

ORDINANCE NO. 4448

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF VENTURA, STATE OF CALIFORNIA, AMENDING DIVISION 4, CHAPTER 5, ARTICLE 3, OF THE VENTURA COUNTY ORDINANCE CODE PERTAINING TO MEDICAL WASTE MANAGEMENT AND SAFE BODY ART**

**ARTICLE 3 - MEDICAL WASTE MANAGEMENT AND SAFE BODY ART**

**4565 Purpose and authority.**

The purpose of this Article is to implement the Medical Waste Management and Safe Body Art programs for both the incorporated and unincorporated portions of Ventura County. The authority for this Article includes the general police power, Health and Safety Code Sections 101280(d) and 101325, the Medical Waste Management Act (MWMA) codified as Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code and the Safe Body Art Act (SBAA) codified as Chapter 7 (commencing with Section 119300) of Part 15 of Division 104 of the Health and Safety Code.

**4566 Definitions.**

Unless the context provides otherwise, the terms of this Article shall be construed in accordance with the following definitions. Terms not defined shall be construed in accordance with the usage and definition of terms provided in those laws referenced in Section 4565 of this Article.

For the purposes of this Article, unless the context otherwise requires:

- (a) "Biotech facility" means a facility operated by a medical waste generator, other than a trauma scene waste management practitioner, that uses living organisms and biological processes to manufacture pharmaceutical products.
- (b) "Common storage facility" shall have the meaning assigned to that term by Section 117640 of the Health and Safety Code.
- (c) "Director" means the Director of the Environmental Health Division of the Ventura County Resource Management Agency, or his or her designee.
- (d) "Enforcement agency" as defined in Health and Safety Code Section 117650 means the Environmental Health Division of the Ventura County Resource Management Agency.
- (e) "Hospital" shall have the meaning assigned to that term by Section 1250 of the Health and Safety Code.
- (f) "Large quantity generator" shall have the meaning assigned to that term by Section 117680 of the Health and Safety Code.
- (g) "MWMA" means the Medical Waste Management Act codified as Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code, including any amendments.

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- (h) "Onsite" shall have the meaning assigned to that term by Section 117740 of the Health and Safety Code.
- (i) "Person" shall have the meaning assigned to that term by Section 117745 of the Health and Safety Code.
- (j) "SBAA" means the Safe Body Art Act codified as Chapter 7 (commencing with Section 119300) of Part 15 of Division 104 of the Health and Safety Code, including any amendments.
- (k) "Small quantity generator" shall have the meaning assigned to that term by Section 117760 of the Health and Safety Code.
- (l) "Temporary body art facility" means a vehicle as described in Health and Safety Code Section 119316, subdivision (b), or a temporary demonstration booth as described in Health and Safety Code Section 119317.

#### **4567 Election to implement medical waste management program.**

The Ventura County Board of Supervisors hereby elects, pursuant to Health and Safety Code Sections 117800, to implement a medical waste management program.

#### **4567-1 Scope of medical waste management program.**

The Medical Waste Management Program shall include the following:

- (a) all those provisions and requirements specified in Section 117820 of the Health and Safety Code and any other provisions and requirements that MWMA or regulations adopted pursuant thereto may from time to time require to be included in a medical waste management program implemented by a local agency pursuant to MWMA; and
- (b) all those additional provisions and requirements specified in this Article.

#### **4568 Permit and registration requirements**

Each person subject to the permit and/or registration requirements of MWMA, SBAA, or this Article shall obtain a permit and/or registration from the Environmental Health Division of the Resource Management Agency. No temporary body art facility may conduct business without a temporary body art facility permit. A sponsor of a temporary event that includes a body art demonstration booth must obtain a body art sponsor permit prior to the event.

#### **4568-1 Expiration and renewal of SBAA permits and registrations**

- (a) Each health permit and each practitioner registration issued pursuant to Health and Safety Code Sections 119306, 119312, or 119316, subdivision (a), expires one calendar year after issuance unless renewed by the Environmental Health Division.
- (b) Each health permit issued pursuant to Health and Safety Code Sections 119317 or 119318 expires on the sooner of the last day of the temporary body art event or the time period specified on the permit.

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#### **4569 Additional registration requirements.**

Each small quantity generator that is not required to register pursuant to Section 117925 of the Health and Safety Code shall register with the enforcement agency in the same manner as small quantity generators that are required to register pursuant to that Section, provided that:

- (a) several such generators operating as a single business in the same building, or associated as a group practice in the same building, may register as one generator;
- (b) several such generators operating as a single business in different buildings, or associated as a group practice in different buildings, located on the same lot or lots whose boundaries are within 400 yards of each other may register as one generator; and
- (c) generators registered pursuant to this Section 4569 may be recorded in a register separate from that maintained for generators registered pursuant to Section 117925 of the Health and Safety Code.

#### **4571 Medical waste information document.**

Each small quantity generator required to register pursuant to Section 4569 shall file with the enforcement agency a medical waste information document, on a form prescribed by the enforcement agency, containing the following information:

- (a) The name, address and telephone number of the generator;
- (b) The name and telephone number of a contact person;
- (c) The types, and the estimated average monthly quantity, of medical waste generated; and
- (d) How the generator contains, stores, treats, and disposes of any medical waste generated through any act or process of the generator.

#### **4572 Expiration and renewal of registration.**

Each registration pursuant to Section 4569 shall expire on the earlier of the following two dates:

- (a) the second anniversary of the registration; or
- (b) the 30th calendar day after a change in any of the information required to be included in the medical waste information document filed pursuant to Section 4571.

An application for renewal of such registration shall be filed with the enforcement agency on or before the expiration date of the registration.

#### **4573 Maintenance of required records.**

Each small quantity generator required to register pursuant to Section 4569 of this Article and to maintain records pursuant to subdivision (b) of Section 117945 of the Health and Safety Code shall maintain all such records not less than two years.

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## **4574 Enforcement.**

The provisions of Chapter 10 (commencing with Section 118325) of Part 14 of Division 104 of the Health and Safety Code are hereby incorporated by reference as though set forth in full herein, except that for the purposes of this incorporation each reference in those provisions to "this part" (meaning MWMA, codified as Part 14 of Division 104 of the Health and Safety Code) shall instead read "Sections 4569 through 4573 of the Ventura County Ordinance Code." The same enforcement powers, remedies and penalties apply to small quantity generators required to register pursuant to Section 4569 as are prescribed by the incorporated provisions of MWMA with respect to small quantity generators required to register pursuant to Section 117925 of the Health and Safety Code.

### **4574-1 Administrative penalties**

Before imposing an administrative penalty pursuant to Health and Safety Code Sections 118330 or 119323, the director shall give the person charged with the violation written notice of the proposed imposition of administrative penalties. The person charged may make a written request for a hearing on the proposed imposition of administrative penalties within 15 calendar days after receiving the notice. If a hearing is not requested in writing within 15 calendar days, the right to a hearing shall be deemed waived and the director may impose the proposed administrative penalties without a hearing. Notice of the proposed imposition of administrative penalties sent by certified mail to the last known address of the person charged shall be considered received even if delivery is refused or the notice is not accepted at that address. If a hearing is requested, the person charged may review the director's evidence prior to the hearing. If a hearing is requested, at the hearing the person charged shall have an opportunity to present evidence on his or her own behalf, call and cross-examine witnesses, and submit argument. The hearing shall be conducted by an unbiased hearing officer appointed by the director who has not served as or is not supervised by an investigator, prosecutor, or advocate regarding the violations charged. The director may appoint himself or herself as the hearing officer. A record shall be made of the hearing and a decision after a hearing shall be in writing and include a statement of the factual and legal basis for the decision.

### **4575 Eligibility for permits and exemptions.**

In order to be eligible for the following described permits or exemptions, the applicant must satisfy the following eligibility requirements:

- (a) Common Storage Facility Permit. An applicant for a common storage facility permit must satisfy the eligibility requirements set forth in Section 117928 of the Health and Safety Code.
- (b) Limited-Quantity Hauling Exemption. The applicant for a limited-quantity hauling exemption must be a registered medical waste generator meeting the eligibility requirements set forth in Section 118030 of the Health and Safety Code.

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(c) Onsite Medical Waste Treatment Facility Permit. An applicant for an onsite medical waste treatment facility permit must be either a health care facility described in Section 118140 or Section 118145 of the Health and Safety Code or a registered medical waste generator located on the same site as the treatment facility.

#### **4576 Grounds for denial of permits and exemptions.**

An application for a common storage facility permit required by Section 117928 of the Health and Safety Code, a limited-quantity hauling exemption authorized by Section 118030 of the Health and Safety Code, or an onsite medical waste treatment facility permit required by Section 118130 of the Health and Safety Code may be denied on any one or more of the following grounds:

(a) Failure of the applicant to meet all applicable eligibility requirements set forth in Section 4575.

(b) Failure of the applicant to demonstrate to the satisfaction of the enforcement agency that the proposed facility or hauling operation has the ability to, or is likely to be conducted in such a manner as to, comply with MWMA and all regulations adopted pursuant thereto.

(c) Any violation by the applicant within the three years preceding the application date of MWMA or any regulation adopted pursuant thereto where the violation demonstrates a recurring pattern of noncompliance or poses or has posed a significant risk to public health and safety or to the environment.

#### **4577 Notice of denial of permit or exemption.**

Upon denial of an application for a permit or exemption described in Sections 4575 and 4576, the enforcement agency shall serve a written notice of denial upon the applicant. The notice shall specify the ground or grounds for the denial and shall state that the applicant may appeal the denial by filing a petition with the enforcement agency within 20 calendar days of the date of the notice of denial.

#### **4578 Hearing procedures.**

Unless regulations adopted pursuant to MWMA require different procedures, the procedures set forth in the following subsections of this Section 4578 shall govern the hearings mentioned therein.

#### **4578-1 Initiation of hearing regarding denial of permit or exemption.**

Any person whose application for a common storage facility permit, a limited-quantity hauling exemption, or an onsite medical waste treatment facility permit (required or authorized by Sections 117928, 118030 and 118130, respectively, of the Health and Safety Code) has been denied may appeal that denial by filing a written petition requesting a hearing. The petition shall identify the applicant, identify the particular application at issue, and state the reasons why the applicant contends that the grounds

for denial set forth in the notice of denial do not in fact exist. The petition shall be filed with the enforcement agency within 20 calendar days after the date of the notice of denial. Upon receipt of a timely petition, the enforcement agency shall serve a notice of hearing upon the petitioner. The notice of hearing shall do the following:

- (a) State that the hearing will be held to determine whether the grounds for denial set forth in the notice of denial in fact exist.
- (b) State the time, which will be not less than 15 calendar days after service of the notice, and the place of the hearing.
- (c) Include a copy of Section 4578 and the subsections thereof.

#### **4578-2 Initiation of hearing regarding suspension, amendment or revocation of permit.**

The enforcement agency may initiate, pursuant to Section 118350 of the Health and Safety Code, proceedings to suspend, amend or revoke any onsite medical waste treatment facility permit issued by the enforcement agency by serving the permittee with a notice of hearing. The notice of hearing shall do the following:

- (a) Specify the provisions of Section 118350 of the Health and Safety Code pursuant to which the enforcement agency is proceeding.
- (b) Describe the alleged acts, omissions or conditions that justify proceeding under the provisions specified in subdivision (a).
- (c) State that the hearing will be held to determine whether one or more of the alleged acts, omissions or conditions have in fact occurred and, if so, that the permit may be suspended, amended or revoked.
- (d) Describe the nature of the remedial action (i.e., suspension, amendment or revocation of the permit) that the enforcement agency intends to take upon an affirmative finding.
- (e) State the time, which shall be not less than 15 calendar days after service of the notice, and the place of the hearing.
- (f) Include a copy of Section 4578 and the subsections thereof.

The enforcement agency may, pursuant to Section 118360 of the Health and Safety Code, suspend the permit prior to the hearing. In case of a prehearing suspension, the notice of hearing described in this Section 4578-2 shall constitute the "accusation" mentioned in Section 118360 of the Health and Safety Code, and the hearing shall take place as presented in the notice of hearing, regardless of whether the permittee files a "notice of defense."

#### **4578-3 Hearing officer.**

The hearing officer shall be any person designated by the director; provided, however, that the hearing officer shall not be any officer or employee of the enforcement agency who was or is directly and substantively involved either in the decision to deny the application or to initiate the proceedings, in the defense of the application denial, or in the prosecution of the proceedings against the permittee.

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#### **4578-4 Hearing.**

The hearing shall be public and shall be held at the time and place noticed or at such other time or place as may be mutually agreed to by the hearing officer, the enforcement agency and the applicant or permittee. Notwithstanding the foregoing, the hearing officer may continue the hearing to such time and place as may be reasonably necessary for the convenience of witnesses or other parties. Failure of the applicant or permittee to appear at the hearing or any continuance thereof shall constitute a default.

#### **4578-5 Oaths.**

The hearing officer shall have the power to administer oaths or affirmations when necessary in conjunction with the hearing.

#### **4578-6 Evidence.**

Oral evidence need not be taken under oath or affirmation unless either the enforcement agency or the permittee so requests and it appears that the witness has a motive for being untruthful. Testimony may be given in an informal narrative style. The enforcement agency, the applicant or permittee, and the hearing officer shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine witnesses on any matter relevant to the issues even though such matter was not covered on direct examination, and to impeach any witness regardless of which party first called the witness to testify. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to relying in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in a civil action. Hearsay evidence shall be admissible for any purpose but shall not be sufficient itself to support a finding unless it would be admissible over objection in a civil action.

#### **4578-7 Subpoena power.**

Before the hearing is commenced, the hearing officer shall, at the request of the enforcement agency or the applicant or permittee, issue subpoenas and subpoenas duces tecum for attendance or production of documents at the hearing. Compliance with the provisions of Section 1985 of the Code of Civil Procedure shall be a condition precedent to the issuance of a subpoena duces tecum. After the hearing is commenced, the hearing officer may issue such subpoenas and subpoenas duces tecum as he or she deems proper. Any person duly subpoenaed to appear and testify or to produce any books or papers before the hearing officer who wrongfully neglects or refuses to appear or testify or to produce such books and papers is guilty of a misdemeanor.

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#### **4578-8 Record.**

The hearing officer shall record the hearing on a recording device and shall make such recording available to the enforcement agency and to the applicant or the permittee upon request. The hearing officer shall provide a copy of the recording or a transcript prepared therefrom to any party who requests it and pays the costs of making such copy or preparing such transcript.

#### **4578-9 Findings and decisions.**

At the conclusion of the hearing, or within a reasonable time thereafter, the hearing officer shall make written findings based upon the preponderance of the evidence admitted at the hearing. Where the hearing is an appeal from the denial of a permit or exemption: (i) if the findings are that one or more of the grounds for denial set forth in the notice of denial in fact exist, the denial shall be upheld; and (ii) if the findings are that none of those grounds in fact exist, the permit or exemption shall be granted subject to such conditions as the enforcement agency may show are reasonably necessary to ensure compliance with MWMA and this Article and to protect the public health and safety or the environment. Where the hearing is to suspend, amend or revoke a permit: (i) if the findings are that one or more of the acts, omissions or conditions described in the notice of hearing have in fact occurred, the permit shall be suspended, amended or revoked as described in the notice of hearing unless the enforcement agency and the permittee agree to some less stringent remedial action; and (ii) if the findings are that none of the acts, omissions or conditions described in the notice of hearing have in fact occurred, the permit shall not be suspended, amended or revoked. The findings and decisions shall be final when issued and shall be served promptly upon the applicant or permittee.

#### **4579 Fees.**

The Board of Supervisors may, by resolution, prescribe fees for the issuance by the enforcement agency of any registration, permit or exemption, or for the filing by an applicant of any appeal, pursuant to MWMA, SBAA, or this Article.

#### **4579-1 Misdemeanor/infraction.**

Any person who violates any provision of Sections 4568 or 4569 shall be guilty of a misdemeanor/infraction and shall be guilty of a separate offense for each day or portion thereof during which such violation is committed. The provisions of this Section are in addition to and independent of any other sanctions which are or may be imposed under this Article or any other provisions of law.



PASSED AND ADOPTED this 5 day of June, 2012, by the following vote:

AYES: Bennett, Parks, Long, Foy, Zaragoza Supervisors \_\_\_\_\_

NOES: None \_\_\_\_\_


ABSENT: None \_\_\_\_\_

  
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CHAIR, BOARD OF SUPERVISORS

ATTEST:

MICHAEL POWERS  
Clerk of the Board of Supervisors  
County of Ventura, State of California



By:   
\_\_\_\_\_  
Deputy Clerk of the Board  
9-26-14