

FILE NO. 021791

ORDINANCE NO. 15-03

1 [Preservative-treated Wood Containing Arsenic.]

2
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.

13
14 Additions are single-underline italics Times New Roman;
15 deletions are ~~strikethrough italics Times New Roman~~.
16 Board amendment additions are double underlined.
17 Board amendment deletions are ~~strikethrough normal~~.

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

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

21 Sec. 21G.1 FINDINGS AND PURPOSE

22 The Board of Supervisors finds and declares that:

23 (a) Preservative-treated wood containing arsenic poses potential health risks to children in
24 San Francisco who are potentially exposed to arsenic, a known human carcinogen, by playing on City
25 wooden playground and park equipment. Studies conducted in California, Connecticut and Florida

1 suggest that arsenic leaches from preservative-treated wood containing arsenic and can end up on
2 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 years.

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

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

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

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

17 Sec. 21G.2 DEFINITIONS

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

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

23 (b) "City Department" shall mean any department of the City and County of San Francisco.
24 City Department does not include any other local agency or any federal or State agency, including but
25

1 not limited to the San Francisco Unified School District, the San Francisco Community College
2 District, the San Francisco Redevelopment Agency, and the San Francisco Housing Authority.

3 (c) "Commission" shall mean the Commission on the Environment provided for by San
4 Francisco Charter Section 4.118.

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

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

11 (f) "Department" shall mean the San Francisco Department of the Environment provided
12 for by San Francisco Charter Section 4.118.

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

15 Sec. 21G.3 ENVIRONMENTALLY PREFERABLE ALTERNATIVES

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

20 Sec. 21G.4 PURCHASE OF ALTERNATIVES

21 Except as provided in this Section, after June 30, 2003, each City Department entering into a
22 new Contract or extending the term of an existing Contract for the purchase of preservative-treated
23 wood products, and each Contractor purchasing preservative-treated wood products on behalf of the
24 City, shall only purchase such products from the list of alternatives adopted by the Department
25 pursuant to Section 21G.3 of this Chapter. A City Department or Contractor that purchases

1 preservative-treated wood containing arsenic for saltwater immersion shall be exempt from this
2 Section.

3 Sec. 21G.5 EXEMPTIONS

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

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

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

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

15 (a) No later than June 30, 2003, each City Department who owns or maintains playground
16 equipment that is constructed with preservative-treated wood containing arsenic, where contact with
17 human skin is likely, shall (i) take an inventory of such structures and develop a timeline and cost
18 analysis for replacing these structures with non-wood alternatives or with alternatives on the list
19 adopted by the Department pursuant to Section 21G.3 of this Chapter; (ii) develop a written
20 management program for preservative-treated wood containing arsenic, including best management
21 practices, schedules and protocols for testing for leaching of arsenic and chromium, sealing and
22 posting of warning language where contact with human skin is likely and update this program on a
23 regular basis; and (iii) provide the Department with copies of these documents.

24 (b) No later than June 30, 2003, each City Department who owns or maintains park
25 structures other than playground equipment, including benches and picnic tables, that are constructed

1 with preservative-treated wood containing arsenic, where contact with human skin is likely, shall
2 develop a plan to inventory and manage, including sealing and replacement, such structures and
3 submit that plan to the Department.

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

9 Sec. 21G.7 REPORT TO COMMISSION

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

13 (a) A list of the alternatives to preservative-treated wood containing arsenic pursuant to
14 Section 21G.3.

15 (b) A list of City Departments and Contractors requesting an exemption to this Chapter.

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

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

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

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

22 Sec. 21G.9 DISPOSAL

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

1 Sec. 21G.10 CITYWIDE BAN

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

6 Sec. 21G.11 GUIDELINES

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

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

12 By: Rebecca A. Saroyan
13 REBECCA A. SAROYAN
14 Deputy City Attorney



City and County of San Francisco

City Hall
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San Francisco, CA 94102-4689

Tails Ordinance

File Number: 021791

Date Passed:

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

January 21, 2003 Board of Supervisors — PASSED ON FIRST READING

Ayes: 10 - Ammiano, Daly, Dufty, Gonzalez, Hall, Ma, Maxwell, McGoldrick,
Peskin, Sandoval

Absent: 1 - Newsom

January 27, 2003 Board of Supervisors — FINALLY PASSED

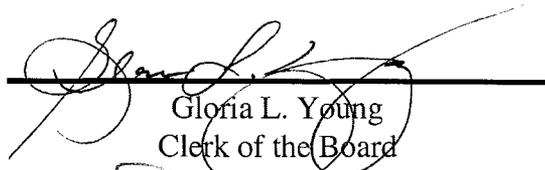
Ayes: 11 - Ammiano, Daly, Dufty, Gonzalez, Hall, Ma, Maxwell, McGoldrick,
Newsom, Peskin, Sandoval

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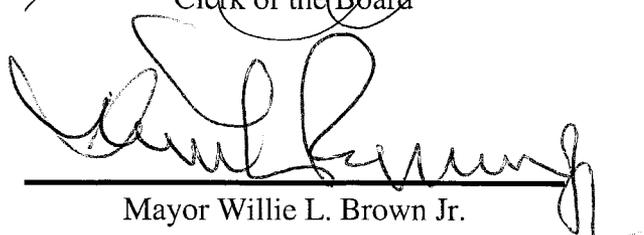
I hereby certify that the foregoing Ordinance was FINALLY PASSED on January 27, 2003 by the Board of Supervisors of the City and County of San Francisco.

FEB 07 2003

Date Approved



Gloria L. Young
Clerk of the Board



Mayor Willie L. Brown Jr.