

1 [Environmentally Preferable Purchasing]
 2 AMENDING PART I OF THE SAN FRANCISCO MUNICIPAL CODE (ADMINISTRATIVE
 3 CODE) BY ADDING A NEW CHAPTER 21F TO ESTABLISH AN ENVIRONMENTALLY
 4 PREFERABLE PURCHASING (EPP) PROGRAM IN THE DEPARTMENT OF
 5 ADMINISTRATIVE SERVICES – SOLID WASTE MANAGEMENT PROGRAM;
 6 ESTABLISHING CRITERIA FOR EVALUATING CHEMICALLY-BASED CUSTODIAL, FLEET
 7 MAINTENANCE, OR FACILITY MAINTENANCE PRODUCTS (“CHEMICAL PRODUCTS”)
 8 USED BY CITY DEPARTMENTS; ASSESSING THE CITY’S USE OF CHEMICAL
 9 PRODUCTS; ESTABLISHING A PILOT PROGRAM TO DETERMINE THE EFFECTIVENESS
 10 OF USING PREFERRED CHEMICAL PRODUCTS; AND RECOMMENDING TO THE
 11 BOARD OF SUPERVISORS WHETHER TO IMPLEMENT ADDITIONAL LEGISLATION TO
 12 REQUIRE ALL CITY DEPARTMENTS TO USE PREFERRED CHEMICAL PRODUCTS.

Note: Section 1 is new; section 2 is uncodified.

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

Section 1. The San Francisco Administrative Code is hereby amended by adding Chapter 21F, to read as follows:

CHAPTER 21F

ENVIRONMENTALLY PREFERABLE PURCHASING

SEC. 21F.1. FINDINGS AND PURPOSE. The Board of Supervisors finds and declares that:

(a) Use and disposal of cleaners, as well as other chemical products containing hazardous substances, such as oils, coolants, solvents, lubricants and paints, commonly used by the City and County of San Francisco, can harm human health and the environment. Based on product literature and Materials Safety Data Sheets (MSDSs), many cleaning products such as all-purpose cleaners, toilet bowl cleaners, disinfectants and degreasers can

1 cause adverse skin reactions from exposure to the product and chronic health risks from skin
2 and inhalation exposure. Health hazards can be caused not only by the specific chemicals
3 contained in a product, but also by the product's concentration.

4 (b) Accidental release and disposal of the chemicals in many commonly used products
5 cause additional problems. According to the US Environmental Protection Agency (EPA), of
6 particular concern are products containing chemicals that are: (1) persistent, in that they don't
7 break down readily in the environment; (2) bioaccumulative, in that they concentrate in animal
8 and plant tissues as a result of uptake from the surrounding environment (i.e.: from water, air,
9 etc.) or as a result of one animal consuming another that is lower on the food chain; and (3)
10 toxic, that is, hazardous to human health and the environment. In certain forms, persistent,
11 bioaccumulative, toxic chemicals may cause adverse effects in species, including humans,
12 such as cancer, reproductive defects, and declines in population.

13 (c) A significant additional hazard to the environment is release of volatile organic
14 compounds (VOCs), which evaporate from many paints and solvents. The presence of VOCs
15 in the lower atmosphere helps create smog, and in the upper atmosphere contributes to the
16 current global climate-change crisis.

17 (d) Since passage of the federal Pollution Prevention Act of 1990, it has been national
18 policy in the United States to address the health and ecosystem problems caused by chemical
19 pollution through "source reduction," the effort to reduce chemical waste before it is even
20 generated. This is done by product substitution and modification of processes (such as
21 recycling solvents in a closed system). This approach not only avoids exposing people and
22 ecosystems unnecessarily to the health hazards of persistent, bioaccumulative and toxic
23 chemical use, but offers the City savings in the cost of pollution control, pollution clean-up,
24 liability costs and worker's compensation costs.

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1 (e) A study sponsored by Region IX of the United States Environmental Protection
2 Agency to evaluate the frequency and nature of accidental chemical exposures that affect
3 janitorial workers and to assess workers compensation from various state and federal
4 agencies found that: 1) six out of every 100 janitors are injured by chemicals every year; 2)
5 most of these injuries affect workers' eyes or skin and a fourth of these are burns; and 3) as a
6 result of their history of chemical and physical injuries, janitorial contractors have fairly high
7 workers' compensation insurance rates.

8 (f) There is a growing body of information available on alternatives to conventionally
9 used products and processes that will reduce risks to human health and the environment. For
10 instance, a 1993 EPA pilot study in Philadelphia showed that using a sample range of less-
11 hazardous cleaning products reduced staff-reported health problems by nearly 50%. The
12 less-hazardous products were rated nearly as effective as the higher-hazard baseline
13 products. Among thousands of similar private-sector success stories, according to the
14 Oregon Department of Environmental Quality, a Portland auto sales and service company has
15 reduced its monthly volume of hazardous waste by 95% by using non-toxic materials
16 whenever possible and implementing a number of specific operations improvements. These
17 and similar lessons learned are accessible on the world-wide web for use by city staff in fleet
18 maintenance operations and other city services.

19 (g) It is in the interest of the City and County of San Francisco to make every effort to
20 reduce and minimize the health risks to its employees, or potential damage to the
21 environment, associated with the City's use of Chemical Products in the workplace.

22 (h) Although the City has programs focused on reducing hazardous waste generated
23 by City operations, the City has not conducted an assessment of the extent to which these
24 chemical products are used by City Departments nor has it developed a plan to minimize the
25 purchase and use of such products.

1 (i) It shall be the policy of the City and County of San Francisco that the City shall
2 aggressively pursue the goal of reducing the health and environmental impact of the products
3 used in its operations while minimizing any disruptive effects on City Departments. To
4 achieve this goal with respect to the purchase of chemical products, the City shall (1) survey
5 its baseline use of products containing hazardous chemicals, (2) establish standards for
6 evaluating the most preferred of a number of candidate products for performance of a task
7 and (3) develop a pilot program that will evaluate whether the use and disposal hazards
8 created by a large number of baseline products can be reduced by product substitution or
9 changes in work practice.

10 (j) The program established by this legislation shall work closely with the Purchasing
11 Department to establish expertise in the evaluation of chemical products that minimize
12 negative health and environmental consequences while being effective, readily available and
13 economical. This expertise will augment current City efforts to establish purchasing practices
14 that maximize water, energy, and materials conservation; recyclability and recycled content;
15 fuel efficiency; and other environmentally conscious purchasing attributes.

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

20 **SEC. 21F.2. DEFINITIONS.** Terms used in this Chapter shall have the following
21 meaning:

22 (a) "Anti-microbial Agent" means any substance or mixture of substances intended for
23 inhibiting the growth of, or destroying any bacteria, fungi pathogenic to human and other
24 animals, or viruses declared to be pests under Section 12754.5 of the California Food and
25 Agricultural Code, except slime control agents, substances intended for the use in or on

1 humans or other animals, and use in or on processed food, beverages, or pharmaceuticals.
2 Anti-microbial Agents include, but are not limited to, disinfectants, sanitizers, bacteriostats,
3 sterilizers, fungicides and fungistats applied to inanimate surfaces, and commodity
4 preservatives and protectants applied to raw materials or manufactured products. Anti-
5 microbial Agent, as used herein, shall not include any Anti-microbial Agents that are used for
6 the purpose of:

7 (1) improving or maintaining water quality at potable water treatment plants,
8 wastewater treatment plants, reservoirs and related collection, distribution
9 and treatment facilities; and

10 (2) protecting public health and safety in the provision of health care and the
11 treatment of water in swimming pools, in facility heating ventilation and air
12 conditioning cooling water systems, and in public fountains.

13 (b) "Chemical Product" means any synthetic chemically-based product used for
14 custodial services, fleet maintenance, or facility maintenance. Chemical Product as used
15 herein shall not include those products defined as pesticides under Chapter 39 of the San
16 Francisco Administrative Code, except for Anti-microbial Agents as defined herein, and shall
17 not include products that are used primarily as fuel.

18 (c) "City Department" means any department of the City and County of San Francisco.
19 City Department does not include any other local agency or any federal or State agency,
20 including but not limited to the San Francisco Unified School District, the San Francisco
21 Community College District, the San Francisco Redevelopment Agency, and the San
22 Francisco Housing Authority.

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

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1 (e) "Contract" means a binding written agreement for the provision of custodial services
2 or fleet maintenance, including but not limited to a contract between an individual, trust, firm,
3 joint stock company, corporation, partnership, and governmental entities, to the extent
4 allowable by law, and a City Department.

5 (f) "Contractor" means an individual, trust, firm, joint stock company, corporation,
6 partnership, and governmental entities, to the extent allowable by law, that enters into a
7 Contract with a City Department.

8 (g) "Director" means the Director of the Lead Department or her or his designee.

9 (h) "Lead Department" means the Department of Administrative Services – Solid Waste
10 Management Program.

11 (i) "Hazardous Materials" means any materials that, because of its quantity,
12 concentration, or physical or chemical characteristics, poses a significant present or potential
13 hazard to human health and safety or to the environment if released into the workplace or the
14 environment. Hazardous materials include, but are not limited to, hazardous substances,
15 hazardous waste, and any material which a handler or the Department has a reasonable
16 basis for believing would be injurious to the health and safety of persons or harmful to the
17 environment if released into the workplace or the environment.

18 (j) "Preferred Products" means those Chemical Products that have lesser or reduced
19 adverse effects on human health and the environment when compared with competing
20 products that serve the same purpose. This comparison is based on the criteria established
21 by the Lead Department.

22 (k) "Targeted Hazardous Products" means: (1) those Chemical Products which contain
23 one or more Hazardous Material(s) and (2) present an unnecessary risk to the health and
24 safety of City employees or to the environment, as determined by the criteria established by
25 the Lead Department.

1 **SEC. 21F.3. PREFERRED PURCHASING EXPERTISE.** No later than three (3)
2 months from the effective date of this Chapter, the Lead Department shall identify and allocate
3 sufficient resources and staff for the purposes of implementing this Chapter.

4 **SEC. 21F.4. INTERDEPARTMENTAL CONSULTATION.** In order to benefit from City
5 expertise in Hazardous Materials, industrial hygiene, and other related fields, the Lead
6 Department shall implement this Chapter in consultation with other City Departments including
7 but not limited to: the Purchasing Department, the Department of the Environment, the
8 Department of Public Health, the Department of Public Works, the Department of Public
9 Transportation, the Department of Recreation and Parks, the Public Utilities Commission
10 (PUC), the Port, and the Airport.

11 **SEC. 21F.5 REPORT BY CITY DEPARTMENTS.**

12 (a) No later than 30 days from the effective date of this Chapter, the Purchasing
13 Department shall provide to the Lead Department a list of Chemical Products purchased
14 under term contracts with the City during the past twelve (12) months.

15 (b) No later than two (2) months from the effective date of this Chapter, each City
16 Department that independently purchases Chemical Products by means other than a term
17 contract shall provide to the Lead Department a list of such products purchased during the
18 past twelve (12) months and the constituents of each purchased product. This subsection
19 shall not apply to purchases that are disclosed pursuant to subsection (a).

20 **SEC. 21F.6. ASSESSMENT OF CITY'S USE OF CHEMICAL PRODUCTS.** The
21 Lead Department shall conduct assessments of the City's procurement and use of Chemical
22 Products, as follows:

23 (a) No later than twelve (12) months from the effective date of this Chapter, the Lead
24 Department shall submit a report on its findings of the assessment of Chemical Products to
25 the Commission. This assessment shall consist, at a minimum, of the following:

1 (1) Substantive and quantitative environmental and human health criteria that
2 shall be used by the Lead Department to assess whether an individual Chemical Product shall
3 be considered either a Targeted Hazardous Product or a Preferred Product by the City. The
4 Lead Department, with the approval of the Commission, shall revise the criteria, from time to
5 time, to reflect the current state of scientific knowledge regarding the health and
6 environmental effects of Chemical Products. The following acute, chronic, and environmental
7 health factors may be considered in establishing the criteria:

- 8 (A) irritation potential,
- 9 (B) exposure potential,
- 10 (C) bioaccumulation,
- 11 (D) food chain exposure,
- 12 (E) air pollution potential,
- 13 (F) presence of cosmetic additives,
- 14 (G) carcinogenicity,
- 15 (H) tetragenicity,
- 16 (I) neurotoxicity,
- 17 (J) reproductive toxicity,
- 18 (K) endocrine disruptions, and
- 19 (L) other relevant factors.

20 (2) Based on an evaluation of the criteria established pursuant to subparagraph
21 (1), the following information shall be compiled:

- 22 (A) A list of the Targeted Hazardous Products and Preferred Products
23 purchased and used by City Departments;
- 24 (B) A list of the City Departments which use these Targeted
25 Hazardous Products and/or Preferred Products;

1 (C) The estimated amount of each Targeted Hazardous Product and
2 Preferred Product purchased during the twelve (12) month period prior to the assessment;
3 and

4 (D) Identification of how the products were purchased (i.e., either
5 directly by the Department or through the Purchasing Department).

6 To the extent reasonably available, the Lead Department shall collect similar information from
7 City Contractors for such products purchased on behalf of the City. The Lead Department,
8 with the assistance of the Purchasing Department, shall maintain and update the lists of
9 Targeted Hazardous Products and of Preferred Products as needed.

10 (3) An assessment of current work practices of City Departments that minimize
11 the purchase or the use of Targeted Hazardous Products, such as using physical means to
12 unclog a drain as opposed to using chemicals. To the extent reasonably available, the Lead
13 Department shall collect similar information for City Contractors.

14 (4) Recommendations as to new work practices that would minimize the
15 purchase or use of Targeted Hazardous Products.

16 **SEC. 21F.7 TRADE SECRETS.**

17 (a) If a person or business believes that any information required to be reported or
18 disclosed by this Chapter involves the release of a trade secret, the person or business shall
19 provide the information to the Lead Department, the Purchasing Department and other City
20 Departments requesting such information and shall notify such these departments in writing of
21 that belief. The Lead Department, Purchasing Department and other City Departments shall
22 not disclose any properly substantiated trade secret which is so designated by a person or
23 business except as required by this Chapter or as otherwise required by law.

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1 (b) Information certified by appropriate officials of the United States or the State of
2 California, as necessarily kept secret for national, state or local defense purposes, shall be
3 accorded the full protection against disclosure as specified by such official or in accordance
4 with the laws of the United States and the State of California.

5 (c) Information designated as trade secret shall not be disclosed in any document
6 whose disclosure to the public is required by law. Such documents include, but are not limited
7 to, the assessment report required pursuant to Section 21F.6 of this Chapter.

8 (d) Information designated as trade secret may be disclosed to an officer or employee
9 of the City and County of San Francisco, the State of California or the United States of
10 America, for use in connection with the official duties of such officer or employee acting under
11 authority of law for the protection of health.

12 (e) Where the Director receives a request for information that a person or business has
13 designated as a trade secret, the Director shall notify the person or business of said request
14 by certified mail. The Director may release the information after thirty (30) days after the
15 mailing of said notice, unless prior to the expiration of said 30-day period, the person or
16 business institutes and thereafter prosecutes in a timely manner an action in a court of
17 competent jurisdiction claiming that the information is subject to protection as a trade secret
18 under California law and seeking an injunction prohibiting disclosure of said information to the
19 general public.

20 (f) In adopting this Chapter, the Board of Supervisors does not intend to authorize or
21 require the disclosure to the public of any trade secrets protected under the laws of the State
22 of California.

23 (g) This Section is not intended to empower a person or business to refuse to disclose
24 any information including, but not limited to, trade secrets, to the Director, the Purchasing
25 Department, and other City Department required under this Chapter.

1 (h) Notwithstanding any other provision of this Chapter, any officer or employee of the
2 City and County of San Francisco, or former officer or employee or contractor with the City or
3 employee thereof, who by virtue of such employment of official position has obtained
4 possession or has had access to information, the disclosure of which is prohibited by this
5 Section, and who, knowing that disclosure of the information is prohibited, knowingly and
6 willfully discloses the information in any manner to any person or business not entitled to
7 receive it, shall be guilty of a misdemeanor.

8 **SEC. 21F.8. ESTABLISHMENT OF ENVIRONMENTALLY PREFERABLE**
9 **PURCHASING PILOT PROGRAM FOR CHEMICAL PRODUCTS.**

10 (a) No later than four (4) months after the submission of the Lead Department's report
11 to the Commission pursuant to Section 21F.6, the Lead Department shall provide a report to
12 the Commission proposing a Pilot Program which would minimize the use of Targeted
13 Hazardous Products by City Departments through changes in work practices or by
14 replacement with Preferred Products. The goals of the Pilot Program shall be the following:

15 (1) to evaluate Preferred Products that may be used as substitutes for Targeted
16 Hazardous Products based on (A) effectiveness, (B) ease of use, (C) availability, and (D)
17 expected additional costs or savings of the Preferred Products,

18 (2) to evaluate work practices that may reduce the purchase or use of Targeted
19 Hazardous Products while meeting the City Department's needs,

20 (3) to determine whether the criteria established pursuant to Section 21F.6(a)(1)
21 are effective in maximizing the purchase of Preferable Products and minimizing the purchase
22 of Targeted Hazardous Products.

23 (b) The report by the Lead Department shall contain the following:

24 (1) A recommendation as to which City Departments, or which programs within
25 City Departments, should participate in the Pilot Program. The Lead Department shall

1 consider including the following: Central Shops within the Purchasing Department, the
2 Department of Public Works, and the Department of Public Transportation.

3 (2) An appropriate recordkeeping and reporting component to enable the Lead
4 Department to evaluate whether the goals of the Pilot Program are achieved.

5 (3) Any other recommendations to improve the Pilot Program or make it more
6 effective. Such recommendations may include, but are not limited to, recommendations on
7 the development of appropriate definitions of relevant terms, the identification of additional
8 resources needed, a plan for providing outreach and training for end-users of the Preferred
9 Products, and a strategy for consulting with other City Departments in the development and
10 implementation of the Pilot Program.

11 (4) An estimate of the cost to implement the Pilot Program.

12 (c) Upon the approval of the Pilot Program by the Commission, the Commission shall
13 recommend that the Board of Supervisors adopt a resolution calling for the implementation of
14 the Pilot Program, and specifying the duration of the Pilot Program.

15 **SEC 21F.9. REPORT ON RESULTS OF PILOT PROGRAM.**

16 No later than three (3) months from the completion of the Pilot Program pursuant to
17 Section 21F8, the Lead Department shall submit a report to the Commission summarizing the
18 results of the Pilot Program. The report shall, at a minimum, include the following information:

19 (a) the benefits realized by minimizing the purchase or use of Targeted Hazardous
20 Products,

21 (b) the success of the Pilot Program in reducing the purchase or use of Targeted
22 Hazardous Products,

23 (c) an assessment of any economic impacts on the participating City Departments
24 caused by the conversion from the use of Targeted Hazardous Products to the use of the

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1 Preferred Products and/or work practices that minimize the use of Targeted Hazardous
2 Products.

3 **SEC. 21F.10. RECOMMENDATIONS TO THE BOARD OF SUPERVISORS.**

4 No later than six (6) months after the completion of the Pilot Program, the Commission
5 shall submit a report to the Board of Supervisors summarizing the findings of the Pilot
6 Program and providing the following:

7 (a) the projected benefits and costs or cost savings of expanding the scope of the Pilot
8 Program to include all City Departments that use Targeted Hazardous Products.

9 (b) a recommendation as to whether City Contractors should be subject to the
10 requirements regarding the purchase and use of Targeted Hazardous Products.

11 **SEC. 21F.11. BOARD ACTIONS ON RECOMMENDATIONS FOR PERMANENT**
12 **PROGRAMS.** No later than three (3) months after the submission of the report pursuant to
13 Section 21F.10, the Board of Supervisors shall determine whether this Chapter should be
14 amended to implement a Environmentally Preferable Purchasing program for all City
15 Departments.

16 Section 2. This Ordinance, if adopted, shall become effective on July 1, 1999 or thirty
17 (30) days from the passage of this ordinance as provided for in Section 2.105 of the San
18 Francisco Charter, whichever is later.

19
20 APPROVED AS TO FORM:

21 LOUISE H. RENNE, City Attorney

22
23 By: 

24 William Chan
25 Deputy City Attorney

SUPERVISORS KATZ, AMMIANO AND BIERMAN
BOARD OF SUPERVISORS



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 990405

Date Passed:

Ordinance amending Administrative Code by adding Chapter 21F (Sections 21F.1 through 21F.11) to establish an environmentally preferable purchasing (EPP) program in the Department of Administrative Services-Solid Waste Management Program; establishing criteria for evaluating chemically-based custodial, fleet maintenance, or facility maintenance products ("chemical products") used by City departments; assessing the City's use of chemical products; establishing a pilot program to determine the effectiveness of using preferred chemical products; and recommending to the Board of Supervisors whether to implement additional legislation to require all departments to use preferred chemical products.

May 3, 1999 Board of Supervisors — PASSED, ON FIRST READING

Ayes: 10 - Ammiano, Becerril, Bierman, Brown, Kaufman, Leno, Newsom, Teng, Yaki, Yee

Absent: 1 - Katz

May 10, 1999 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng, Yaki, Yee

File No. 990405

I hereby certify that the foregoing Ordinance
was **FINALLY PASSED** on May 10, 1999 by
the Board of Supervisors of the City and
County of San Francisco.



Gloria L. Young
Clerk of the Board

MAY 21 1999

Date Approved



Mayor Willie L. Brown Jr.