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## City Manager's Report

July 9, 2024, City Council Meeting

Prepared by: Pierre Rivas, Director of Development Services

Item #: 10.1

**Subject:** Introduction by Title Only and First Reading and Rescission of the Temporary Moratorium on Needle and Syringe Exchange Programs in the City of Placerville.

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### Recommendation:

Introduce by title only and waive the first reading of an ordinance to rescind the urgency ordinance establishing a moratorium on the establishment, operation, use, and/or participation in needle and syringe exchange programs within the City of Placerville.

### Purpose:

Rescind the urgency ordinance that prohibited needle and syringe exchange programs within City in favor of the regulations set forth in the settlement agreement entered into with the California Department of Public Health and Sierra Harm Reduction Coalition (SHRC).

### Background:

At the February 27, 2024 Council meeting, Council adopted an urgency ordinance creating a temporary moratorium on needle and syringe exchange programs within the City of Placerville. The ordinance, by law, is only in effect for a period of 45 days unless extended by action of the Council.

At its April 9, 2024 meeting, the City Council adopted an extension of the urgency ordinance for 10 months and 15 days, until January 11, 2025. By way of brief background, an urgency ordinance temporarily banning the establishment, operation, use, and/or participation in needle and syringe exchange programs within the City of Placerville was passed after the California Department of Public Health (CDPH) reauthorized a needle and syringe program to operate *only* in City limits, despite the City's opposition.

After adoption of the City's urgency ordinance, CDPH filed a lawsuit against both El Dorado County and the City. The City timely answered the lawsuit and then commenced settlement communications with CDPH to resolve the lawsuit. As part of settlement efforts, the parties entered into a settlement agreement, a copy of which is attached to this staff report, where a needle exchange program operated by SHRC is authorized in the city, with certain regulations. Those regulations include the following:

- City and CDPH agree to identify two locations for Syringe Services Program (SSP) delivery within the city within 30 days of execution of the agreement, or both parties must extend the agreement. The hours of operation for SSP services will be Mondays through Fridays from 9am-5pm.

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- The City agrees that its police department will not collect data from SHRC or participants of the SSP program at the designated locations, just for participating the program.
- SSP obtained through the mobile service program may only be delivered at residences with the express permission of the property owner or lawful tenant. SHRC must ask that the participant has consent from the property owner or tenant.
- SHRC must provide training to its staff and volunteers and CDPH will provide the City with annual reports.
- SHRC will provide monthly litter clean up at the two SSP locations, plus three additional locations for syringe clean-up.

As a consequence of settling with CDPH, the CDPH would dismiss the lawsuit against the City. The County, by contrast, remains in active litigation with CDPH. Recently, the trial court issued an order on the preliminary injunction filed by CDPH against the County, holding, in part "Upon consideration of the briefs submitted and oral argument by the parties, the Court has determined that CDPH is likely to prevail on the merits of its claim that the ordinance adopted by the El Dorado County Board of Supervisors , which seeks to ban syringe services programs (SSPs) authorized by CDPH from operating in its jurisdiction under threat of criminal prosecution or civil penalties, is unlawful because it is preempted by Health and Safety Code section 121349 et seq. In addition, the balance of equities favors the issuance of a preliminary injunction because the imminent harm to the public health and to the State in denying such relief outweighs any asserted harm to defendants and respondents in granting it." The order does not apply to the City since the City and CDPH settled the litigation.

**Discussion:** In order to comply with the terms of the settlement agreement, the City Council must rescind the urgency ordinance.

### **Options:**

1. Rescind the urgency ordinance.
2. Provide further direction.

### **Environmental:**

The proposed action is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines section 150161(b)(3) and is not a project pursuant to section 15378 because it will not result in a direct or reasonably foreseeable indirect physical change in the environment.

**Cost:** There is no cost associated with this action.

**Budget Impact:** None



**M. Cleve Morris, City Manager**

### **Attachments:**

- A. Settlement Agreement
- B. Proposed Ordinance Rescinding Urgency Ordinance