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**DATE:** May 19, 2015

**TO:** Board of Supervisors

**FROM:** Sylvia Gallegos, Deputy County Executive  
Danny Y. Chou, Assistant County Counsel

**SUBJECT:** Establishment of a New Extended Producer Responsibility Drug Disposal Program

### **RECOMMENDED ACTION**

Adoption of Ordinance No. NS-517.89 adding Chapter XX of Division B11 of the County of Santa Clara Ordinance Code relating to disposal of County residents' unwanted pharmaceuticals. (Office of the County Executive)

- Action to Introduce and Preliminarily adopt on May 19, 2015; Roll Call Vote to waive reading, Roll Call Vote to adopt.
- Action for Final Adoption on June 9, 2015; Roll Call Vote to adopt.

### **FISCAL IMPLICATIONS**

The County currently spends approximately \$47,000 annually to operate the County's existing drug disposal programs. If adopted, the ordinance would require pharmaceutical manufacturers to establish a manufacturer-funded drug disposal program by FY 2016-17. Thereafter, County resources would no longer be needed to fund a drug disposal program for county residents.

### **REASONS FOR RECOMMENDATION**

The proposed Safe Drug Disposal Ordinance requires pharmaceutical companies to manage and fund a comprehensive program to collect and dispose of County residents' unwanted over-the-counter and prescription drugs. The ordinance would make it easier for residents to safely dispose of these medications, helping reduce risks to health and the environment linked to unsafe drug disposal. Similar to drug disposal ordinances in place in several Bay Area jurisdictions, it draws on the concept of "extended producer responsibility" (EPR). Like other EPR laws, the proposed ordinance requires manufacturers of products too hazardous to be disposed of through the municipal waste stream – in this case, pharmaceuticals – to take financial and logistical responsibility for their safe disposal.

## **Health and Environmental Risks of Unsafe Drug Disposal**

Americans take more medications today than they have at any other time in history. Close to half of the U.S. population takes at least one prescription drug and about forty percent of adults age 65 and older take *five* or more. Thirty five percent of adults use non-prescription medications on a regular basis, and that use continues to rise as more drugs become available over-the-counter. Increased use means increased amounts of medications stored in the home, including drugs that cause serious harm when used incorrectly, ingested accidentally, or intentionally abused. Over 9,000 young children are hospitalized each year, for example, after ingesting another person's prescription drugs. Nearly one in five teens report having used prescription medicines to get high and many report easy access to drugs in home medicine cabinets. At the same time, overdoses from prescription medicines, particularly opioid painkillers, cause more deaths than heroin and cocaine combined; according to the Centers for Disease Control and Prevention, the United States is in the midst of a prescription painkiller overdose epidemic. Abuse of non-prescription drugs, such as, cough and cold medication is also common; as a result, pharmacies are now required to restrict the sale of some of these medications.

Although these hazards can be reduced through removal of unwanted medications from homes, few options for safe and convenient disposal exist in most communities, including throughout the county. As a result, drugs are frequently left in homes where they may be misused or abused, or are flushed down sinks or toilets where they create significant environmental risks, particularly to water quality. Medications flushed down the drain or toilet are not removed by sewage treatment plants and therefore flow with treated wastewater out into the Bay and local waterways. Numerous studies have shown that pharmaceutical compounds in surface waters can harm aquatic organisms, such as, fish; some also indicate that these compounds may encourage growth of antibiotic-resistant bacteria. Throwing drugs in the trash makes them more accessible to children or pets, and creates a risk of diversion, especially of controlled substances. Furthermore, medications that enter landfills can lead to water contamination: they may pass into landfill leachate, which in older, unlined landfills can filter into water tables, and in newer landfills is typically pumped off to waste water treatment plants and, once treated, into the Bay and local waterways.

## **The County's Existing Drug Disposal Program**

Concerned about potential misuse or diversion of drugs as well as environmental harms, in 2008 the Board of Supervisors approved funding for a safe disposal program for county residents' unwanted drugs. Today, the program consists of 13 secure drop boxes where

residents can discard their drugs at no charge, 10 at pharmacies within the Santa Clara Valley Medical Center system and three at Sherriff's office locations. The County's Household Hazardous Waste Program also collects residents' unwanted medications at two drop off sites, but are prohibited by law from accepting controlled substances. Annually, these programs collect approximately 35,000 pounds of drugs. While they provide a valuable and necessary service, they reflect a growing burden on local governments to create product-specific disposal programs to keep toxic or dangerous products out of the normal waste stream.

In the past year, the County's drug disposal programs cost over \$47,000. These funds cover labor costs and transportation to a solid waste incinerator, but do not to enable the promotion needed to adequately raise public awareness of the program. Moreover, the program's 15 locations are insufficient to allow the county's 1.86 million residents to conveniently dispose of medications. Funding limitations keep the program from expanding. As a result, the disposal program likely only captures a fraction of residents' unused medications, and therefore fails to comprehensively reduce health and environmental risks associated with unsafe drug disposal.

### **Extended Producer Responsibility Drug Disposal Programs**

In several other countries, including France, Spain, Mexico, and parts of Canada, drug companies themselves manage and pay for drop box disposal systems for unwanted household pharmaceuticals. These drug company-funded programs are based on the concept of "Extended Producer Responsibility" or "EPR," which places responsibility on product manufacturers for managing specialized disposal of toxic or environmentally harmful products, rather than depending on governments to do so. Putting manufacturers in charge of the disposal management of their products increases incentives to design or market products with reduced disposal costs and fewer environmental and health risks. California has enacted EPR laws for paint, mercury thermostat, carpet, and mattress disposal. Although California lacks statewide EPR legislation regarding drug disposal, several jurisdictions – Alameda County, San Mateo County, and the City and County of San Francisco – have recently adopted EPR ordinances requiring drug companies to operate safe drug disposal programs for local residents.

### **The Proposed Safe Drug Disposal Ordinance**

The proposed Safe Drug Disposal Ordinance is similar to the ordinances in these other Bay Area jurisdictions. If enacted, within one year, pharmaceutical companies whose drugs are sold in the county would have to submit a stewardship plan describing how they would operate a safe disposal program to collect and destroy county residents' unwanted prescription and over-the-counter drugs. The County would then have 90 days to review the plan and inform companies of any needed changes.

Three months after County approval of a Stewardship Plan, pharmaceutical companies must have collection drop boxes in place to allow local residents to dispose of unwanted medications conveniently in retail pharmacies, law enforcement agencies, and other appropriate locations. The proposed ordinance requires drug companies to ensure a minimum of 10 drop boxes in each of the county's five supervisorial districts, and, countywide, at least one drop box for every 20,000 residents. Drug companies would also be required to hold periodic public drug collection events and provide pre-paid envelopes to homebound and disabled residents for mail-in disposal. Collected drugs would be securely transported to and destroyed at a permitted waste disposal facility, in compliance with state and federal law.

To raise public awareness of disposal opportunities, participating drug companies would provide information about the program through a multi-lingual website and toll-free phone number. Informational materials about drop off locations would be distributed to retail pharmacies and health care providers within the county. Drug companies would pay for all program development and operating costs and could not impose a special fee on consumers to recover their costs. Program design and operations would be subject to oversight and enforcement by the County's Consumer and Environmental Protection Agency, and County Counsel and certain organizations could bring legal actions to ensure compliance.

### **CHILD IMPACT**

The recommended action would have a positive impact on children and youth by making it easier for households to dispose of pharmaceuticals, and thereby helping prevent accidental poisonings and recreational use of pharmaceuticals.

### **SENIOR IMPACT**

The recommended action would have a positive impact on seniors by making it easier for households to dispose of pharmaceuticals and thereby helping prevent accidental poisonings and recreational use of pharmaceuticals.

### **SUSTAINABILITY IMPLICATIONS**

The recommended action will have positive environmental sustainability implications by helping reduce discharge of pharmaceutical compounds into waterways and harms to aquatic life.

### **BACKGROUND**

This proposed ordinance was developed pursuant to a December 2013 Board referral directing Administration to develop a drug disposal ordinance similar to one that Alameda County enacted in 2012, which requires drug manufacturers to manage and fund collection

and disposal of county residents' expired and unwanted medications. The Board had previously authorized the Office of the County Counsel to submit an amicus brief, on behalf of the California State Association of Counties and League of California Cities, in support of the authority of local governments to enact legislation of this type.

### **CONSEQUENCES OF NEGATIVE ACTION**

The Board would not adopt an ordinance establishing this new program, and we would fall back to the existing drug disposal program.

### **STEPS FOLLOWING APPROVAL**

The Clerk of the Board shall process the update to the Ordinance Code

### **ATTACHMENTS:**

- Ordinance NS-517.89 regarding Disposal of County Residents' Unwanted Pharmaceuticals (PDF)
- Notice of Exemption from CEQA (PDF)