

ORDINANCE NO. 543

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LINDSAY
AMENDING TITLE 8, CHAPTER 8.13 TO INCLUDE ESTABLISHMENT OF
A HOME GENERATED SHARPS WASTE MANAGEMENT PROGRAM.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LINDSAY AS FOLLOWS:

SECTION 1. The following sections of the Municipal Code of the City of Lindsay are hereby amended as follows:

PURPOSES

A Title 8, Chapter 8.13, of the Municipal Code of the City of Lindsay is amended to include the following:

The City of Lindsay 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 the Definitions Title, Section (f) of this ordinance, in the City of Lindsay, 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 to 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 Lindsay 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 JULY 1, 2014.

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 Section 2(f) below derived from a household, including a multifamily residence, or a single-family residence.
- (c) "Lindsay area" means the geographic area that includes the boundaries of the City of Lindsay, 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.

SHARPS MANAGEMENT

(a) By JULY 1, 2014, every retailer of sharps sold in the City of Lindsay 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 Lindsay area.

ENFORCEMENT

(a) The City of Lindsay 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 Lindsay who sells sharps in violation of this Ordinance. In addition to any relief available to enforce this ordinance, the City of Lindsay shall also be entitled to recover its reasonable attorneys' fees and costs incurred in enforcing this Ordinance.

(b) For any violation of this Ordinance, they 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 Lindsay shall constitute a separate offense.

(c) In addition to the civil relief available to those forth above, any violation of the City of Lindsay Sharps 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 the City of Lindsay 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.

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 Lindsay 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.

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.

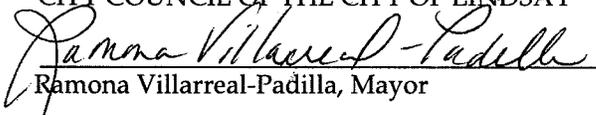
SECTION 2. This ordinance shall be in full force and effect thirty (30) days after its passage, adoption and approval.

The foregoing ordinance, read by title only with waiving of the reading in full was introduced at a regularly scheduled meeting of the City Council on the 11th day of March 2014.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council held on the 25th day of March 2014.

ATTEST:


Carmela Wilson, City Clerk

CITY COUNCIL OF THE CITY OF LINDSAY

Ramona Villarreal-Padilla, Mayor

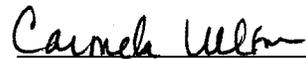
CITY OF LINDSAY)
STATE OF CALIFORNIA) CITY CLERK CERTIFICATION
COUNTY OF TULARE)

I, Carmela Wilson, City Clerk of the City of Lindsay, do hereby certify that the foregoing is a full, true and correct copy of Ordinance No. 543 introduced at a regular meeting of the City Council of the City of Lindsay held on the 11th day of March, 2014, and ADOPTED by the City Council of the City of Lindsay, on the 25th day of March 2014 upon motion by KIMBALL second of SANCHEZ by the following vote, as the same appears of record and on file in my office:

AYES: KIMBALL, SANCHEZ, SALINAS, PADILLA.
NOES: None.
ABSTAIN: None.
ABSENT: MECUM.

WITNESS my hand and Corporate City Seal of Lindsay this 25th day of March, 2014.

OFFICE OF THE CITY CLERK OF LINDSAY



Carmela Wilson, City Clerk