 **construction purposes or facilities that are partially or totally immersed in saltwater.**

19                   **Sec. 21G.3 ENVIRONMENTALLY PREFERABLE ALTERNATIVES**

20                   **No later than March 30, 2003, the Department shall identify, prepare and adopt, at a**  
21 **public meeting, a list of environmentally preferable alternatives to preservative-treated wood**  
22 **containing arsenic. The list shall include information on specific wood preservatives,**  
23 **appropriate applications for each preservative, costs, product availability and any other**  
24 **pertinent information.**

25                   **Sec. 21G.4 PURCHASE OF ALTERNATIVES**

1           Except as provided in this Section, after June 30, 2003, each City Department entering  
2 into a new Contract or extending the term of an existing Contract for the purchase of  
3 preservative-treated wood products, and each Contractor purchasing preservative-treated wood  
4 products on behalf of the City, shall only purchase such products from the list of alternatives  
5 adopted by the Department pursuant to Section 21G.3 of this Chapter. A City Department or  
6 Contractor that purchases preservative-treated wood containing arsenic for saltwater  
7 immersion shall be exempt from this Section.

8           Sec. 21G.5    EXEMPTIONS

9           (a)    On or after June 30, 2003, , a City Department or Contractor may apply to the  
10 Department for an exemption from the ban on the purchase of preservative-treated wood  
11 containing arsenic imposed by Section 21G.4. The application for an exemption shall be filed  
12 on a form specified by the Department. The Department may grant the exemption upon a  
13 finding that the City Department or Contractor has:

14                   (1)    Made a good-faith effort to purchase an alternative on the list adopted by  
15 the Department pursuant to Section 21G.3 of this Chapter; or has demonstrated that the  
16 alternative is not economically viable for the proposed use or is not practical in limited  
17 circumstances; and

18                   (2)    Developed a best management practice, including a plan for minimizing  
19 leaching or contact with human skin, if the exemption is granted.

20           Sec. 21G.6 REPLACING EXISTING STRUCTURES; MANAGEMENT PROGRAM

21           (a)    No later than June 30, 2003, each City Department who owns or  
22 maintains playground equipment that is constructed with preservative-treated wood containing  
23 arsenic, where contact with human skin is likely, shall (i) take an inventory of such structures  
24 and develop a timeline and cost analysis for replacing these structures with non-wood  
25 alternatives or with alternatives on the list adopted by the Department pursuant to Section

1 21G.3 of this Chapter; (ii) develop a written management program for preservative-treated  
2 wood containing arsenic, including best management practices, schedules and protocols for  
3 testing for leaching of arsenic and chromium, sealing and posting of warning language where  
4 contact with human skin is likely and update this program on a regular basis; and (iii) provide  
5 the Department with copies of these documents.

6 (b) No later than June 30, 2003, each City Department who owns or  
7 maintains park structures other than playground equipment, including benches and picnic  
8 tables, that are constructed with preservative-treated wood containing arsenic, where contact  
9 with human skin is likely, shall develop a plan to inventory and manage, including sealing and  
10 replacement, such structures and submit that plan to the Department.

11 (c) No later than June 30, 2003, each City Department that owns or  
12 maintains facilities not addressed in Sections (a) or (b) above that are constructed with  
13 preservative-treated wood containing arsenic and where frequent contact with human skin is  
14 likely, shall take an inventory of its facilities and submit a plan to seal or replace such facilities.  
15 Each City Department subject to this Section shall provide the Department with a copy of the  
16 inventory and plan.

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18 Sec. 21G.7 REPORT TO COMMISSION

19 No later than September 30, 2003, the Department shall report to the Commission on  
20 the progress of the programs and mandates directed by this Chapter. The report, at a minimum,  
21 shall include the following information:

22 (a) A list of the alternatives to preservative-treated wood containing arsenic  
23 pursuant to Section 21G.3.  
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1                   (b) A list of City Departments and Contractors requesting an exemption to this  
2 Chapter.

3                   (c) A summary of the reports submitted to the Department pursuant to Section  
4 21G.6.

5                   (d) Any other information deemed relevant to eliminating the risk of exposure to  
6 preservative-treated wood containing arsenic.

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8                   Sec. 21G.8                   REPORT TO BOARD OF SUPERVISORS.

9                   No later than June 30, 2005, the Commission shall report to the Board of Supervisors on  
10 the progress of the programs and mandates directed by this Chapter.

11                   Sec. 21G.9                   DISPOSAL

12                   All City departments shall dispose of preservative-treated wood containing arsenic in an  
13 approved landfill and shall not make preservative-treated wood containing arsenic available for  
14 re-use, incineration or for use as wood chips or mulch.

15                   Sec. 21G.10                   CITYWIDE BAN

16                   No later than June 30, 2003, the Department of Building Inspection and the Department  
17 shall investigate and report to the Commission on the possibility of imposing a citywide ban on  
18 the sale, purchase and installation of preservative-treated wood containing arsenic. At a  
19 minimum, the report shall contain an assessment of the legality, feasibility and cost implications  
20 of imposing a citywide ban.

21                   Sec. 21G.11                   GUIDELINES

22                   The Department may issue guidelines, after a public meeting, to assist City Departments in the  
23 implementation of this Chapter.

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