

ORDINANCE 13-08

AN ORDINANCE OF THE COUNCIL OF THE CITY OF TULARE AMENDING TITLE 7 OF THE TULARE MUNICIPAL CODE BY ADDING CHAPTER 7.19 ESTABLISHING A HOME-GENERATED SHARPS WASTE MANAGEMENT PROGRAM

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TULARE AS FOLLOWS, TO WIT:

SECTION 1: Chapter 7.19 of the Tulare Municipal Code is hereby added to read as follows:

7.19.010. Purpose

The Tulare City Council finds and declares all of the following purposes for this Ordinance:

- (a) To achieve the mandates imposed by the Integrated Waste Management Act of 1989 (AB 939) on a regional basis;
- (b) To enact a comprehensive and innovative system for the proper and legal management of home-generated sharps waste, as defined in Section 2(f) of this ordinance, in the City of Tulare in accordance with Section 118286 of the California Health and Safety Code;
- (c) To enact a law that establishes a program that is convenient for consumers and the public to return and ensure the safe and environmentally sound disposal of home-generated sharps waste, and to provide a "no-cost" system for consumers for the return of home-generated sharps waste;
- (d) To assure that the costs associated with the handling and disposal of home-generated sharps waste are the responsibility of the producers and retailers of home-generated sharps waste, and not local governments or their service providers, state or local government, or taxpayers;
- (e) To reduce the likelihood of the illegal disposal of home-generated sharps waste;
- (f) To ensure that all costs associated with the proper management of home-generated sharps waste are internalized by the producers and retailers of home-generated sharps waste at or before the point of purchase, and not at the point of discard;
- (g) To assure that manufacturers and retailers of sharps, while working to achieve the goals and objectives of this Ordinance, shall have the flexibility to partner with each other, with governmental programs, and with private and nonprofit business enterprises that provide collection and processing services, to develop and promote a safe and effective home-generated sharps waste management system; and
- (h) To provide for the safe and convenient collection and disposal of 100 percent of the home-generated sharps waste discarded in the City of Tulare at no cost to the consumer and to comply with the requirements pursuant to State Health and Safety Code prohibiting the disposal of home-generated sharps waste in trash, recycling, yard waste, or landfills as of February 1, 2014.

7.19.020 Definitions

(a) "Consumer" means an individual who has purchased sharps for personal use for humans or animals.

(b) "Home-generated" means all sharps as defined in (f) below derived from a household, including a multifamily residence, or a single family residence.

(c) "Tulare area" means the geographic area that includes the boundaries of the City of Tulare, California.

(d) "Retailer" means any entity, including but not limited to, a person or business, of whatever form of organization, which sells to the general public sharps in the area to a consumer, including a manufacturer of sharps who sells sharps directly to a consumer.

(e) "Distributor" means a person who sells sharps to a retailer.

(f) "Sharps" means hypodermic needles, pen needles, intravenous needles, lancets, and other devices that are used to penetrate the skin for the delivery of medications, to humans or animals.

(g) "Receptacle" means a rigid puncture-resistant container with a sealable lid approved by the U.S. Food and Drug Administration for the purpose of transporting sharps for disposal.

(h) "Proper disposal" of home-generated sharps waste means disposal in compliance with the applicable provisions of the California Health and Safety Code by means of an approved/certified medical waste disposal company.

7.19.030 Sharps Management

(a) By February 1, 2014, every retailer of sharps sold in the City of Tulare shall establish within the retail outlet a system for the acceptance and collection of home-generated sharps waste for proper disposal.

(b) Each system established by a retailer for the acceptance and collection of home-generated sharps waste during the retailer's normal hours of operation, for proper disposal shall, at a minimum, include all of the following elements:

(1) A convenient location within the retail establishment for the "take-back" from the consumer of home-generated sharps waste at no cost to that consumer.

(2) Appropriate signage, prominently displayed within 5 feet of any entrance to the retail establishment and easily visible to the consumer, indicating that the retail establishment accepts and collects home-generated sharps waste from consumers.

(3) An appropriate receptacle or receptacles for the collection of home-generated

sharps waste within the retail establishment. The retailer shall assure that all home-generated sharps waste is placed in the receptacle(s).

(4) Assurance that the collected home-generated sharps wastes are disposed within the time period established by applicable state law, as determined, from time to time by the Tulare County Environmental Health Service Department, acting as the Local Enforcement Agency.

(5) Comply with all applicable provisions of the California Medical Waste Management Act, Health and Safety Code Sections 117600 et seq.

(c) A retailer who is required to accept home-generated sharps waste shall at a minimum provide the following take back services:

(1) The take-back from the consumer of home-generated sharps waste that the retailer sold or previously sold to the consumer, at no cost to that consumer. In that event, the retailer may require proof of purchase of the prior sales. The retailer shall only be required to accept home-generated sharps waste in an amount not to exceed the amount previously sold to the consumer.

(2) The take-back of home-generated sharps waste from a consumer purchasing sharps from the retailer, at no cost to the consumer. In that event, the retailer shall only be required to accept home-generated sharps waste in an amount not to exceed the amount being purchased.

(3) The take-back from the consumer of home-generated sharps waste that the retailer did not sell or previously sell to the consumer, at no cost to that consumer. The retailer shall only be required to accept home-generated sharps waste in an amount not to exceed the equivalent of one 2 quart-size sharps container per week per consumer from any consumer who resides in the City of Tulare area.

7.19.040 Enforcement

(a) The City of Tulare may enforce the provisions of this Ordinance through a civil action for civil penalties in the amounts established herein, and any other civil remedy, including prohibitory and mandatory injunctive relief, filed in the Superior Court for the County of Tulare to compel and enforce the provisions herein against any retailer within the City of Tulare who sells sharps in violation of this Ordinance. In addition to any relief available to enforce this ordinance, City of Tulare shall also be entitled to recover its reasonable attorneys' fees and costs incurred in enforcing this Ordinance.

(b) For any violation of this Ordinance, the City of Tulare may sue to recover civil penalties in the amount of \$1,000.00 per day for every day on which a violation exists. For purposes of calculating the civil penalties to be established hereunder, each day on which the retailer fails to comply with the requirements of this Ordinance, after having received a written notice of violation issued by the City of Tulare, shall constitute a separate offense.

(c) In addition to the civil relief available to the City of Tulare as set forth above, any

violation of this City of Tulare Ordinance shall also constitute a criminal offense punishable under the laws of the State of California. The District Attorney, the County Counsel, or any City Attorney shall be authorized to enforce the provisions of this Ordinance within their respective jurisdictions and shall have the authority to determine whether to prosecute the matter as a misdemeanor, or to elect for good cause to reduce the charge to an infraction. In the event of such criminal enforcement, the following criminal penalties apply to violations of this Ordinance:

(1) Penalty for Misdemeanor. Any retailer found to be in violation of any provision of this Ordinance, or who fails to comply with any of its requirements, shall upon conviction thereof be punished by imprisonment in the county jail for not more than six months, or be fined not more than one thousand dollars (\$1,000.00), or by both. Each day such violation continues shall be considered a separate offense.

(2) Penalty for an Infraction. Any retailer found to be in violation of any provision of this Ordinance, or who fails to comply with any of its requirements, shall upon conviction thereof be punished by a fine of not more than two hundred fifty dollars (\$250.00). Each day such violation continues shall be considered a separate offense.

(d) To the extent that City of Tulare has adopted a code enforcement ordinance applicable to its jurisdiction, this Ordinance shall be enforceable under said ordinance as land-use- or code-enforcement violations consistent with said ordinance.

7.19.050 Severance Clause

If any section, subsection, 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 of the City of Tulare hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsection, 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.

7.19.060 Effect of Headings in Ordinance

Title, division, part, chapter, article, and section headings contained herein do not in any manner affect the scope, meaning, or intent of the provisions of this Ordinance.

SECTION 2: This ordinance shall be in full force and effect thirty (30) days from and after its passage, adoption and approval.

PASSED, ADOPTED, AND APPROVED this 21st day of January, 2014.

David Macedo
President of the Council and
Ex-Officio Mayor of the City of Tulare

ATTEST:

[Signature]
CHIEF DEPUTY CITY CLERK AND CLERK
OF THE COUNCIL OF THE CITY OF TULARE



STATE OF CALIFORNIA)
COUNTY OF TULARE) ss
CITY OF TULARE)

I, DON DORMAN, City Clerk of the City of Tulare and Clerk of the Council of said city, do hereby certify that at a regular meeting of said City Council held on the **17th day of December 2013**, the foregoing **Ordinance No. 13-08** was duly and regularly introduced, passed-to-print and ordered published in the Tulare Advance Register, a newspaper of general circulation published in the City of Tulare, by the following vote:

AYES:	COUNCIL MEMBERS:	Craig Vejevoda Shea Gowin Skip Barwick Carlton Jones David Macedo
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None

DON DORMAN, CITY CLERK

BY: 

Chief Deputy City Clerk and Clerk
Of the Council of the City of Tulare



ORDINANCE NO. 13-08

Summary of Ordinance:

An Ordinance of the Council of City of Tulare Amending Title 7 of the Tulare Municipal Code by Adding Chapter 7.19 Establishing a Home-Generated Sharps Waste Management Program

The intent of the ordinance is to provide for disposal options for home-generated sharps at no cost to the consumer. The CWMA will provide a collection kiosk to any store requesting one, at no charge.

Copy of full ordinance will be made available at the office of the City Clerk, City Hall, 411 East Kern Avenue, Tulare.

STATE OF CALIFORNIA)
COUNTY OF TULARE) ss
CITY OF TULARE)

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NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None

DON DORMAN, CITY CLERK

BY: Roxanne Yoder
Chief Deputy City Clerk and Clerk
of the Council of the City of Tulare



STATE OF CALIFORNIA)

COUNTY OF TULARE) ss

CITY OF TULARE)

I, DON DORMAN, City Clerk of the City of Tulare and Clerk of the Council of said city, do hereby certify that the foregoing **Ordinance No. 13-08** was duly adopted by the City Council of said city and was signed by the President of said Council at a regular meeting of said City Council held on the **17th day of January, 2014** and was approved by the following vote:

AYES:	COUNCIL MEMBERS:	Craig Vejvoda Shea Gowin Skip Barwick David Macedo
NOES:	COUNCIL MEMBERS:	N/A
ABSTAIN:	COUNCIL MEMBERS:	N/A
ABSENT:	COUNCIL MEMBERS:	Carlton Jones

DON DORMAN, CITY CLERK

BY: _____

Chief Deputy City Clerk and Clerk
Of the Council of the City of Tulare

