

ORDINANCE NO. _____

**AN UNCODIFIED URGENCY ORDINANCE OF THE CITY OF PLACERVILLE
EXTENDING THE URGENCY ORDINANCE ADDING CHAPTER 17 TO TITLE 7, OF THE
PLACERVILLE MUNICIPAL CODE PROHIBITING THE ESTABLISHMENT, OPERATION,
USE, AND/OR PARTICIPATION IN SYRINGE EXCHANGE OR DISTRIBUTION
PROGRAMS WITHIN THE CITY OF PLACERVILLE**

WHEREAS, the state of California, acting through the California Department of Public Health (CDPH), regulates the operation of Syringe Exchange Programs (SEPs), which serve to provide sterile syringes, collect used ones, and dispense health education for people who inject intravenous drugs; and

WHEREAS, sections 121349 through 121349.3 of the California Health and Safety Code, and Title 17 (Division 1, Chapter 4, Subchapter 15) of the California Code of Regulations, collectively govern the operation of SEPs, which may be authorized by the state or localities under the standards enumerated therein; and

WHEREAS, the California Department of Public Health (CDPH) renewed an authorization effective on or about January 9, 2024 for Sierra Harm Reduction Coalition ("Sierra Harm") to collect and provide needle and syringes through delivery and pickup within the City of Placerville, notwithstanding the City's participation in the public comment process and express declarations of public nuisance and safety concerns; and

WHEREAS, improper collection and disposal of used hypodermic needles and syringes presents an imminent threat to, the health, property, safety and welfare of the public in Placerville because the City houses many homeless people who use and discard these needles in the public rights of way and facilities; and

WHEREAS, syringe exchange programs that provide services near schools, parks and playgrounds have especially negative effects since they result in improper disposal of syringes and the congregation of persons addicted to drugs near schools, parks and playgrounds. Even though CDPH expressly stated that Sierra Harm is not allowed to deliver needles around schools or parks, users of these needles end up littering these very areas with used needles; and

WHEREAS, the City and County are in a public health crisis due to increasing overdose deaths, and the operation of a needle exchange or distribution program increases the risk of overdose and death by facilitating the use of deadly and dangerous synthetic opioids, like fentanyl, which can be hard to detect and drug users can be unaware that the drugs they ingest contain fentanyl, and can be lethal in doses as small as a few grains of salt; and

WHEREAS, CDPH recognized the health concerns and honored the County's ordinance prohibiting needle exchange programs in the unincorporated County, this action only increases the problems within the City limits by pushing illegal drug users into the City to obtain these supplies. This in turn increases the amount of illegally disposed syringes and other drug paraphernalia within the City of Placerville; and,

WHEREAS, the City is seeing an increase in the number of syringes and other drug paraphernalia found in its public places, specifically in the Historic Business Districts, the Main Library, and the emergency shelter, all of which are located within the City of Placerville. As residents of the County's emergency shelter leave

during the day to receive supplies from a syringe exchange program, they are stashing these supplies in the landscape around the Main Library. The Placerville Library is a vital resource for families and the presence of syringes and pipes is a public safety hazard; and

WHEREAS, pursuant to the City's police power, as granted broadly under Article XI, Section 7 of the California Constitution, the City Council of the City of Placerville has the authority to enact and enforce ordinances and regulations for the public peace, health and welfare of the City and its residents and to regulate or prohibit certain land uses; and

WHEREAS, Government Code Section 38771 et seq. authorizes the City, through its legislative body, to declare actions and activities that constitute a public nuisance; and

WHEREAS, the Placerville Municipal Code sets forth regulatory, penal and administrative ordinances of the City, and as to the use of land, and of buildings thereon, Title 10 (Zoning) of the Placerville Municipal Code is intended to promote the growth of the City in an orderly manner and promote and protect the public health, safety, peace, comfort and general welfare in conformance with the City's General Plan; and

WHEREAS, syringe services programs are not an enumerated use under the Zoning Code and the Placerville Municipal Code does not specifically authorize syringe services programs within the City, so they are considered a prohibited land use; and

WHEREAS, this ordinance is an interim urgency ordinance adopted pursuant to the authority granted to the City by Government Code Section 65858, and is for the immediate preservation of the public health, safety and welfare. The facts constituting the urgency are:

1. The California Department of Public Health authorized a syringe services program that provides delivery and pickup of syringes and other drug paraphernalia within the City of Placerville in direct conflict with the City's Zoning Code; and

2. Absent the adoption of this Ordinance, the authorization of a syringe services program in the City has resulted in an increase in nuisance conditions negatively affecting the well-being of the community, thereby diminishing property values and introducing incompatible land uses to existing neighborhoods or in close proximity thereto; and

3. Absent the adoption of this Ordinance, the authorization of a syringe services program in the City will increase the burden upon City services due to enforcement of the established standards and regulations relating to syringe services programs, a burden which is already untenable; and

4. In a letter dated June 22, 2023, the then-Mayor and Chief of Police identified numerous health and public safety concerns specific to the syringe services program reauthorized by the California Department of Public Health; and

WHEREAS, this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines because there is no possibility it will have a significant effect on the environment, and it is not a "project", as defined in Section 15378 of the CEQA Guidelines; and

WHEREAS, on February 27, 2024, the City Council adopted Urgency Ordinance No. 1715, establishing a prohibition on syringe exchange programs within the City of Placerville; and

WHEREAS, for the protection of the public's health, safety, and general welfare, the City desires to extend the prohibition to maintain the current status quo and to provide time for the City to record the impacts of discarded needles and syringes and survey and discuss best practices with other jurisdictions that have regulated or banned such uses; and

WHEREAS, the City desires that such extension take effect immediately upon its adoption in accordance with §36934 of the California Government Code; and

WHEREAS, notice of the public hearing at which this ordinance was considered was published in the Mountain Democrat, a newspaper of general circulation within the City of Placerville on March 27, 2024:

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PLACERVILLE ORDAINS AS FOLLOWS:

Section 1. Extension of Moratorium. Urgency Ordinance No. 1715 is hereby extended for an additional ten months and fifteen days beyond its original expiration date, such that Urgency Ordinance No. 1715 shall now expire on January 11, 2025, unless further extended by the City Council pursuant to Government Code section 65858.

Section 2. Authority. Urgency Ordinance No. 1715 is extended pursuant to the authority conferred upon the City Council of the City of Placerville by Government Code Section 65858.

Section 3. Findings. In adopting this extension, the City Council finds and determines that each of the recitals and findings contained in Urgency Ordinance No. 1715 remain true and correct and are incorporated herein by reference, and that the adoption of this extension is necessary to provide the City with the opportunity to record the impacts of discarded needles and syringes and survey and discuss best practices with other jurisdictions that have regulated or banned such uses.

Section 4. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council of the City of Placerville hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective.

Section 5. Written Report. Pursuant to California Government Code Section 65858 a written report was issued by the City Council of the City of Placerville on March 26, 2024, describing the measures and research that has been so far undertaken to alleviate the condition which led to the adoption of the urgency interim ordinance.

Section 6. No Mandatory Duty of Care. This Ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 7. Effective Date. This Ordinance shall be in force and take effect immediately from and after its passage and approval by at least four-fifths vote of the City Council. Although not required by law, the City Clerk shall cause this ordinance to be published in summary format within 15 days after adoption in a newspaper of general circulation published and circulated within the City of Placerville.

I, REGINA O'CONNELL, CITY CLERK OF THE CITY OF PLACERVILLE, HEREBY CERTIFY this ordinance was PASSED and ADOPTED by the City Council of the City of Placerville at a regular meeting on April 9, 2024.

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor Jackie Neau

ATTEST:

Regina O'Connell, CPMC, City Clerk