

ORDINANCE NO. 5190

AN ORDINANCE OF THE BOARD OF SUPERVISORS, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

AMENDING CHAPTER 18C ENVIRONMENTAL HEALTH SERVICES, ARTICLE III CERTIFIED UNIFIED PROGRAM AGENCY, AND ADDING ARTICLE IV RELEASE OF WASTE, OF THE SANTA BARBARA COUNTY CODE

WHEREAS, the State Water Resources Control Board directed the County of Santa Barbara (County) to update specific Code provisions in Chapter 18C, Article III Certified Unified Program Agency to ensure local code is consistent with State laws and regulations;

WHEREAS, the California Health and Safety Code, sections 101480 *et seq* (Released Waste) provides, under certain conditions, a responsible party may request a County Health Officer or County Director of Environmental Health Services oversee the remedial investigation or remedial action of released waste;

WHEREAS, the California Health and Safety Code, sections 101480 *et seq* were amended by Assembly Bill 304 (Quirk, 2021) to allow the Board of Supervisors to authorize the County Director of Environmental Health Services as the local officer to enter into remedial action agreements and oversee the remedial investigations or remedial action of waste that has been released to protect public health, safety, or the environment;

WHEREAS, the County Director of Environmental Health Services currently oversees a voluntary local program that allows responsible parties to enter into a remediation oversight agreement with the County Environmental Health Services to oversee the cleanup of released waste as authorized by the California Health and Safety Code, sections 101480 *et seq*; and

WHEREAS, this amendment updates Chapter 18C, Article III and adds Article IV to Chapter 18C.

THEREFORE, the Board of Supervisors of the County of Santa Barbara hereby ordains as follows:

SECTION 1. ORDINANCE AMENDMENT TO CHAPTER 18C, ARTICLE III.

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 are hereby amended to read as follows:

Sec. 18C-32. Successor of authority.

- (a) Environmental health services succeeds to and is vested with the duties, purposes, responsibilities and jurisdiction, imposed by law or contract or memoranda, as they relate to hazardous materials, hazardous substances and hazardous wastes, including, but not limited to, the following state laws, together with their implementing regulations and provisions of the Santa Barbara County Code:
 - (1) Chapter 6.11 (Unified Hazardous Waste and Hazardous Materials Regulatory Program), §§ 25404 et seq., of Division 20 of the Health and Safety Code;
 - (2) Chapter 6.5 (Hazardous Waste Control), §§ 25100 et seq., of Division 20 of the Health and Safety Code;
 - (3) Chapter 6.67 (Aboveground Storage of Petroleum), §§ 25270 et seq., of Division 20 of the Health and Safety Code;
 - (4) Chapter 6.7 (Underground Storage of Hazardous Substances), §§ 25280 et seq., of Division 20 of the Health and Safety Code;
 - (5) Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), §§ 25500 et seq., of Division 20 of the Health and Safety Code;
- (b) Environmental health services will remain vested with the duties, purposes, responsibilities and jurisdiction imposed by law or contract or memoranda to implement the CUPA until changed by resolution of the Santa Barbara County board of supervisors.
- (c) Nothing in this section shall prevent the environmental health services director, or his/her designee, to adopt policies and procedures in order to implement the program regulations, stated above, in accordance with said statutory and regulatory requirements.
- (d) In the event a provision of this article III conflicts with applicable State law or its implementing regulations, such State law or regulations shall control. This shall not be construed to restrict the County's ability to enact more stringent requirements when allowed by law.

Sec. 18C-46.2. Same—Issuance of permit.

The CUPA shall make or cause to be made an inspection of said applicant and the proposed place of business, and the manner in which the hazardous materials and/or waste(s) are produced, handled, transported, stored, treated and disposed of. If the CUPA finds that all provisions of this article, and of applicable state statutes and regulations have been, and will be, complied with, the CUPA shall issue such permit; otherwise the CUPA shall order the applicant to bring the business or operation into compliance with all requirements within a period of time established by the CUPA. Upon failure to comply, the application shall be denied. Except as otherwise set forth in H&SC Chapter 6.7, the CUPA shall not issue a permit or renew a permit for an underground storage tank facility if the facility is red tagged, undergoing an enforcement action, or has not paid a permit fee.

Such permits shall be good for one year from date of issuance, and shall be annually renewed by re-submitting an updated application to the statewide information management system with any and all changes to the business and operation reflected in the application. Such permits shall be nontransferable and nonassignable. Every business covered by the requirements of this article existing prior to the effective date of this article shall apply for a CUPA permit in the manner required by section 18C-46.1.

It shall not be necessary for the CUPA to investigate businesses prior to renewal issuance of the permit. Said existing businesses are required to comply with the provisions of this article III and the provisions of the state statutes and regulations.

Sec. 18C-46.5. Same—Exemptions.

The following are exempt from CUPA hazardous waste generator permit requirements as set forth in this article III:

- (a) Any person or business whose routine operation does not normally produce a hazardous waste but who must properly store and dispose of a hazardous waste caused by illegal dumping, the occasional accidental discharge, or accidental spillage of a hazardous material onto the land;
 - (i) For the purposes of this subsection 18C-46.5(a), "occasional" shall be determined by the CUPA who will take into account the nature of the business operations, materials and wastes involved as well as the expected duration of cleanup and remediation.
- (b) Any person or business who is involved in a one-time project;
 - (i) For the purposes of this subsection 18C-46.5(b), "one-time project" means a planned event that does not ordinarily occur at the business, site, or location.

Nothing in this section is meant to restrict permit requirements of other local, state, or federal agencies.

Sec. 18C-47. Variance.

The CUPA may grant variances in the hazardous waste generator program to the permit and fee provisions of this article only if the waste produced is insignificant as a potential hazard to humans, domestic livestock or wildlife due to its small quantity, low concentration and/or its physical or chemical characteristics. Any variance granted does not exempt the producer from any other applicable laws and regulations governing the management of hazardous wastes.

Sec. 18C-49. Penalties.

In addition to any other applicable federal or state minimum and maximum penalties as established by law and pursuant to chapter 1, section 1-7 of the Santa Barbara County Code, any person who violates any provision of this article III is subject to civil penalties of up to five hundred dollars per day of violation. Any person who violates any provisions of this article is guilty of a misdemeanor. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this article is committed, continued, or permitted by such person and shall be

punishable accordingly. Any person convicted of a misdemeanor under the provisions of this article shall be punishable accordingly. Any person convicted of a misdemeanor will be subject to a mandatory fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment. All enforcement actions hereunder are cumulative to one another and to any other applicable federal or State minimum penalties as established by law.

SECTION 2. ORDINANCE AMENDMENT TO ADD ARTICLE IV.

Santa Barbara County Code Chapter 18C, titled Environmental Health Services, is hereby amended to add Article IV Release of Waste, sections 18C-54 through 18C-62 as follows:

Article IV. Release of Waste

Sec. 18C-54. - Report of release of hazardous material.

(a) Any person who is reliably informed of, or discovers, a release of a hazardous material within the County of Santa Barbara shall notify the county director of environmental health services within ten working days after receiving that information or making that discovery, except that if the release poses an immediate hazard to the public health or the environment the county health officer shall also be notified within twenty-four hours. No such report shall be required if there is good cause to believe that such release has already been reported to the county director of environmental health or county health officer. Such notification shall include, to the extent known, the location of the release, the material released, the date of such release, the persons responsible, and the name of the reporting party. Notification received pursuant to this article or information obtained by the exploitation of such notification shall not be used against any such person in any criminal case.

(b) For purposes of this section, "hazardous material" means any substance or mixture of substances which:

- (1) Is toxic;
- (2) Is corrosive;
- (3) Is an irritant;
- (4) Is ignitable or combustible;
- (5) Is radioactive;

(6) May cause substantial personal injury or substantial illness during or as a proximate result of any contact with human beings, including, but not limited to, reasonably foreseeable ingestion by children. The terms "toxic," "corrosive," "irritant," "ignitable," "combustible," and "radioactive" shall have the meanings prescribed in the California Hazardous Waste Control Law, Health and Safety Code sections 25100 et seq. and its implementing regulations, as may be amended.

(c) "Release" means spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, unless permitted or authorized by a regulatory agency. "Release of a hazardous substance" shall not include the permitted use, storage, disposal, handling, blending, treatment, or transportation of such substances.

Sec. 18C-55. - Violation a misdemeanor.

Any person who violates any provision of this article is guilty of a misdemeanor.

Sec. 18C-56. - Injunctive relief and civil penalties.

Whenever there is reason to believe that there is a continuing practice by any person in violation of this article, the district attorney or county counsel may make application to the superior court for an order enjoining such practice, or for an order directing compliance, and upon a showing that such person has engaged in or is about to engage in any such practice, a permanent or temporary injunction, restraining order, or other order may be granted.

Any person who willfully violates the provisions of this article shall be liable for a civil penalty not to exceed twenty-five thousand dollars for each day that the violation continues to exist. Such civil penalty shall be assessed and recovered in a civil action commenced within one year from the date the failure to report is discovered.

Sec. 18C-57. - Conflict of other laws.

It is not the intention of this article to require handlers of hazardous materials to report to the county a release of hazardous materials which is not required to be reported under state or federal law. If the release is not required to be reported under state or federal law by the handler then no other person is placed under a duty to report such release.

Sec. 18C-58. – Site investigation and cleanup of released waste.

(a) For purposes of this section, the county director of environmental health services shall be designated as the "local officer" as set forth in the Health and Safety Code, section 101480 et seq.

(b) Whenever a release of waste occurs and remedial action is required, the responsible party for the release may request the local officer to supervise the remedial investigation and/or remedial action pursuant to a remedial action agreement entered into by the local officer and the responsible party. The remedial action agreement shall be consistent with Health and Safety Code section 101480, subdivision (c) and specify the testing, monitoring, and analysis the responsible party will carry out to determine the type and extent of the contamination caused by the release, the remedial actions that will be taken, and the cleanup goals that the local officer determines are necessary to protect

human health or safety or the environment, and that, if met, constitute a permanent remedy to the release of the waste.

(c) To the extent authorized by the State Department of Toxic Substances Control, the Santa Barbara County Environmental Health Services in its capacity as a Certified Unified Program Agency, shall oversee site screening, site investigation and corrective measures required at sites in the county that are subject to the state Hazardous Waste Control Law.

(d) The Santa Barbara County Board of Supervisors may, by ordinance or resolution, adopt such fees as necessary to pay the reasonable and necessary costs of the local officer to oversee site investigations and remedial actions taken by a responsible party.

(e) This section does not limit the county health officer or county director of environmental health's authority to oversee site investigations or remedial actions pursuant to Chapter 6.65 of Division 20 of the Health and Safety Code, Sections 33459 to 33459.8 of the Health and Safety Code, or Sections 101480 to 101490 of the Health and Safety Code, to the extent applicable.

Sec. 18C-59. Monitoring Wells.

Wells and exploratory borings constructed for the purpose of monitoring or abating contaminants in underground waters or soil that are associated with a hazardous materials release shall be subject to the administrative authority of the Santa Barbara County Environmental Health Services in Chapter 34A of Santa Barbara County Code for enforcement of statutes, ordinances, or regulations related to hazardous materials, hazardous wastes or hazardous substances as set forth in this Chapter, as amended from time to time.

Sec. 18C-60. Methamphetamine or Fentanyl Contaminated Property Cleanup.

(a) For purposes of this section, the local health officer or county director of environmental health services, as the authorized representative of the local health officer, shall be responsible to carry out the responsibilities as assigned by the Methamphetamine or Fentanyl Contaminated Property Cleanup Act in Chapter 6.9.1 of the Health and Safety Code, sections 25400.10 to 25400.47.

(b) For the purposes of this section "unit" includes but is not limited to any property as defined in Health and Safety Code section 25400.11, a structure, partial structure, mobilehome, manufactured home, or recreational vehicle, as applicable, and any accessory building or structure related thereto.

(c) If a property is known or suspected to be contaminated by a methamphetamine or fentanyl laboratory activity, a property owner or person occupying the property subject to a notice or order posted by the local health officer or county director of environmental

health services pursuant to Chapter 6.9.1, Article 3 of the Health and Safety Code, shall immediately vacate the affected unit until the contamination is remediated by an authorized contractor of the property owner in accordance with a preliminary site assessment workplan approved by the county director of environmental health services.

(d) No re-occupancy or entry by unauthorized person of the affected property shall occur at a methamphetamine or fentanyl laboratory-contaminated unit that is determined to be hazardous until the property owner or property owner's authorized contractor has completed remediation and the county director of environmental health has issued a no further action determination. A person who violates an order issued pursuant to Chapter 6.9.1 of the Health and Safety Code prohibiting the use or occupancy of a property or portion thereof contaminated by methamphetamine or fentanyl laboratory activity is subject to a civil penalty in the amount of up to five thousand dollars (\$5,000).

(e) This ordinance does not preclude the county or a city from seeking any other remedies as authorized by Chapter 6.9.1 of the Health and Safety Code to abate, and/or recover reasonable costs incurred to remediate a property contaminated by methamphetamine or fentanyl laboratory activity.

Sec. 18C-61. - Severance.

If any of the provisions of this article or the application thereof to any Person or circumstance is held invalid, the remainder of those provisions, including the application of such part or provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this article are severable.

Sec. 18C-62. - Existing County Code.

This article is meant to supplement, not amend, any existing provision of the County Code. In the event a conflict arises between a provision of the County Code and any provision of this article, this article shall prevail.

SECTION 3: PARTS NOT AFFECTED

Except as amended by this Ordinance the Santa Barbara County Code shall remain unchanged and shall continue in full force and effect. Those sections of Chapter 18C, titled Environmental Health Services, not set forth in this Ordinance shall remain in full force and effect.

SECTION 4. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors 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, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 5. PUBLICATION AND EFFECTIVE DATE.

This Ordinance shall take effect and become operative 30 days from the date of its adoption by the Board of Supervisors. Before the expiration of 15 days after its passage a summary of it shall be published once together with the names of the members of the Board of Supervisors voting for and against the same in the *Santa Barbara NewsPress*, a newspaper of general circulation published in the County of Santa Barbara in compliance with Government Code section 25124.

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County Santa Barbara, State of California, on this 19th day of September, 2023 by the following vote:

AYES: Supervisors Williams, Capps, Hartmann, Nelson and Lavagnino


NAYS: None

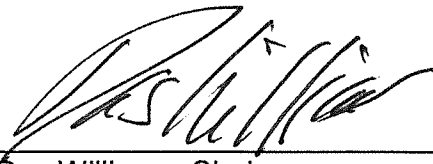
ABSENT: None

ABSTAIN: None


ATTEST:
MONA MIYASATO
COUNTY EXECUTIVE OFFICE
CLERK OF THE BOARD

COUNTY OF SANTA BARBARA

By: 
Deputy Clerk

By: 
Das Williams, Chair
Board of Supervisors

APPROVED AS TO FORM:
Rachel Van Mullem
COUNTY COUNSEL

By: 
Deputy County Counsel