[Integrated Pest Management Program]

AMENDING CHAPTER 39 OF PART I OF THE SAN FRANCISCO MUNICIPAL CODE (ADMINISTRATIVE CODE) WHICH ESTABLISHED THE INTEGRATED PEST MANAGEMENT PROGRAM, BY AMENDING SECTIONS 39.2 AND 39.8 TO EXCLUDE ANTIMICROBIAL AGENTS FROM COVERAGE UNDER THE CHAPTER; BY AMENDING SECTIONS 39.5, 39.6 AND 39.7 TO REVISE POSTING, NOTIFICATION, RECORDKEEPING AND REPORTING REQUIREMENTS; AND BY AMENDING SECTION 39.8 TO CLARIFY EXEMPTIONS, INCLUDING EXEMPTIONS FOR REDUCED RISK PESTICIDES, AND TO ADD EXEMPTIONS.

Note: Additions are underlined; deletions are in ((double parentheses)).

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

Section 1. FINDINGS. The Board of Supervisors of the City and County of San Francisco hereby finds and declares as follows:

A. The IPM Ordinance originally regulated the use of antimicrobial agents because antimicrobial agents are defined as "pesticides." Due to the complexities involved in regulating antimicrobials as pesticides and pursuant to Resolution 007-99-COE of the Commission on the Environment, adopted on July 19, 1999, the Board of Supervisors has decided to instead place antimicrobials under the existing Environmental Purchasing Program, Administrative Code Chapter 21F, for further study.

B. The day-to-day implementation of the IPM Ordinance should be performed by the Department of the Environment, with policy oversight by the Commission on the Environment.
C. Minor changes to the posting, notification, recordkeeping and reporting requirements of the IPM program will improve the program and facilitate achievement of the program goals.

Section 2. Section 39.2 of the San Francisco Administrative Code is hereby amended to read as follows:

SEC. 39.2 DEFINITIONS. Whenever used in this Chapter ((ordinance)), the following terms shall have the meanings set forth below.

(((a) "Agricultural Commissioner" means the County Agricultural Commissioner for the City and County of San Francisco.))

(((b) "Antimicrobial agent" means a product that is labeled as registered with the United States Environmental Protection Agency as a pesticide used to kill microbes. Antimicrobial agents include, but are not limited to, disinfectants, sanitizers, bacteriostats, sterilizers, fungicides and fungistats applied to inanimate surfaces, and commodity preservatives and protectants applied to raw materials or manufactured products.))

(((c)) (a) "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 School District, the San Francisco Community College District, the San Francisco Redevelopment Agency and the San Francisco Housing Authority.

(((d))) (b) "Commission ((on the Environment))" means the Commission on the Environment provided for by San Francisco Charter Section 4.118.

(((e))) (c) "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
"Contractor" means a person, firm, corporation or other entity, including a governmental entity, that enters into a contract with a City department.

"Department of the Environment" means that Department of the Environment provided for by San Francisco Charter Section 4.118.

"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.

"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 as defined by Section 21 F.2(a) of the Administrative Code.

"Toxicity Category I Pesticide Product" means any pesticide product that meets United States Environmental Protection Agency criteria for Toxicity Category I under Section 156.10 of Part 156 of Title 40 of the Code of Federal Regulations.

"Toxicity Category II Pesticide Product" means any pesticide product that meets United States Environmental Protection Agency criteria for Toxicity Category II under Section 156.10 Part 156 of Title 40 of the Code of Federal Regulations.

Section 39.5 of the San Francisco Administrative Code is hereby amended to read as follows:
SEC. 39.5. NOTICE OF PESTICIDE USE. (a) Except as provided in Subdivisions (b) through (e) hereof, within 120 days of the effective date of this ordinance, any City department that uses any pesticide shall comply with the following notification procedures:

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

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

3. Signs shall be of a standardized design that are easily recognizable to the public and workers.

4. Signs shall contain the name and active ingredient of the pesticide product, the target pest, the date of pesticide use, the signal word indicating the toxicity category of the pesticide product, the date for re-entry to the area treated, and the name and contact number for the City department responsible for the application.

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

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

(d) City departments may obtain authorization from the Department ((of the Environment)) to apply a pesticide without providing a three-day ((four-day)) advance notification in the event of a public health emergency or to comply with worker safety requirements. Signs meeting the requirements of Subsection (a)(2) through Subsection (a)(4) shall be posted at the time of application and remain posted four days following the application. ((A City department applying pesticides for which an exemption is granted pursuant to this Subsection (d), shall report any pesticide usage to the Commission on the Environment within 30 days of application.))
(e) The Department ((Commission on the Environment)) may grant exemptions to
the notification requirements for ((certain other specific)) one-time pesticide uses and may
authorize permanent changes in the way City departments notify the public about pesticide
use in ((some)) specific circumstances, upon a finding that good cause exists to allow an
exemption to the notification requirements. Prior to granting an exemption pursuant to this
subsection, the City department requesting the exemption shall identify the specific situations
in which it is not possible to comply with the notification requirements and propose alternative
notification procedures. The Department ((Commission on the Environment)) shall review and
approve the alternative notification procedures. ((A City department applying pesticides for
which an exemption is granted pursuant to this Subsection (e), shall report any pesticide
usage to the Commission on the Environment within 30 days of application.))

Section 4. Section 39.6 of the San Francisco Administrative Code is hereby amended
to read as follows:

SEC. 39.6. IMPLEMENTATION OF CITY INTEGRATED PEST MANAGEMENT
POLICY. (a) Within 90 days of the effective date of Section 39.1(d) each City department that
uses pesticides shall submit to the Department ((of the Environment)) a plan for implementing
the City Integrated Pest Management (IPM) Policy. The Department ((Commission on the
Environment)) may require periodic IPM plan updates. The IPM implementation plans and any
periodic updates shall be consistent with the requirements of this Section and any guidelines
developed by the Department ((of the Environment)) pursuant to this Chapter.

(b) A City department IPM implementation plan shall outline the ways in which the
City department shall comply with the City IPM Policy in Section 39.1(d). The City department
IPM implementation plan shall include pesticide applications performed by pesticide
applicators at the request of the City department. The IPM implementation plan shall contain a
list of the types and quantities of chemicals used as of December 31, 1996, the types of pest
problems, the alternatives adopted to date, alternatives proposed for adoption within the next
six months, and the name of the ((primary)) IPM Coordinator ((contact)) for the City
department.

(c) At the request of the Department ((of the Environment)), the Commission may
determine that a City department's IPM implementation plan is not in conformity with the City
IPM Policy. Upon a determination of nonconformity, the City department shall submit a
revised plan to the Department ((of the Environment)) in accordance with a schedule
established by the Commission.

(d) The Department ((of the Environment)) shall assist City departments in
implementing the City IPM Policy by developing public educational information about IPM
plans and programs and the City's IPM Policy.

(e) The Department ((of the Environment)) shall establish an IPM Policy
implementation program to assist City departments in implementing the City IPM Policy. The
Department ((of the Environment)) shall establish a data bank of information concerning
pesticide use by City departments and the efficacy of alternatives used by City departments.
All City departments that use pesticides shall participate in the Department's ((of the
Environment's)) program by:

(1) Identifying the types of pest problems that the City department has;
(2) Identifying types and quantities of pesticides currently in use by the City
department;
(3) Identifying the use of alternatives for banned pesticides;
(4) Designating City department contact personnel who are responsible for the
service for which the pesticides are used to regularly assess the efficacy of alternatives and to
act as a resource for other City departments; and
(5) Providing regular reports as required by the Department ((of the Environment)) on the City department's efforts to implement the City IPM Policy.

(f) The Department ((of the Environment)) shall determine the cost of maintaining the IPM implementation program. The Department ((of the Environment)) may request that the City departments that use pesticides provide work orders to the Department ((of the Environment)) to cover the cost of maintaining the program.

(g) No later than July 1, 1997 and semi-annually ((quarterly)) thereafter, the Department ((of the Environment)) shall report to the Commission ((on the Environment)) on the status of City department efforts to implement the City IPM Policy. Such report shall include a summary of exemptions granted by the Department during the reporting period. The Department ((of the Environment)) shall provide an annual report to the Board of Supervisors on the status of City department efforts.

Section 5. Section 39.7 of the San Francisco Administrative Code is hereby amended to read as follows:

SEC. 39.7. RECORDKEEPING AND REPORTING ((OF PESTICIDE APPLICATIONS)). (a) Each City department that uses pesticides shall keep records of all pest management activities ((each pesticide application)). Each ((application)) record shall include the following information:

(1) The target pest;

(2) The type and quantity of pesticide used;

(3) The site of the pesticide application;

(4) The date the pesticide was used;

(5) The name of the pesticide applicator;
(6) The application equipment used;

(7) Prevention and other non-chemical methods of control used;

(8) Experimental efforts; and

(9) Exemptions granted by the Department pursuant to section 39.5 or 39.8 for that application.

(b) Each City department that uses pesticides shall submit the pest management record required by Subsection (a) to the Department on a monthly basis. The Department may reduce the submittal frequency.

(c) (Application) Pest management records shall be made available to the public upon request in accordance with the provisions of the San Francisco Sunshine Ordinance, San Francisco Administrative Code, Chapter 67.

Section 6. Section 39.8 of the San Francisco Administrative Code is hereby amended to read as follows:

**SEC. 39.8. EXEMPTIONS.** (a) Improving and maintaining water quality.

Notwithstanding any other provision of this Chapter, this Chapter shall not apply to the use of any pesticide ((including any antimicrobial agent)) 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.

((b) Notwithstanding any other provision of this Chapter, this Chapter shall not apply to the use of antimicrobial agents for the following purposes:
(1) Protecting public health and safety in the provision of health care;
(2) Treatment of water in public swimming pools;
(3) Treatment of water and facility heating, ventilation and air conditioning (HVAC) cooling water systems; and
(4) Treatment of water in public fountains.)

Until January 1, 2000, this Chapter shall not apply to the use of antimicrobial agents for any purpose. By August 1, 1999, the Commission on the Environment shall make a recommendation to the Board of Supervisors on the extent to which the City should include antimicrobial agents not exempted under Subsections (a) or (b) in its IPM Policy. This recommendation shall be accompanied by a report prepared by the Department of the Environment evaluating the City's current use of antimicrobial agents and identifying less-toxic alternatives consistent with public health and safety. In developing the report, the Director of the Department of the Environment shall consult with representatives from the Department of Public Health, San Francisco General Hospital, the Purchaser's Office, one or more environmental organizations concerned with integrated pest management and the Agricultural Commissioner.)

(b) One-year exemptions. A City department may apply to the Department ((of the Environment)) for up to a one-year exemption from the pesticide ban imposed by Sections 39.3 or 39.4 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. (Upon the filing of a complete application, the Department of the Environment shall submit the exemption request to the Commission on the Environment. The Commission on)) The Department of the Environment may grant the one-year exemption 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.

((e)))((c) Limited use exemption. A City department may apply to the Department ((of the Environment)) for a limited use exemption for a particular pesticide banned pursuant to Section 39.3 or Section 39.4 and not covered by a one-year exemption. 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. ((Upon the filing of a complete application, the Department of the Environment shall submit the exemption request to the Commission on the Environment. The Commission on)) The Department ((of the Environment)) may grant a limited-use exemption provided that the Department ((Commission)) finds that the City department will use the pesticide for a specific and limited purpose and for a short and defined period and the City department has identified a compelling need to use the pesticide.

((f)))((d) Reduced-risk pesticide. The Commission on the Environment may exempt a reduced-risk pesticide from the ban imposed by Section 39.4 upon a finding that the reduced-risk pesticide is commonly used as part of an IPM strategy. Based on recommendations by the Department, the (The) Commission ((Department of the Environment)) 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.

(e) Emergency exemption. 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 39.3 or Section 39.4. 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. Signs meeting the requirements of Subsection (a)(2) through Subsection (a)(4) 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.

APPROVED AS TO FORM:

LOUISE H. RENNE, City Attorney

By:  

Rona H. Sandler  
Deputy City Attorney
File Number: 992000  Date Passed: 

Ordinance amending Administrative Code Sections 39.2, 39.5, 39.6, 39.7 and 39.8 which established the Integrated Pest Management program to exclude antimicrobial agents from coverage under the chapter; to revise posting, notification, record keeping and reporting requirements; and to clarify exemptions, including exemptions for reduced risk pesticides and to add exemptions.

December 20, 1999  Board of Supervisors — PASSED, ON FIRST READING
   Ayes: 11 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng, Yaki, Yee

January 4, 2000  Board of Supervisors — FINALLY PASSED
   Ayes: 9 - Ammiano, Becerril, Bierman, Kaufman, Leno, Newsom, Teng, Yaki, Yee
   Absent: 2 - Brown, Katz
File No. 992000

I hereby certify that the foregoing Ordinance was FINALLY PASSED on January 4, 2000 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young
Clerk of the Board

JAN 13 2000
Date Approved

Mayor Willie L. Brown Jr.