

ORDINANCE NO. 2015-53

AN ORDINANCE ADDING CHAPTER 6.54 TO THE ALAMEDA COUNTY GENERAL ORDINANCE CODE TO REQUIRE PRODUCERS OF MEDICATION USUALLY INJECTED OUTSIDE A HEALTHCARE SETTING AND OFFERED FOR SALE IN ALAMEDA COUNTY TO DEVELOP, FUND, AND PARTICIPATE IN A PRODUCT STEWARDSHIP PLAN TO COLLECT AND DISPOSE OF SHARPS FROM CONSUMERS; TO PROVIDE FOR IMPLEMENTATION, ENFORCEMENT, FEES, AND PENALTIES; AND MAKING ENVIRONMENTAL FINDINGS.

WHEREAS, the County of Alameda has a substantial interest in, and a substantial need for, a Sharps stewardship program; and

WHEREAS, the health and welfare of the residents of the County of Alameda would be improved and advanced by the proper disposal of Sharps;

NOW THEREFORE, the Board of Supervisors of the County of Alameda ordains as follows:

SECTION I

Title 6 of the Alameda County General Ordinance Code is hereby amended to add Chapter 6.54, sections 6.54.010 through 6.54.180.

CHAPTER 6.54 SAFE CONSUMER-GENERATED SHARPS DISPOSAL ORDINANCE

6.54.010 Declaration of Findings.

The Board of Supervisors hereby finds and declares the following:

- A. "Sharps" is the medical term for devices with sharp points or edges that can cut or puncture the skin, which include needles, pen needles, syringes, lancets, auto-injectors, infusion sets, intravenous catheters, connection needles/sets, and other devices;
- B. Sharps are a necessary medical technology that are used by consumers outside of healthcare settings to treat medical conditions including diabetes, multiple sclerosis, allergies, infertility, arthritis, hepatitis, HIV, blood clotting disorders, migraines and cancer;
- C. Injecting consumers dispose of more than 3 billion used needles and syringes and 900 million lancets each year in the United States;
- D. Until the California Legislature implemented Health & Safety Code section 118286 in 2008, the disposal of consumer-generated Sharps was unregulated by any California state or county agency;
- E. Before that legislation, injectors could lawfully place used needles in plastic containers, directly into the trash, or flush them into sewers; Section 118286 now requires injectors

- to dispose of Sharps in Sharps Containers or other containers authorized by the local enforcement agency, and prohibits the loose disposal of Sharps;
- F. Many people remain unaware of the change in the law and continue to dispose of contaminated Sharps in a manner that increases the risk that others will come into contact with them;
 - G. Improper disposal of Sharps puts many people at risk of injury and serious infection;
 - H. There are frequent reports of waste pick-up route drivers, landfill workers, recycling center workers, employees of hotels, health clubs, parks and recreation Departments, transportation Departments (Caltrans, BART, airlines and airports), janitorial workers, police, and restaurant and laundry workers finding and being injured in the workplace by Sharps that have been disposed of improperly;
 - I. Flushed Sharps can make their way to beaches and streams, creating a risk of injury to individuals, including children;
 - J. Because they penetrate the skin, Sharps may become contaminated with blood-borne pathogens and can transmit diseases including HIV, and Hepatitis B and C to others who unintentionally come into contact with contaminated Sharps;
 - K. Because of the severity of the infections that may be spread through Sharps, standard practice is to treat every used Sharp as though it were contaminated with pathogens such as HIV, Hepatitis B and Hepatitis C; even if a Sharps injury does not cause infection, it can have significant psychological and financial impacts on the victim who has to be tested and must wait from days to months to know if he or she has contracted a communicable and life-threatening disease;
 - L. There is no mandatory statewide Product Stewardship Program for Sharps in California, and pharmaceutical manufacturers have offered very little support for a permanent collection program to date;
 - M. The only statewide requirement relating to consumer-generated Sharps disposal is that Producers provide CalRecycle with their plan for encouraging proper disposal by consumers – a requirement that places no responsibility on Producers for disposal, lacks any enforcement mechanism, and that fewer than 20% of pharmaceutical manufacturers substantially comply with.
 - N. The California Medical Waste Management Act (California Health and Safety Code section 117600 *et seq.*) allows local jurisdictions to promulgate more stringent requirements to dispose of medical waste, such as Sharps;
 - O. It is necessary and desirable to establish a Product Stewardship Program to ensure the safe and environmentally sound disposal of consumer-generated Sharps waste and to ensure the costs associated with the handling and disposal of consumer-generated Sharps

waste are the responsibility of those who produce pharmaceuticals requiring the use of Sharps in their administration.

6.54.020 Title and Jurisdiction.

This Chapter may be cited as the “Alameda County Safe Consumer-Generated Sharps Disposal Ordinance.” This Chapter shall apply to all of Alameda County including unincorporated areas, except for those charter cities where the city council has authorized its own local health officer or environmental health director to administer and enforce the provisions of California Health and Safety Code section 117800. This Chapter shall be administered and implemented by the Alameda County Department of Environmental Health.

6.54.030 Definitions.

“Collector” means a Person that gathers Sharps from County residents for the purpose of collection, transportation, and disposal, including, but not limited to a retail pharmacy or law enforcement drop-off site, airports, Household Hazardous Waste facilities, transfer stations, clinics, schools, hospitals, or a mail-back service.

“Consumer-Generated Sharps Waste” means Sharps that have been used by a Consumer outside a healthcare setting, such as in a home, at work, or while travelling.

“Consumer” means any Person who uses Sharps outside a healthcare setting, or any Person who assists another person in using Sharps outside a healthcare setting. “Consumer” specifically includes any Person who uses Sharps to treat a pet or other animal.

“County” means the County of Alameda.

“Department” means the Alameda County Department of Environmental Health.

“Director” means the Director of the Alameda County Department of Environmental Health or his or her designee.

“Entity” means an agency, cooperative, collaboration, corporation, partnership, company, or other group arrangement other than a natural Person.

“Person” means an individual, firm, sole proprietorship, corporation, limited liability corporation, general partnership, limited partnership, limited liability partnership, association, cooperative, or other legal Entity, however organized.

“Plan” or “Product Stewardship Plan” means a plan for the collection, transportation and disposal of Sharps required under Section 6.54.040 of this Chapter that is:

1. financed, developed, implemented and participated in by one or more Producers;
2. operated by the participating Producers or a Stewardship Organization; and

3. approved by the Director.

“Producer” means a pharmaceutical manufacturer that sells or distributes a medication in Alameda County that is usually intended to be injected outside a healthcare setting.

“Producer” specifically includes at a minimum all pharmaceutical manufacturers subject to the reporting requirements of Public Resources Code section 47115 et seq. (SB 486) who sell or distribute such medication in Alameda County. “Producer” also includes an entity other than a pharmaceutical manufacturer that manufactures Sharps for sale or distribution in Alameda County. “Producer” does not include:

1. A retailer whose store label appears on medication, Sharps, or packaging if the retailer does not manufacture the medication or Sharps;
2. A pharmacist who compounds or repackages a prescribed individual drug product for direct distribution to a consumer; or
3. A wholesaler or distributor who is not also the pharmaceutical or Sharps manufacturer.

“Product Stewardship Program” or “Program” means a program financed and operated by producers to collect, transport, and dispose of Sharps.

“Retail Pharmacy” means a pharmacy licensed by the California Board of Pharmacy for retail sale and dispensing of drugs.

“Sharps” means devices with sharp points or edges that can cut or puncture the skin and includes needles, pen needles, syringes, lancets, auto-injectors, infusion sets, intravenous catheters, connection needles/sets, and other devices.

“Sharps Container” means a rigid puncture-resistant container meeting the standards of, and receiving approval from, the United States Food and Drug Administration as a medical device used for the collection of discarded Sharps.

“Stewardship Organization” means an organization designated by a Producer or group of Producers to act as an agent on behalf of one or more Producers to develop and implement and operate a Product Stewardship Plan.

“Supervisorial District” means the districts of the County of Alameda as defined in Alameda County General Ordinance Code Chapter 2.04 or its successor.

6.54.040 Mandatory Participation in Product Stewardship Plan.

A. Each Producer shall participate in a Product Stewardship Plan. Each Producer must either:

1. Operate, individually or jointly with other Producers, a Product Stewardship Plan approved by the Director; or

2. Enter into an agreement with a Stewardship Organization to operate, on the Producer's behalf, a Product Stewardship Plan approved by the Director.
- B. Each Product Stewardship Plan must be approved by the Director before the Person administering the Plan starts collecting and disposing of Sharps for compliance with this Ordinance. Once approved, each Product Stewardship Plan must have prior written approval of the Director for proposed changes as described under Section 6.54.070.
- C. By six (6) months after the effective date of this Chapter or commencement of sales or distribution within Alameda County, a Producer must notify the Department in writing of the Producer's intent to participate in a Product Stewardship Plan, or to form a new Product Stewardship Plan.
- D. A Producer, either individually or jointly with other Producers, must:
1. By nine (9) months after the effective date of this Chapter or commencement of sale or distribution within Alameda County, identify in writing to the Department a Product Stewardship Plan operator, including the operator's telephone, mailing address and email contact information, that is authorized to be the official point of contact for the Product Stewardship Plan;
 2. By nine (9) months after the effective date of this Chapter or commencement of sale or distribution within Alameda County, notify all potential Collectors in the County of the opportunity to participate as a drop-off site in accordance with Section 6.54.080 of this Chapter and provide a process for forming an agreement between the Product Stewardship Plan and interested Collectors; and annually thereafter, make the same notification to any nonparticipating or new potential Collectors in the County;
 3. By one (1) year after the effective date of this Chapter or commencement of sale or distribution within Alameda County, submit a proposed Product Stewardship Plan as described in Sections 6.54.040 and 6.54.050 to the Director for review;
 4. Within three (3) months after the Director's approval of the Product Stewardship Plan, operate or participate in the Product Stewardship Plan in accordance with this Chapter;
 5. At least every four years after the Product Stewardship Plan starts operations, submit an updated Product Stewardship Plan to the Director explaining any substantive changes to components of the Product Stewardship Plan required in Section 6.54.050. The updated Product Stewardship Plan shall be accompanied by the plan review fee in accordance with Section 6.54.110. The Director shall review updated Product Stewardship Plans using the process described in Section 6.54.060; and
 6. Pay all administrative and operational costs and fees associated with its Product Stewardship Plan.

- E. A Producer, either individually or jointly with other Producers, may:
1. Enter into contracts and agreements with Stewardship Organizations, other service providers, or other entities as necessary, useful or convenient to carry out all or portions of their Product Stewardship Plan;
 2. Notify the Director of any Producer or group of Producers in the County that is failing to participate in a Product Stewardship Plan; and
 3. Perform any other functions as may be necessary or proper to carry out the Product Stewardship Plan and to fulfill any or all of the purposes for which the plan is organized.
- F. After the first full year of participation in a Product Stewardship Plan, a Producer or group of Producers may notify the Director in writing of intent to form a new Product Stewardship Plan, and identify a plan operator, including the plan operator's telephone, mailing address, and email contact information, that is authorized to be the official point of contact for the proposed new Product Stewardship Plan. Within three (3) months of such notification, the Producer or group of Producers shall submit a proposed Product Stewardship Plan as described under Section 6.54.050 to the Director for review.
- G. The Director may approve in writing requests for extensions of time for the submission dates and deadlines in this Section.
- H. The Director may audit the records of a Producer, group of Producers, or Stewardship Organization related to a Product Stewardship Plan or request that the Producer, group of Producers, or Stewardship Organization arrange for the Director to inspect at reasonable times a Product Stewardship Plan's or a Collector's facilities, vehicles, and equipment used in carrying out the Product Stewardship Plan.

6.54.050 Product Stewardship Plan Components.

Each Product Stewardship Plan must include:

- A. Contact information for all Producers participating in the Product Stewardship Plan, including each Producer's name, address, phone number, and email address, and the name, address, phone number, and email address of the Person to whom the Department may direct all inquiries regarding the Producer's participation in the Product Stewardship Plan.
- B. A description of the proposed collection system to provide convenient ongoing collection service for all Sharps from County residents in compliance with Section 6.54.080, including a list of all collection methods and participating Collectors, a list of drop-off sites, a description of how any periodic collection events will be scheduled and located, a description of how any mail-back services will be provided and an example of the prepaid, preaddressed mailers the plan will use. The description of the collection service shall include a list of Retail Pharmacies and law enforcement agencies contacted by the

plan under Section 6.54.080 of this Chapter, and a list of all Collectors who offered to participate.

- C. A description of the handling and disposal system, including identification of and contact information for Collectors, transporters and waste disposal facilities to be used by the Product Stewardship Plan in accordance with Sections 6.54.080 and 6.54.090 of this Chapter and a description of how Sharps will be safely and securely tracked and handled from collection through final disposal and the policies and procedures to be followed to ensure security.
- D. A description of the policies and procedures to be followed by Persons handling Sharps collected under the Product Stewardship Plan, including a description of how all Collectors, transporters and waste disposal facilities used will ensure that the collected Sharps are safely and securely tracked from collection through final disposal, and how all entities participating in the Product Stewardship Plan will operate under and comply with all applicable federal and state laws, rules and guidelines, including but not limited to those of the United States Food and Drug Administration and Occupational Safety and Health Administration, and how any Pharmacy collection site will operate under applicable rules and guidelines of the State of California Board of Pharmacy.
- E. A certification that any patient information on Sharps packaging will be promptly destroyed.
- F. A description of the public education effort and promotion strategy required in Section 6.54.100 of this Chapter, including a copy of standardized instructions for County residents, signage developed for Collectors, and required promotional materials.
- G. Proposed short-term and long-term goals of the Product Stewardship Plan for collection amounts, education and promotion.
- H. A description of how the Product Stewardship Plan will consider the use of existing household hazardous waste, transfer stations, and recycling facilities within the County.
- I. A certification that the Product Stewardship Plan will accept all Sharps regardless of who produced them or their compatibility with Producer's Drugs, unless excused from this requirement by the Department as part of the approval of the Product Stewardship Plan.
- J. A description of how the Product Stewardship Plan will provide collection services for Sharps in all areas of Alameda County that are convenient to the public and adequate to meet the needs of the population in the area being served.
- K. The location of each collection site.
- L. A list containing the name, location, permit status, and record of any penalties, violations, or regulatory orders received in the previous five years by each Person that will be involved in transporting unwanted products and each medical waste or hazardous disposal facility proposed to participate in the Product Stewardship Plan;

- M. A description of how the scope and extent of the Product Stewardship Plan are reasonably related to the amount of Sharps that are used in Alameda County, by the Producer or group of Producers;
- N. A starting date when collection of unwanted products will begin;
- O. A description of how collection sites for unwanted products may be placed at appropriate retail stores in Alameda County including a description of the involvement of the retail store.
 - i. Retailers are encouraged to co-locate Sharps collection sites with existing unwanted drug collection sites.
 - ii. Retailers are not required or mandated to host collection sites and nothing in this Chapter shall be interpreted as requiring such participation; and
- P. If more than one Producer will be involved in a proposed Product Stewardship Plan, then the plan must include a fair and reasonable manner for allocating the costs among the participants in that program, such that the portion of costs paid by each Producer is reasonably related to the amount of medications usually injected outside a healthcare setting that Producer sells in Alameda County.

6.54.060 Review of Proposed Product Stewardship Plans.

- A. By one year after the effective date of this Chapter, each Producer, group of Producers, or Stewardship Organization shall submit its proposed Product Stewardship Plan to the Department for review, accompanied by the plan review fee in accordance with Section 6.54.110 of this Chapter. The Department may upon request provide information and technical assistance about the requirements of this Chapter to assist with the development of a proposed Product Stewardship Plan.
- B. The Department shall review the proposed Product Stewardship Plan and determine whether it meets the requirements of this Chapter. In reviewing a proposed Product Stewardship Plan, the Department shall provide an opportunity for written public comment on the proposed Product Stewardship Plan and consider any comments received.
- C. After the review under subsection B of this Section and within ninety (90) days after receipt of the proposed Product Stewardship Plan, the Director shall either approve or reject the proposed Product Stewardship Plan in writing and, if rejected, provide reasons for the rejection.
- D. If the Director rejects a proposed Product Stewardship Plan, the submitting Producer, group of Producers, or Stewardship Organization must submit a revised Product Stewardship Plan to the Department within sixty (60) days after receiving written notice of the rejection. The Director shall review and approve or reject the revised Product Stewardship Plan.

- E. If the Director rejects a revised Product Stewardship Plan, or any subsequently revised plan, the Director may deem the submitting Producer or group of Producers out of compliance with this Chapter and subject to the enforcement provisions in this Chapter.
- F. In approving a proposed Product Stewardship Plan, the Director may exercise reasonable discretion to waive strict compliance with the requirements of this Chapter that apply to Producers in order to achieve the objectives of this Chapter.
- G. The Department shall make all Product Stewardship Plans and proposed plans submitted under this Section available to the public.

6.54.070 Prior Approval of Changes.

- A. Proposed changes to an approved Product Stewardship Plan that substantively alter plan operations, including, but not limited to, changes to participating Producers, collection methods, achievement of the service convenience goal, policies and procedures for handling Sharps, or education and promotion methods or disposal facilities, must be approved in writing by the Director before the changes are implemented.
- B. Proposed changes to an approved Product Stewardship Plan must be submitted to the Department within six (6) months of notice from the Department of a change to the population of a Supervisorial District as described in Section 6.54.080.
- C. Proposed changes to a Product Stewardship Plan as described under subsection A of this Section must be submitted in writing at least thirty (30) days before the change is scheduled to occur and accompanied by the review fee in accordance with Section 6.54.110 of this Chapter.
- D. The Department must be notified at least fifteen (15) days before implementing any changes to drop-off site locations, methods for scheduling and locating periodic collection events, or methods for distributing prepaid, preaddressed mailers, that do not substantively alter achievement of the service convenience goal under Section 6.54.080 of this Chapter, or other changes that do not substantively alter plan operations under subsection A of this Section.
- E. A preliminary determination may be requested from the Department as to whether a proposed change would be deemed to substantively alter plan operations.

6.54.080 Sharps Collection.

- A. This Chapter does not require any Person to serve as a Collector in a Product Stewardship Plan. A Person may offer to serve as a Collector voluntarily, or may agree to serve as a Collector in exchange for incentives or payment offered by a Producer, group of Producers, or Stewardship Organization. Producers, groups of Producers, or Stewardship Organizations must consider using any potential Collector interested in participating in Sharps collection, unless the Producer, group of Producers, or

Stewardship Organization determines that the use of such potential Collector would negatively impact the efficiency or scope of collection.

B. The collection system for each Product Stewardship Plan must:

1. Provide reasonably convenient and equitable access for all County residents in each Supervisorial District. The system of drop-off sites shall provide multiple drop-off sites in each Supervisorial District, geographically distributed to provide reasonably convenient and equitable access. If the service convenience goal in this subsection cannot be achieved due to a lack of drop-off sites at pharmacies, law enforcement agencies, or other qualified Collectors in each Supervisorial District, then those areas shall be served through regular collection events and/or mail-back services;
2. Be safe and secure, including providing for the prompt destruction of any patient information on packaging;
3. Give preference to having Retail Pharmacies and law enforcement agencies serve as drop-off sites;
4. Include, as Collectors, any Retail Pharmacy or any law enforcement agency willing to serve as a drop-off site for Sharps and able to meet the requirements of this Chapter within three (3) months of their offer to participate, unless the Collector requests a longer time frame. A Product Stewardship Plan must also accept other Collectors willing to serve as a drop-off site for Sharps and able to meet the requirements of this Chapter; and
5. Make mail-back services available, free of charge, to disabled and home-bound residents upon request through the Product Stewardship Plan's toll-free telephone number and web site, and through distribution of prepaid, pre-addressed mailers to Persons providing services to such residents. The toll-free telephone number and web site required by this subsection shall be in English, Spanish, Chinese, Vietnamese, and Tagalog.

C. Drop-off sites shall accept all Sharps from County residents during all hours that the Retail Pharmacy, law enforcement agency, or other Collector is normally open for business with the public. Drop-off sites not operated by a law enforcement agency shall utilize secure collection bins in compliance with all applicable requirements, including but not limited to those of the Food and Drug Administration and the Occupational Safety and Health Administration. In the event that more than one Product Stewardship Plan operates a drop-off site at a particular location, each drop-off site must accept all Sharps.

6.54.090 Sharps Disposal.

- A. Each Product Stewardship Plan must comply with all local, state, and federal laws and regulations applicable to its operations, including laws and regulations governing the disposal of medical waste.
- B. Each Product Stewardship Plan must dispose of all Sharps by incineration at a medical waste or hazardous waste facility. The medical waste or hazardous waste facility must be in possession of all required regulatory permits and licenses.
- C. Producers with Product Stewardship Plans may petition the Department for approval to use final disposal technologies, where lawful, that provide superior environmental and human health protection than provided by current medical waste disposal technologies for Sharps if and when those technologies are proven and available. The proposed technology must provide equivalent protection in each, and superior protection in one or more, of the following areas:
 - 1. Monitoring of any emissions or waste;
 - 2. Worker health and safety;
 - 3. Air, water, or land emissions contributing to persistent, bioaccumulative, and toxic pollution; and
 - 4. Overall impact on the environment and human health.

6.54.100 Promotion and Outreach.

- A. All Product Stewardship Plans shall coordinate with each other and develop a single system of promotion that shall:
 - 1. Promote the Product Stewardship Plans so that Sharps collection options are widely understood by residents, pharmacists, retailers of medications usually injected outside a healthcare setting, and healthcare practitioners including doctors and other prescribers, veterinarians and veterinary hospitals, and promote the safe disposal of Sharps by County residents;
 - 2. Work with Collectors participating in Product Stewardship Plans to develop clear, standardized instructions for County residents on the use of collection bins and a readily-recognizable, consistent design of collection bins;
 - 3. Establish a single toll-free telephone number and single web site where collection options and current locations of drop-off sites will be publicized, and prepare educational and outreach materials promoting safe storage of used Sharps and describing where and how to return Sharps to the Product Stewardship Plan(s). These materials must be provided to pharmacies, healthcare facilities, veterinary facilities, and other interested parties for dissemination to County residents. Plain

language and explanatory images should be used to make use of medicine collection services readily understandable by all residents, including individuals with limited English proficiency;

4. Conduct a biennial survey of County residents and a survey of pharmacists, veterinarians, and health professionals in the County who interact with patients on use of medicines after the first full year of operation of the plans. Survey questions shall measure percent awareness of the Product Stewardship Plans, assess to what extent drop-off sites and other collection methods are convenient and easy to use, and assess knowledge and attitudes about risks associated with improper disposal of Sharps. Draft survey questions shall be submitted to the Department for review and comment at least thirty (30) days prior to initiation of the survey. Results of the survey shall be reported to the Department and made available to the public on the website required in this Section within ninety (90) days of the end of the survey period. The privacy of all survey respondents shall be maintained.
- B. All surveys, outreach, education, promotion, websites, and toll-free phone numbers required by this Section shall be in English, Spanish, Chinese, Vietnamese, and Tagalog.
 - C. The Department may provide guidance on the development of a single system of promotion.

6.54.110 Administrative Costs and Fees.

- A. The Department shall charge the Producers fees to cover Alameda County's costs of administering and enforcing this Chapter. Such fees shall include a Product Stewardship Plan review fee and annual operating fees. The fees charged shall be based on the current hourly rate for staff time as may be approved from time to time by the Board of Supervisors.
- B. A Producer or group of Producers participating in a Product Stewardship Plan shall pay all administrative and operational costs related to their Product Stewardship Plan, unless specifically excluded by this Ordinance. Administrative and operational costs related to the Product Stewardship Plan include but are not limited to the following:
 1. Collection and transportation supplies for each drop-off site;
 2. Acquisition of all secure collection bins for drop-off sites;
 3. Ongoing maintenance and replacement of secure collection bins, as requested by Collectors;
 4. Prepaid, preaddressed mailers provided to disabled and/or home-bound County residents;

5. Operation of periodic collection events, including costs of law enforcement and Department staff time if necessary;
 6. Transportation of all collected Sharps to final disposal, including costs of law enforcement escort if necessary;
 7. Environmentally sound disposal of all collected Sharps under Section 6.54.090 of this Chapter;
 8. Program promotion under Section 6.54.100 of this Chapter; and
 9. Costs related to any review of a Product Stewardship Plan for purposes of obtaining compliance with the California Environmental Quality Act (Cal. Pub. Res. Code § 21000, et seq.).
 10. Administrative costs and fees imposed by the County under this Chapter.
- C. No Person or Producer may charge a point-of-sale fee to consumers to recoup the costs of their Product Stewardship Plan and compliance with this Ordinance, nor may they charge a specific point-of collection fee at the time the Sharps are collected.
- D. Producers are not required to pay for costs of staff time at drop-off sites provided by Collectors participating in collection efforts for a Product Stewardship Plan, however, nothing in this Ordinance shall be construed to prohibit such payment, or other compensation to a drop off site.

6.54.120 Product Stewardship Plan Reporting Requirements.

- A. Within six months after the end of the first 12-month period of operation, and annually thereafter, the plan operator of a Product Stewardship Plan shall submit a report to the Department on behalf of participating Producers describing their plan's activities during the previous reporting period. The report must include:
1. A list of Producers participating in the Product Stewardship Plan;
 2. The amount, by weight, of Sharps collected, including the amount by weight from each collection method used;
 3. The weight of Sharps collected and number of pickups, and the quantity of outer containers (if applicable), for each collection site;
 4. A list of drop-off sites;
 5. The number of mail-back containers provided to County residents, and how many were returned during the reporting period;
 6. The dates and locations of collection events held, if applicable, and the quantities by weight returned at those events;

7. The transporters used and the disposal facility or facilities used for all Sharps;
 8. Whether any safety or security problems occurred during collection, transportation or disposal of Sharps during the reporting period and, if so, what changes have or will be made to policies, procedures or tracking mechanisms to alleviate the problem and to improve safety and security in the future, this portion of the report may be submitted under separate cover clearly marked 'Safety and Security Report';
 9. A description of the public education, outreach and evaluation activities implemented during the reporting period;
 10. A summary of the Product Stewardship Plan's goals, the degree of success in meeting those goals in the past year, and, if any goals have not been met, what effort will be made to achieve the goals in the next year; and
 11. The total expenditures of the Product Stewardship Plan during the reporting period.
- B. The Department shall make reports submitted under this Section available to the public, however, may continue to hold the Safety and Security Report under separate cover.
- C. For the purposes of this Section, "reporting period" means the period from January 1 through December 31 of the same calendar year, unless otherwise specified to the plan operator by the Director.

6.54.130 Rules, Performance Standards, and Report to the Board of Supervisors.

- A. The Director, following public notice and a hearing, may adopt rules and regulations necessary to implement, administer, and enforce this Chapter.
- B. The Department may work with the Product Stewardship Plan operator to define goals for collection amounts, education, and promotion for a Product Stewardship Plan.
- C. The Department shall report as requested to the Board of Supervisors concerning the status of all Product Stewardship Plans and recommendations for changes to this Chapter.

6.54.140 Enforcement.

- A. The Department shall administer the penalty provisions of this Chapter.
- B. The Department may issue an administrative citation to a Producer or group of Producers for violation of this Chapter or any regulation adopted under this Chapter. The Department shall first send a written warning to the Producer or group of Producers as well as a copy of this Chapter and any regulations adopted under this Chapter. The

Producer shall have thirty (30) days after receipt of the warning to comply and correct any violations.

- C. If the Producer fails to comply and correct any violations, the Department may impose administrative fines for violations of this Chapter or of any regulations adopted under this Chapter. Each day shall constitute a separate violation for these purposes.
- D. Any Person in violation of this Chapter or any regulation adopted under this Chapter shall be liable to the county of Alameda for a civil penalty in an amount not to exceed one thousand dollars (\$1,000.00) per day per violation. Each day in which the violation continues shall constitute a separate and distinct violation.
- E. In determining the appropriate penalties, the Department shall consider the extent of harm caused by the violation, the nature and persistence of the violation, the frequency of past violations, any action taken to mitigate the violation, and the financial burden to the violator.
- F. Any Producer receiving an administrative citation under this Chapter or any regulation adopted under this Chapter may appeal it within twenty-one (21) calendar days from the date the administrative citation was issued. The administrative citation is deemed issued on the day it is sent by first class mail or personal service. The administrative citation shall state the date of issuance. If the deadline falls on a weekend or county of Alameda holiday, then the deadline shall be extended until the next regular business day.

The request to appeal must:

- 1. Be in writing;
 - 2. Be accompanied by a deposit of the total fine and any fees noted on the administrative citation;
 - 3. Specify the basis for the appeal in detail;
 - 4. Be postmarked within twenty-one (21) days from the date the administrative citation was issued; and
 - 5. Be sent to the address as set forth on the administrative citation.
- G. The written request to appeal will be reviewed and, if found to be complete, a date, time and place shall be set for a hearing before a hearing officer designated by the Department. Written notice of the time and place for the hearing will be served by first class mail or personal service at least twenty-one (21) days prior to the date of the hearing to the Producer appealing the citation. Service by first class mail, postage prepaid shall be effective on the date of mailing.
 - H. Failure of any Producer to file an appeal in accordance with the provisions of this section shall constitute waiver of that Producer's rights to administrative determination

of the merits of the administrative citation and the amount of the fine and any fees and shall constitute a failure by that Producer to exhaust administrative remedies.

- I. The Producer requesting the appeal may ask the Department to recuse a hearing officer for reasons of actual prejudice against the party's cause. The hearing officer shall conduct an orderly, fair hearing and accept evidence as follows:
 1. A valid administrative citation shall be prima facie evidence of the violation;
 2. Testimony shall be by declaration under penalty of perjury except to the extent the hearing officer permits or requires live testimony concerning the violation.
 3. The hearing officer may reduce, waive or conditionally reduce the fines and any fees stated in the administrative citation. The hearing officer may impose deadlines or a schedule for payment of the fine and any fees due in excess of the deposit.
 4. The hearing officer shall make findings based on the record of the hearing and make a written decision based on the findings ("hearing officer decision"). The hearing officer decision shall be served by first class mail on the Producer appealing and the Department. The hearing officer decision affirming or dismissing the administrative citation is final, unless a timely notice of appeal is filed for hearing by the Board of Supervisors of the County of Alameda.

- J. A second appeal may be filed with the Board of Supervisors within ten (10) calendar days after the date of service of the hearing officer decision.
 1. The appeal may be taken by any Producer or the Department within said ten-day period, by filing with the clerk of the Board of Supervisors a notice of appeal specifying the grounds for such appeal. The Board of Supervisors shall not hear any appeal that is untimely filed.
 2. Upon receiving an appeal, the clerk of the Board of Supervisors shall indicate upon every notice of appeal received the date upon which it was filed. The Department shall arrange for an administrative record to be made available to the Board of Supervisors of all of the documents constituting the record upon which the action appealed was taken.
 3. The Board of Supervisors shall give written notice of the time and place for a public hearing on any appeal filed under this section to the Producer and the Department.
 4. The Board of Supervisors may hear additional evidence in its sole discretion and may sustain, modify or overrule any order brought before it on appeal.
 5. The Board of Supervisors may make such findings and decisions as are consistent with state law and the County of Alameda ordinances. If no motion relative to the hearing officer decision appealed attains a majority vote of the Board of

Supervisors within thirty (30) days from the date of the hearing by said board thereon, the hearing officer decision shall stand sustained and be final.

- K. The Department may establish appropriate administrative rules for implementing this Chapter, conducting hearings, and rendering decisions under this section.
- L. Upon the failure of any Producer to comply with any requirement of this Chapter and any rule or regulation adopted under this Chapter, the Alameda County Counsel's Office may petition any court having jurisdiction for injunctive relief, payment of civil penalties and any other appropriate remedy, including restraining such Person from continuing any prohibited activity and compelling compliance with lawful requirements.
- M. Any Person who knowingly and willfully violates the requirements of this Chapter or any rule or regulation adopted under this Chapter is guilty of a misdemeanor and may be prosecuted by the Alameda County district attorney's office. A conviction for a misdemeanor violation under this Chapter is punishable by a fine of not less than fifty (\$50.00) and not more than five-hundred (\$500.00) for each day per violation, or by imprisonment in the Alameda County Jail for a period not to exceed six (6) months, or by both such fine and imprisonment.

6.54.150 Undertaking for the General Welfare.

In adopting and implementing this Chapter, the County is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any Person who claims such breach proximately caused injury.

6.54.160 Environmental Findings.

The Board of Supervisors has determined that the actions contemplated in this Chapter are in compliance with the California Environmental Quality Act (Cal. Pub. Res. Code section 21000 et seq.). This Chapter is entitled to a categorical exemption of the California Environmental Quality Act ("CEQA") under 14 California Code of Regulations section 15307, which exempts "actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection." Additionally, this Chapter is entitled to a categorical exemption under 14 California Code of Regulations section 15308, which exempts "actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment."

6.54.170 No Conflict with Federal or State Law.

This Chapter shall be construed so as not to conflict with applicable federal or State law, rules, or regulations. The County shall suspend enforcement of this Chapter to the extent that

said enforcement would conflict with any preemptive State or federal legislation subsequently adopted. Nothing in this Chapter is intended to or shall be construed to protect anticompetitive or collusive conduct, or to modify, impair, or supersede the operation of any of the antitrust or unfair competition laws of the State of California or the United States.

6.54.180 Severability.

The Board of Supervisors hereby declares that every section, paragraph, sentence, and clause of this Chapter has independent value, and the Board of Supervisors would have adopted each provision hereof regardless of any other provision. If any of the provisions of this Chapter or the application thereof to any Person or circumstance is held invalid by a court of competent jurisdiction, the remainder of those provisions, including the application of such part or provisions to Persons or circumstances other than those to which it is held invalid shall not be affected thereby and shall continue in full force and effect.

SECTION II

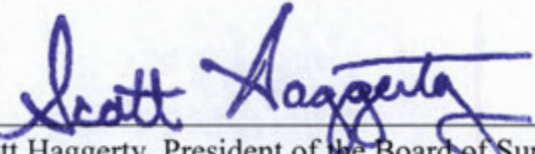
This ordinance shall take effect and be in force thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage, it shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the said County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California on November 17, 2015, by the following called vote:

AYES: Supervisors Carson, Chan, Miley, Valle & President Haggerty

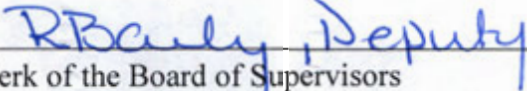
NOES: None

EXCUSED: None



Scott Haggerty, President of the Board of Supervisors
County of Alameda,
State of California

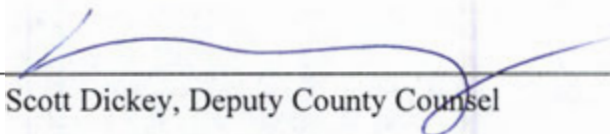
ATTEST:



Clerk of the Board of Supervisors
County of Alameda,
State of California

Approved as to Form:

DONNA R. ZIEGLER, County Counsel

By: 

K. Scott Dickey, Deputy County Counsel