



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Public Health
Department No.: 041
For Agenda Of: Set Hearing: 8/22/23
1st Reading: 9/12/23
2nd Reading: 9/19/23
Placement: Departmental 9/12/23
Administrative 9/19/23
Estimated Time: 30 Min – 9/12/23
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Mouhanad Hammami, Director
Director(s) Public Health Department
Contact Info: Lars Seifert, Director
Environmental Health Services (805) 681-4934
SUBJECT: Amend Chapter 18 Health and Sanitation and amend Chapter 18C Certified Unified Program Agency and add the Release of Waste

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

Recommended Actions:

That the Board of Supervisors:

On August 22, 2023, set a public hearing on the Departmental Agenda of September 12, 2023 to consider recommendations to repeal outdated sections of Santa Barbara County Code Chapter 18, and to amend Santa Barbara County Code Chapter 18C, Article III, Certified Unified Program Agency (CUPA), and to add Article IV, Release of Waste, to reflect recent updates to State laws and regulations.

On September 12, 2023:

- a) Approve the introduction (First Reading) of an Ordinance to repeal Santa Barbara County Code, Chapter 18, titled Health and Sanitation, Article VI Reporting Requirements, sections 18-41 through 18-44, and Article VII Monitoring, section 18-49;
- b) Approve the introduction (First Reading) of an Ordinance to amend Santa Barbara County Code, Chapter 18C, titled Environmental Health Services, Article III Certified Unified Program Agency

(CUPA), sections 18C-32, 18C-46.2, 18C-46.5, 18C-47, and 18C-49, and to add Article IV Release of Waste, sections 18C-54 through 18C-62;

- c) Read the titles of each of the above Ordinances and waive full reading of each of these Ordinances; and
- d) Continue the hearing to the Administrative Agenda of September 19, 2023 to consider adoption of the of ordinance amendments, as follows:

On September 19, 2023

- i) Adopt the Ordinance (Second Reading) to repeal Santa Barbara County Code, Chapter 18, titled Health and Sanitation, Article VI Reporting Requirements, sections 18-41 through 18-44, and Article VII Monitoring, section 18-49;
- ii) Adopt the Ordinance (Second Reading) to amend Santa Barbara County Code, Chapter 18C, titled Environmental Health Services, Article III Certified Unified Program Agency (CUPA), sections 18C-32, 18C-46.2, 18C-46.5, 18C-47, and 18C-49, and to add Article IV Release of Waste, sections 18C-54 through 18C-62; and
- iii) Determine that the recommended actions are not a Project within the meaning of California Environmental Quality Act (CEQA), pursuant to Section 15378(b)(5) of the CEQA Guidelines, because the actions are organizational or administrative activities of government that will not result in direct or indirect physical changes in the environment.

Summary Text:

This item is on the agenda to repeal outdated sections of Santa Barbara County Code Chapter 18, to amend Chapter 18C, Article III, Certified Unified Program Agency (CUPA), and to add Article IV Release of Waste. The proposed ordinance amendments are in response to a State program evaluation directive to ensure local CUPA ordinance consistency with current State law. These amendments also reflect recent State statutes adopted specific to the local supervision of hazardous waste releases and contaminated property cleanup for the protection of public health, safety, and the environment. The proposed ordinance amendments establish clear delegation by the Board of Supervisors to the County Director of Environmental Health Services to administer the applicable California Health and Safety Code provisions within the County consistent with current standards and practice.

Background:

The Public Health Department, Environmental Health Services (EHS) currently provides regulatory program and oversight services in the County of Santa Barbara to protect public health, safety, and the environment, as it relates to the management of hazardous materials. These regulatory oversight services also include taking necessary actions to prevent hazardous waste spills in the county, and to ensure that properties contaminated by waste releases are adequately cleaned up by responsible parties to prevent public exposures and their associated health risks. This oversight authority has been delegated by the California Environmental Protection Agency (CalEPA) to the County Director of Environmental Health Services and authorized by your Board.

Revisions to State laws have resulted in the need to periodically amend local ordinance for consistency with the California Health and Safety Code. In 2021, Assembly Bill 304 (Quirk) was signed by the Governor of California, specifying that whenever a release of waste occurs and remedial action is required, existing law authorizes a responsible party to request that a County Health Officer or County Director of Environmental Health Services supervise the investigation and remedial action. Since 1991, the County has been providing local technical oversight and review of hazardous waste cleanup projects through Voluntary Site Remediation agreements with responsible parties, with full cost recovery based on an Auditor-Controller approved hourly rate established by the Board (Ordinance No. 5078 adopted April 9, 2019). Each year, EHS ensures that approximately 5-10 contaminated properties are properly cleaned by responsible parties so that community groundwater supplies are protected from contamination, and that ongoing public health risks are avoided, including human health risks posed by hazardous releases of volatile organic compounds, heavy metals, petroleum hydrocarbons, or other toxic chemicals associated with elevated cancer risks. The ordinance amendments proposed by this action also repeal outdated sections 18-41 through 18-44, and 18-49 of Chapter 18, and add and update those sections as Article IV of Chapter 18C (Release of Waste) specific to the duties and responsibilities of the County Director of Environmental Health Services.

Furthermore, in 2019, Assembly Bill 1596 (Committee on Environmental Safety and Toxic Materials), added fentanyl to the Methamphetamine Contaminated Property Cleanup Act of 2005, now cited as the Methamphetamine or Fentanyl Contaminated Property Cleanup Act in the California Health and Safety Code. This legislation recognizes properties may be also contaminated by hazardous chemicals used or produced in the manufacture of methamphetamine or fentanyl where those chemicals remain and where the contamination has not been properly remediated. This legislation imposes further duties on the County Health Officer or authorized representative to ensure that residential properties have been remediated and deemed safe for human re-occupancy. The proposed ordinance amendment in Chapter 18C, Article IV, section 18C-60, adds reference to these State-mandated local responsibilities of the Health Officer, and designates that the local Health Officer and County Director of EHS will be jointly responsible in Santa Barbara County to implement the noticing, site assessment and remediation, and cost recovery actions necessitated by the cleanup of properties contaminated by an illicit methamphetamine or fentanyl laboratory activity to protect the public from harm by any chemicals or contamination that may be present.

Lastly, Santa Barbara County EHS is designated by CalEPA, and by your Board, to act as the Certified Unified Program Agency (CUPA) for the County, ensuring that hazardous materials at businesses or operations, including licensed cannabis facilities in the county, are managed in accordance with State laws and regulations to protect the public from exposure to hazardous materials and/or their release into the environment in accordance. Every three years, CalEPA and state program agencies conduct a performance evaluation of the CUPA in accordance with Health and Safety Code section 25404.4 to assess its ability to continually meet the intent of the law, including its local program procedures, ordinances, program documentation and field inspections. The final performance evaluation report issued by CalEPA to Santa Barbara County on March 5, 2021 directed updates to the local ordinance in Chapter 18C, Article III, related to State underground storage tank regulations and the Health and Safety Code. The ordinance amendments proposed with this action clarify local ordinance provisions to ensure continued consistency with current State laws and regulations. No changes to existing CUPA program implementation or administration of provisions under its State delegation in Santa Barbara County will be made as a result of these cleanup ordinance provisions.

Proposed Amendments:

In summary, the recommended actions include approval of amendments to the Santa Barbara County Code to delete outdated Code sections in Chapter 18 (Attachment A), and to amend Chapter 18C (Attachment B) to ensure local ordinance consistency with State statutes and regulations as described below:

- **Sections 18-41 through 18-49** deleted from Chapter 18.
- **Section 18C-32 – Successor of authority** includes subsection (d) clarifying the control of State law in the event of a conflict with local CUPA provisions.
- **Section 18C-46.2 – Same – Issuance of permit** deletes reference to “federal” law and clarifies when the CUPA may not issue a permit or renew a permit for an underground storage tank facility as specified in State law.
- **Section 18C-46.5 – Same – Exemptions** corrects a typographical error.
- **Section 18C-47 – Variance** clarifies the specific hazardous waste program that a CUPA may grant a variance for permit and fee provisions as provided in State law.
- **Section 18C-49 – Penalties** seeks to clarify local provisions to ensure consistency with minimum and maximum penalties as established by State law.
- **Section 18C-54 – Report of release of hazardous material** moves section from Chapter 18 and updates definitions to be consistent with State laws and regulations, and amends required reporting to be consistent with existing State-mandated reporting laws for hazardous material releases.
- **Sections 18C-55 through 18C-57** moves sections from Chapter 18 without change.
- **Section 18C-58 – Site investigation and cleanup of released waste** designates the County Director of Environmental Health Services as the local officer to oversee site investigation and cleanup actions as may be requested by a responsible party consistent with State law.
- **Section 18C-59 – Monitoring wells** added to clarify applicability of provisions in Chapter 34A, Wells.
- **Section 18C-60 – Methamphetamine or fentanyl contaminated property cleanup** added to designate the local Health Officer and County Director of Environmental Health Services as responsible for local implementation of existing State law.
- **Section 18C-61 and 18C-62** added to address severability or potential conflict of local provisions.

Fiscal Analysis:

Adopting the proposed ordinance amendments will have no fiscal impact.

Staffing Impacts:

There will be no increase or decrease in staff as a result of adopting the proposed administrative ordinance amendments.

Special Instructions:

- A. Request that the Clerk of the Board publish notice in accordance with Government Code section 25124 in the *Santa Barbara NewsPress* a newspaper of general circulation in Santa Barbara County; and
- B. Request the Clerk of the Board to provide a copy of the signed ordinance and minute order to the Public Health Department, Attention: PHDGROUPContractsUnit@sbcphd.org.

Attachments:

- A. Ordinance amending Chapter 18 of the Santa Barbara County Code (Final)
- B. Ordinance amending Chapter 18C of the Santa Barbara County Code (Final)
- C. Ordinance amending Chapter 18C of the Santa Barbara County Code (Mark Up)
- D. Notice of Public Hearing
- E. Notice of CEQA Exemption

Authored by:

Lars Seifert, Director of Environmental Health Services

cc:

Dr. Henning Ansorg, Public Health Officer