

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL

FROM: MARTIN ST. GEORGE, ENVIRONMENTAL COMPLIANCE
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PLANNING & EVALUATION
SONOMA COUNTY DEPARTMENT OF HEALTH SERVICES

SUBJECT: DEVELOPMENT OF A SAFE MEDICINE AND SHARPS
DISPOSAL ORDINANCE

AGENDA ACTION: STUDY SESSION

RECOMMENDATION

It is recommended by the Water Department that the Council discuss the progress in developing a Sonoma County Safe Medicine and Sharps Disposal Ordinance. This item is provided to inform and seek input from the Council; no formal action will be taken.

EXECUTIVE SUMMARY

The County of Sonoma Department of Health Services (DHS) is drafting a model Safe Medicine and Sharps Disposal Extended Producer Responsibility Ordinance (SMD Ordinance) for the unincorporated areas of Sonoma County. The SMD Ordinance would require medicine and sharps producers to develop, plan and fund a safe, convenient collection system for County residents to dispose of their unwanted medicines and sharps. After the County adopts the SMD Ordinance, the City of Santa Rosa, along with our Subregional Partners and all other cities and towns within the County, will have the option to formally participate in the SMD collection system in either of two ways. The incorporated jurisdictions can participate through adoption of a resolution to extend the ordinance to their jurisdiction and delegate implementation to DHS, or the jurisdiction can adopt a similar model ordinance within their respective jurisdiction then enter into an agreement with the County to coordinate implementation and enforcement. It is anticipated that the County of Sonoma, DHS, Environmental Health and Safety Section (EHS) would be primarily responsible for the administration and enforcement of the SMD Ordinance under either scenario, but with the adoption of its own SMD Ordinance, the City would maintain greater control over this process, as well as any possible future

changes to the SMD Ordinance. Santa Rosa Water staff have been working collaboratively with County staff and other partners on the development of a draft model SMD Ordinance in order to increase the likelihood of a cohesive regional approach to a county-wide Safe Medicine and Sharps Disposal Collection. This item is related to Council Goal #3: Provide Leadership for Environmental Initiatives because it establishes Santa Rosa as a leader in the formation of a Safe Medicine and Sharps Disposal Ordinance.

BACKGROUND

In recognition of the environmental, health, and safety issues related to the improper disposal of unused medications, the Sonoma County Water Agency (SCWA) and the City of Santa Rosa started pilot Safe Medicine Disposal Programs in 2007 and 2008, respectively. In 2010, these agencies coalesced under the Russian River Watershed Association (RRWA) umbrella forming a regional, multi-agency safe medicine take-back coalition. The goal was to create an effective regional approach by better coordinating locations and messaging for safe and convenient disposal of unused medications. There are now 20 drop-off sites located across Sonoma County which have collected over 100,000 pounds of unwanted medications to date.

As collection totals continue to increase, so has the cost to manage the program and to conduct outreach and education. Currently, each agency, SCWA, City of Santa Rosa, City of Petaluma, Sonoma County Waste Management Agency (SCWMA) and RRWA, manages, tracks and pays for one-hundred percent of the expenses directly related to their own drop-off sites.

The SMD Ordinance is based on Extended Producer Responsibility (EPR) laws. EPR is a general category of laws used to ensure consumer products do not create an undue burden to society and are intended to uphold the public's health and safety. EPR laws place the responsibility for developing, managing, and funding the full life cycle of their products on producers. EPR laws represent a product stewardship approach that is widely used around the world for a variety of products, including household medicine. To date, the County of Sonoma, all incorporated cities in Sonoma County (including the City of Santa Rosa), the Town of Windsor, and the SCWMA have passed resolutions supporting general EPR policy approaches.

Several California counties and cities have passed or are pursuing EPR ordinances for the safe disposal of medicines. Currently, eight California counties (Alameda, San Mateo, Santa Clara, Santa Cruz, Marin, San Francisco, Santa Barbara and Contra Costa) and the cities of San Francisco, Santa Cruz, Capitola, Scotts Valley and Watsonville have adopted EPR ordinances that mandate producers of both prescription and over-the-counter medicine take responsibility for the proper disposal of their products and expand safe medication disposal to area residents. To date, there is no statewide EPR program for unwanted or expired medications or sharps waste in California. Alameda County adopted the first safe medication EPR Ordinance in the United States in 2012. Despite significant legal challenges, the Ordinance was upheld. In 2015, the US Supreme Court

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upheld the rights of Alameda County to enact more stringent medication disposal ordinances that shift responsibilities to the medicine producers and pharmaceutical companies.

In 2015, the Sonoma County Safe Medicine Disposal EPR Ordinance Collaborative (Collaborative), a subgroup of the Safe Medicine Disposal Program, formed to study the feasibility of an SMD Ordinance for Sonoma County. The Collaborative is composed of staff members from the RRWA, SCWMA, SCWA, Sonoma County Department of Health Services, and the cities of Santa Rosa and Petaluma.

PRIOR CITY COUNCIL REVIEW

On September 10, 2010, the City Council, by Resolution No. 27741, approved the City of Santa Rosa continue to implement and support Extended Producer Responsibility.

On December 1, 2015, the City Council conducted a motion to approve a letter of conceptual support to the Russian River Watershed Association (RRWA) for evaluation of the feasibility of a safe medicine disposal ordinance. A letter of conceptual support was signed by then Mayor John Sawyer on December 2, 2015.

ANALYSIS

In October 2016 the Sonoma County Board of Supervisors directed the Sonoma County DHS and SCWA to draft a model SMD Ordinance, in cooperation with the Collaborative. Sonoma County DHS, in partnership with the Collaborative, has developed a proposed SMD Ordinance draft for adoption in Sonoma County that could facilitate implementation county-wide.

In order to support the Collaborative in developing the SMD Ordinance, Santa Rosa Water Department staff seeks input from the Council on key issues. These issues include:

- Definition of Producer – The SMD Ordinance draft definition of producer is proposed to include wholesaler/drug wholesaler, similar to Alameda County’s original definition. Staff recommends this definition. Another definition option would be to exempt wholesalers that are not also manufacturers.
- Covered Products – Staff recommends requiring provisions for sharps (e.g., needles, lancets) disposal in the SMD Ordinance. Sharps disposal would provide for worker safety and help protect the public, but is a broader approach than some jurisdictions have sought and has impacts beyond water quality. Santa Cruz County and Alameda County include sharps as a covered product as well as the cities of Santa Cruz, Capitola, Scotts Valley, and Watsonville. This recommendation has the potential to generate opposition from sharps manufacturers.

- City of Santa Rosa participation – Once the County adopts an SMD Ordinance that would allow for other jurisdictions to follow either through adoption of a resolution or similar ordinance, Santa Rosa staff recommends that the City adopt a similar ordinance. It is envisioned that an MOU agreement between the County and the City could delegate enforcement and certain components of the SMD Ordinance administration to the County of Sonoma Department of Health Services Environmental Health and Safety Section. It is further envisioned that an SMD Technical Advisory Committee would be formed, and all participating jurisdictions would have the option to serve on this committee. The SMD Technical Advisory Committee would work collaboratively with DHS EHS to review stewardship plans and collection site locations. Given City staff technical expertise and experience in working with the Collaborative, staff recommends participation by City staff on the Committee.
- Funding – DHS EHS have developed budget estimates and funding gaps to administer and enforce the SMD program. While it is anticipated that Sonoma County DHS would develop a fee schedule for the SMD program, this fee would not cover other costs, such as legal, research, and program start-up costs, due to Proposition 26 requirements. It is likely that gap funding will be necessary. Thus, a further issue is the extent to which the existing Subregional Safe Medicine Disposal Program budget could be used to provide any necessary gap funding as described below.

Another element of the SMD Ordinance being developed by the Collaborative is the degree of required convenience for area residents. The goal of the convenience standards is to establish a minimum criterion, which ensures ongoing, reasonable convenient and equitable access for all residents in the Service Area (county unincorporated areas and participating jurisdictions). The question of how to best achieve these results is currently under consideration.

Staff will continue to work with the Collaborative to finalize the model SMD Ordinance after all councils have reviewed and supported the recommendations proposed for the SMD Ordinance draft. In Spring 2017, DHS EHS and SCWA staff will return to the County Board of Supervisors for a first reading of the proposed SMD Ordinance. After the County ordinance adoption, Santa Rose Water Staff will present a similar proposed SMD Ordinance and a proposed agreement with the County DHS EHS for Council consideration.

FISCAL IMPACT

The Study Session is for information only and no action is being taken. Therefore, there is no fiscal impact from the Study Session. If an ordinance is adopted and the City elects to formally participate in the county-wide Safe Medicine Disposal Program, Producers (as this term is defined in the SMD Ordinance) will start paying the majority of the EPR costs after the effective date of the SMD Ordinance. The City may be asked to pay a small portion of program administration costs due to a funding gap created by Proposition 26

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requirements; this is expected to be a fraction of the present cost to fund the Subregional Safe Medicine Disposal Program, and will decline over time.

ENVIRONMENTAL IMPACT

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

On November 17, 2016, The Board of Public Utilities conducted a study session on the development of a Safe Medicine Disposal Ordinance. City staff and County staff co-presented the SMD Ordinance study session. The Board of Public Utilities was supportive of the staff recommendations as described in the Analysis section above.

NOTIFICATION

Not applicable.

ATTACHMENTS

- Attachment 1 – Mayor’s letter of conceptual support for SMD Ordinance evaluation dated December 2, 2015.
- Attachment 2 – Santa Rosa City Council Resolution No. 27741 supporting EPR

CONTACT

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