



REPORT TO COUNCIL

City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www. CityofSacramento.org

Consent
July 13, 2010

Honorable Mayor and
Members of the City Council

Title: Ordinance Adoption: Home-Generated Sharps Waste Management

Location/Council District: Citywide

Recommendation: Adopt an **Ordinance** adding to Chapter 8.128 to Title 8 of the Sacramento City Code relating to Home-Generated Sharps Waste Management.

Contact: Marty Strauss, Integrated Waste Planning Superintendent
808-4934

Presenters: Not Applicable

Department: Utilities

Division: Solid Waste

Organization No: 14001711

Description/Analysis

Issue: The proposed ordinance is to require all retail stores, hospitals, and other points of sales or distributors of sharps for home use in the City of Sacramento to take back the sharps at the end of life (EOL) at no additional cost to the customer at the time of return. The proposed ordinance does not prohibit points of sale and/or distributors of sharps from including a surcharge at the time of sale to cover the cost of take back at the EOL. The intent of the proposed ordinance is simply to provide consumers more convenient ways for disposal of sharps in order to reduce improper disposal of sharps in the trash or recycling containers.

Sharps are accepted for a fee at the Household Hazardous Waste Permanent Facility located at the Sacramento Recycling and Transfer Station. The County of Sacramento's Household Hazardous Waste Facility also accepts sharps. An analysis of how many household sharps are generated in the City of Sacramento

Facility located at the Sacramento Recycling and Transfer Station. The County of Sacramento's Household Hazardous Waste Facility also accepts sharps. An analysis of how many household sharps are generated in the City of Sacramento and how many are collected at the two facilities shows only three percent of the household sharps generated in the City are captured.

Policy Considerations: The proper disposal of sharps through the point of purchase will provide a safe and convenient way for generators of sharps to safely dispose of home generated sharps.

Environmental Considerations:

California Environmental Quality Act (CEQA): Adoption of staff's recommendation is exempt from CEQA pursuant to Section 15308 of the CEQA Guidelines, which exempts actions taken by regulatory agencies to assure the maintenance, restoration, enhancement or protection of the environment. Implementation of the proposed ordinance will contribute to the enhancement of the environment by keeping sharps waste out of trash and recycling containers and the landfills.

Sustainability Considerations: The proper collection and disposal of sharps through a take back program will contribute to a safer and cleaner environment.

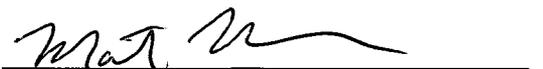
Commission/Committee Action: The Law and Legislation Committee considered the proposed ordinance and directed staff to bring the ordinance forward for consideration and adoption by the City Council. Additionally, the Solid Waste Advisory Committee (SWAC) and the Sacramento Environmental Commission reviewed the proposed ordinance and recommends approval (see Attachment 3).

Rationale for Recommendation: The implementation of a take back program will provide for a safe and convenient way for residents to properly dispose of home generated sharps. Improper disposal of home-generated sharps poses a public health issue as it exposes the public and waste management employees to blood borne pathogen as well as to puncture wounds.

Financial Considerations: The ordinance will require all retail, medical offices, hospitals and other points of sales and/or distributors of sharps for home use to take them back at the end of life (EOL) at no additional cost to the consumer at the time of return. The points of sale and/or distributors of sharps may include a surcharge at the time of sale to cover the cost of take back at the EOL. There will be no additional expense to the City.

Emerging Small Business Development (ESBD): Not applicable

Respectfully Submitted by: 
Edison Hicks
Integrated Waste General Manager

Approved by: 
Marty Hanneman
Director of Utilities

Recommendation Approved:


Gus Vina
Interim City Manager

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Attachment 1**Background**

At the September 1, 2009 Law and Legislation Committee meeting staff was directed to continue working with stakeholders and the City Attorney to draft an ordinance requiring all points of sale or distributors of sharps for home use to take home generated sharps back at the end of life at no additional cost to the consumer. Since then staff has met with California Retailers Association, private Pharmacy Association, Kaiser Permanente, the Multiple Sclerosis Society's Government Affairs committee and other interested groups. To date only the California Retail Association and the California Grocer Association have objected to a take back program. They have asked for an extended producer responsibility (EPR) program. Staff has reviewed this request and determined an EPR program would be too much of an administrative burden to implement.

Concerns and questions asked by the stakeholders are described below.

1. The question was asked if sharps delivered through mail order to the consumer will be subject to the ordinance. Only sharps sold by a retailer or distributor located in the City of Sacramento will be subject to the ordinance. If the point of sale or distribution is outside the City, the provider of the sharps will not be subject to the ordinance.
2. The question was asked whether County (and state) health facilities would be subject to the ordinance. The answer is no because the state and the county have sovereign immunity and are not subject to local regulations absent express consent.
3. The question was asked if mail back containers sold to the patient at the time of purchasing or being dispensed sharps will suffice as a no additional cost to the customer at the time of disposal. This is a question raised by representatives of retail pharmacies and concern over the ability to charge more than private insurance and/or medical programs will cover for the cost of sharps. The intent of the ordinance is to address the cost of disposal at the end of life. There is no prohibition in the ordinance that would disallow the point of sale offering to sell or provide the consumer a mail back container at the time of purchase.

The ordinance only requires the retailers/providers to establish (a) an onsite collection system, or (b) make available to consumers the mail-back containers at the point of sale whereby consumers can, at that time, choose to pay for or decline to get the containers. The intent of the ordinance is simply to provide consumers more convenient ways for disposal of sharps in order to reduce the likelihood of the sharps being disposed in the trash or recycling containers which ultimately the city pays for disposal.

4. Through the stakeholders' meetings it has been discovered users of home generated sharps have been stock piling sharps. This has been done due to not knowing how to legally and safely dispose of sharps. These stakeholders have asked if there will be an amnesty period for residents to bring in more than the actual number of sharps purchased from the location taking them back.

The ordinance only requires a retailer or provider of sharps that become home generated to take back the number of sharps they actually sold. However, residents will still be able to take sharps back to the City's Household Hazardous Waste Facility at a cost of \$5.05 per pound.

Attachment 2

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted _____

**AN ORDINANCE ADDING CHAPTER 8.128 TO THE SACRAMENTO CITY CODE
RELATING TO HOME-GENERATED SHARPS WASTE MANAGEMENT**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1

A. The City Council finds and determines:

1. Section 118286 of the California Health and Safety Code prohibits the disposal of home-generated sharps waste in trash or recycling containers and requires that sharps waste be transported to a collection center in an approved sharps container.
2. It is necessary and desirable to establish a program to ensure the safe and environmentally sound disposal of home-generated sharps waste and to ensure that the costs associated with the handling and disposal of home-generated sharps waste are the responsibility of the retailers and providers of sharps that become home-generated sharps waste.
3. The establishment of a sharps waste management program will protect and promote the public health, safety and welfare by reducing the illegal disposal of home-generated sharps waste, increasing the safe and environmentally sound disposal of home-generated sharps waste, and ensuring that the costs associated with the handling and disposal of home-generated sharps waste are borne by the retailers and providers of sharps that become home-generated sharps waste.

B. The purpose of this ordinance is to establish a sharps waste management program that will: (1) reduce the likelihood of the illegal disposal of home-generated sharps waste and thereby promote the safe and environmentally sound disposal of home-generated sharps waste in compliance with Health and Safety Code Section 118286, (2) ensure that costs associated with the proper management of home-generated sharps waste are internalized by the retailers and providers of sharps that become home-generated sharps waste at or before the point of purchase, and not at the point of discard, and (3) provide retailers and providers of sharps flexibility to partner with each other, and with those private and nonprofit business enterprises that currently provide collection and disposal services, to develop and promote safe and effective home-generated sharps waste management systems to achieve compliance with this ordinance.

SECTION 2

Chapter 8.128 is added to Title 8 of the Sacramento City Code, to read as follows:

Chapter 8.128

HOME-GENERATED SHARPS WASTE MANAGEMENT**8.128.010 Definitions.**

As used in this chapter:

“Consumer” means a person who acquires sharps for personal use, or for use on a pet.

“Home-generated sharps waste” means sharps that have been used by a consumer.

“Provider” means any person that sells or otherwise furnishes sharps to consumers at a medical or veterinary office, clinic or hospital located in the City.

“Retail or provider establishment” means the location in the City where the retailer sells sharps or the provider sells or furnishes sharps to consumers.

“Retailer” means any person that sells sharps directly to consumers at a business located in the City.

“Sharps” means one or more hypodermic needles, pen needles, intravenous needles, lancets, and other devices that are used to penetrate the skin for the delivery of medications.

8.128.020 Sharps Management.

- A. Not later than 45 days after the effective date of the ordinance adding this chapter to this code, every retailer and every provider of sharps in the City shall establish a system for the collection of home-generated sharps waste for proper disposal during the retailer's or provider's normal hours of operation.
- B. Each system established by a retailer or provider for the collection and disposal of home-generated sharps waste shall include, at a minimum, the following elements:
1. A receptacle or receptacles in a convenient location within the retail or provider establishment for the collection of home-generated sharps waste that meets the requirements specified in subsection B(2) below. Any receptacle used for the collection of home-generated sharps waste shall meet applicable state and federal standards.
 2. Signage prominently displayed within five (5) feet of every entrance to the retail or provider establishment and easily visible to the consumer, indicating that the retail or provider establishment collects home-generated sharps waste from consumers.
 3. The retailer or provider shall dispose of all home-generated sharps waste that is collected at the retail or provider establishment in accordance with all applicable laws and regulations.
- C. A retailer shall at a minimum provide the following onsite collection services:
1. The collection from a consumer of home-generated sharps waste if the retailer previously sold sharps to the consumer, at no cost to the consumer. The retailer may require proof of purchase of the prior sales, and shall not be required to accept home-generated sharps waste in an amount exceeding the amount of sharps previously sold to the consumer.
 2. The collection of home-generated sharps waste from a consumer simultaneously purchasing sharps from the retailer, at no cost to the consumer. The retailer shall not be required to accept home-generated sharps waste in an amount exceeding the amount of sharps being purchased.

- D. A provider shall at a minimum provide the following onsite collection services:
1. The collection from a consumer of home-generated sharps waste if the provider previously sold or otherwise furnished sharps to the consumer, at no cost to the consumer. The provider may require proof of purchase of the prior sales, or proof that sharps were provided to the consumer if provided at no cost, and shall not be required to accept home-generated sharps waste in an amount exceeding the amount of sharps previously sold or provided to the consumer.
 2. The collection of home-generated sharps waste from a consumer simultaneously purchasing or otherwise obtaining sharps from the provider, at no cost to the consumer. The retailer shall not be required to accept home-generated sharps waste in an amount exceeding the amount of sharps being purchased or obtained.
- E. In lieu of an onsite collection system as described and required in subsections B, C, and D, a retailer or provider may satisfy the requirements of this section 8.128.020 by providing state-approved mail-back sharps disposal containers to consumers who are purchasing or obtaining sharps from the retailer or provider.

8.128.030 Regulations.

The City Manager or designee shall have the authority to establish regulations to implement the provisions of this chapter, which shall become effective and applicable to retailers and providers in the City when adopted by resolution of the City Council.

8.128.040 Enforcement.

- A. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, and administrative penalties pursuant to Chapter 1.28 of this code. In any such action, the City shall be entitled to recover its reasonable attorneys' fees and costs.
- B. Any person who violates a provision of this chapter is liable for civil penalties of not less than two hundred fifty dollars (\$250.00) or more than twenty-five thousand dollars (\$25,000.00) for each day that the violation exists.
- C. Any civil penalties or administrative penalties collected shall be used for the City's costs of administration under this chapter and for programs for the collection and/or disposal of home-generated sharps waste.
- D. All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the city from the pursuit of any other remedy for the purpose of enforcing the provisions hereof.

SECTION 3

If any section, subsection, subdivision, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, subdivision, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

*SOLID WASTE ADVISORY COMMITTEE & AB 939 LOCAL TASK FORCE
SACRAMENTO CITIES & COUNTY*

June 15, 2010

<p>Integrated Waste Management Plan Elements</p> <p>Public education Source reduction Recycling Composting Transformation Materials recovery Resource recovery Marketing Storage of refuse Storage of recyclables Waste storage Waste collection Waste transfer Waste processing Waste disposal</p> <p>Members Sacramento County</p> <p>Cities: Citrus Heights Elk Grove Folsom Galt Isleton Rancho Cordova Sacramento</p>
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Honorable Mayor and Members of the City Council
City of Sacramento
915 I Street
Sacramento, CA 95814

Subject: Support of Take-Back Ordinance for Sharps Sold in the City of Sacramento

Dear Mayor and Members of the Council:

By unanimous vote of those members present, the SWAC adopted a motion at its June 1st meeting congratulating the City for taking leadership in the region on the issue of sharps, noting that it is the first step towards more discussion of Extended Producer Responsibility, and expressing SWAC's support for passage of this ordinance. It is our understanding that the Council will consider the proposed sharps take-back ordinance in July.

Extended Producer Responsibility means whoever designs, produces, sells or uses a product takes responsibility for minimizing its environmental impact through all stages of the product's life cycle. And the producer, having the greatest ability to minimize impacts, has the most responsibility.

The City of Sacramento can play a key role in helping to lead the transition to Producer Responsibility by helping develop private infrastructure by encouraging local businesses in take-back programs, sharing collection experience with producers and retailers, and educating consumers to use private infrastructure.

The SWAC appreciates the opportunity to participate in the City's consideration of the proposed sharps take-back ordinance. If you have any questions regarding these comments, please contact Pat Quinn of SWAC staff, by phone at (916) 875-7082 or email at quinmpa@saccounty.net.

Sincerely,

Steve Harriman, Chairman
Sacramento Cities / County Solid Waste Advisory Committee

c: SWAC Members
Marty Strauss, City of Sacramento Solid Waste Division
Pat Quinn, SWAC staff

Mission: SWAC shall act as the AB 939 Local Task Force and advise the Sacramento Regional Solid Waste Authority, the County of Sacramento Board of Supervisors and the city councils of the cities of Citrus Heights, Folsom, Galt, Isleton and Sacramento on all matters relating to the County of Sacramento Integrated Waste Management Plan and all its elements.