

CITY OF YUBA CITY
STAFF REPORT

Date: July 7, 2020
To: Honorable Mayor & Members of the City Council
From: Administration
Presentation by: Diana Langley, Interim City Manager/Public Works Director

Summary

Subject: Adoption of an Ordinance of the City of Yuba City Imposing a Ban on the Establishment and Operation of Needle Exchange Programs within Yuba City

Recommendation: Adopt an Ordinance of the City Council of the City of Yuba City imposing a ban on the establishment and operation of Needle Exchange Programs within Yuba City by adding Chapter 24 to Title 5, and waive the second reading.

Fiscal Impact: Staff time to administer and enforce the ordinance as appropriate

Purpose:

Update the Municipal Code to impose a ban on the establishment and operation of Needle Exchange Programs within Yuba City.

Background:

The California Department of Public Health (CDPH) is authorized by Health and Safety Code section 121349 et seq. to approve a needle exchange program (NEP). CDPH has authorized Yuba Sutter Harm Reduction & Community Outreach (YSHRCHO) to provide syringe services within Yuba and Sutter Counties (Attachment 1). Details of the authorization are as follows:

- Effective May 11, 2020 through May 11, 2022, and may apply for renewal before the end of the two-year period.
- Syringe services may be provided at the following times and locations:
 - Harmony Health: Tuesday and Thursday from 5:00 pm – 7:00 pm at 1908 North Beale Road, Marysville, CA;
 - Yuba County Mobile Location: The area bound by the Yuba River, F Street and Second Street, extending as far west as Second Street is paved. Monday from 9:00 am – 11:00 am; and
 - Sutter County Mobile Location: The area bound by 9800 block of Second Street and the area where Second Street and Levee Road merge, extending as far west as the Feather River edge. Monday from 11:30 am – 3:00 pm.

Even though there are no sites located within the incorporated area of Yuba City, the Sutter County Mobile Location is surrounded by the incorporated area of Yuba City.

Improper collection and disposal of used hypodermic needles and syringes is detrimental to, and presents an imminent threat to, the health, property, safety and welfare of the public. Local law enforcement officers, as well as other City staff, have reported seeing needles throughout the community and throughout the local river bottoms. These needles create a hazardous condition for community members and increase their risk of injury.

The Ordinance was introduced to City Council at the June 16 meeting. In addition, the Sutter County Board of Supervisors adopted a similar ordinance on June 23.

Analysis:

By adopting this Ordinance, NEP's will be classified as a public nuisance and a ban will be imposed on the establishment and operation of such programs within Yuba City. Absent a local regulation, a NEP may be operated in virtually any location in the City, which carries the risk of negatively impacting the goals of the City's General Plan including but not limited to decreasing the risk of exposure to hazardous materials and hazardous waste.

Fiscal Impact:

Staff time to administer and enforce the ordinance as appropriate.

Alternatives:

Do not adopt an Ordinance.

Recommendation:

Adopt an Ordinance of the City Council of the City of Yuba City imposing a ban on the establishment and operation of Needle Exchange Programs within Yuba City by adding Chapter 24 to Title 5, and waive the second reading.

Attachment:

1. CDPH Letter
2. Ordinance

Prepared & Submitted by:

[/s/ Diana Langley](#)

Diana Langley
Interim City Manager/Public Works Director

Reviewed by:

Finance

[SM](#)

City Attorney

[SLC by email](#)

ATTACHMENT 1



SONIA Y. ANGELL, MD, MPH
State Public Health Officer & Director

State of California—Health and Human Services Agency
California Department of Public Health



GAVIN NEWSOM
Governor

DATE: May 11, 2020

TO: YUBA SUTTER HARM REDUCTION & COMMUNITY OUTREACH

SUBJECT: AUTHORIZATION OF YUBA SUTTER HARM REDUCTION &
COMMUNITY OUTREACH SYRINGE SERVICES PROGRAM

This is to inform you that the California Department of Public Health (CDPH), Office of AIDS (OA), has approved the Yuba Sutter Harm Reduction & Community Outreach (YSHRCO) application to provide syringe services. CDPH/OA has determined that YSHRCO's program has met the requirements outlined in California Health and Safety Code Section 121349 to qualify for authorization. Additionally, CDPH/OA has determined that conditions exist for the rapid spread of HIV, viral hepatitis, or other blood-borne diseases in Sutter and Yuba Counties. Authorization is effective May 11, 2020 through May 11, 2022. YSHRCO may apply for renewal before the end of the two-year period.

YSHRCO's approval is to provide syringe services in the following times and locations:

- Harmony Health: Tuesday and Thursday from 5:00 p.m.-7:00 p.m. at 1908 North Beale Road, Marysville, CA 95901;
- Yuba County Mobile Location: The area bound by the Yuba river, F Street and Second Street, extending as far west as Second Street is paved. Monday from 9:00 a.m.-11:00 a.m.; and
- Sutter County Mobile Location: The area bound by 9800 block of Second Street and the area where Second Street and Levee Road merge, extending as far west as the Feather River edge. Monday from 11:30 a.m.-3:00 p.m.

Operating days, hours, and locations are subject to change after consultation with and approval from CDPH/OA, as the need for services changes.

CDPH/OA requires all state-authorized syringe services programs comply with state laws and regulations. CDPH/OA will contact you to discuss these and all data and reporting requirements.



YUBA SUTTER HARM REDUCTION & COMMUNITY OUTREACH

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We appreciate the dedication of all who worked to submit this application. Thank you for your efforts in HIV and hepatitis C prevention, and we look forward to working with you.

Sincerely,



Marisa Ramos, PhD
Chief, Office of AIDS

cc: James Watt, MD, MPH
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ATTACHMENT 2

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUBA CITY
IMPOSING A BAN ON THE ESTABLISHMENT AND OPERATION OF NEEDLE
EXCHANGE PROGRAMS WITHIN YUBA CITY BY ADDING CHAPTER 24 TO
TITLE 5 OF THE YUBA CITY MUNICIPAL CODE**

WHEREAS, the California Department of Public Health (CDPH) may authorize a Needle Exchange Program (NEP) in local communities pursuant to Health and Safety Code section 121349, *et seq.*; and

WHEREAS, CDPH has recently certified the Yuba Sutter Harm Reduction & Community Outreach (YSHRSCO) to provide needle exchange services in the County of Sutter including the City of Yuba City; and

WHEREAS, improper collection and disposal of used hypodermic needles and syringes is inimical to, and presents an imminent threat to, the health, property, safety and welfare of the public; and

WHEREAS, a collection of needles and syringes near the levees and river bottoms present a threat to the health, property, waterways, safety and welfare of the public in the event of high-water levels; 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 Yuba City has the authority to enact and enforce ordinances and regulations for the public peace, health and welfare of the City and its residents; and

WHEREAS, absent a local regulation, a needle exchange program may be operated in virtually any location in the City; and

WHEREAS, the operation of a needle exchange program carries the risk of negatively impacting the goals of the City's general plan including but not limited to decreasing the risk of exposure to hazardous materials and hazardous waste, including Goal 9.5-G-1; and

WHEREAS, the City Council now desires to impose a ban on the establishment of needle exchange programs within Yuba City.

NOW, THEREFORE, the City Council of the City of Yuba City does ordain as follows:

Section 1. The above recitals are true and correct and incorporated herein.

Section 2. Title 5 of the Yuba City Municipal Code is amended to add Chapter 24 (Ban on the Establishment of Needle Exchange Programs) to read, in its entirety, as follows:

Chapter 24 - BAN ON THE ESTABLISHMENT OF NEEDLE EXCHANGE PROGRAMS

Sections	
5-24.01	Purpose and Intent
5-24.02	Prohibition
5-24.03	Violations and Penalties

- 5-24.04 Penalties Not Exclusive
- 5-24.05 Effective Date
- 5-24.06 Severability

5-24.01 PURPOSE AND INTENT

The Council recognizes that the establishment of a needle exchange program will increase improperly disposed needles, which pose a serious risk to the public health, safety and welfare, given the potential for personal bodily injury, property damage, and contaminated waterways in the event of high-water levels. It is the purpose and intent of this Chapter to ban the establishment, operation, engagement, use, and/or participation in a needle exchange program within the City to protect the public health, safety, and general welfare of its residents.

This Chapter authorizes the imposition of administrative fines on any person who violates any provision of this ordinance to encourage and obtain compliance with the provisions of this ordinance for the benefit and protection of the entire community.

5-24.02 PROHIBITION

- (a) It shall be unlawful and a public nuisance for any person to create, establish, operate, conduct, or participate in a needle exchange program, as defined by Health and Safety Code section 121349, *et seq.* within the city.

5-24.03 VIOLATIONS AND PENALTIES

- (a) Administrative Citation. An administrative citation may be issued by an Enforcement Officer or other person with enforcement responsibility to any person or responsible party who violates any of the provisions of this Chapter pursuant to the procedures as set forth in Chapter 8 of Title 4 of the Yuba City Municipal Code.

5-24.04 PENALTIES NOT EXCLUSIVE

- (a) Nothing in this section shall be intended to limit any of the penalties provided for under the California Health and Safety Code or Penal Code with regard to the establishment, operation, engagement, use, and/or participation in a needle exchange program. The penalties set forth herein are intended to be nonexclusive and are intended to be in addition to any other remedies provided in the Yuba City Municipal Code or any other law, statute, ordinance or regulation.

Section 3. If any section, subsection, sentence, clause, portion, or phrase of this ordinance is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The City Council hereby declares that it would have passed this Chapter and each section, subsection, sentence, clause, portion, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional.

Section 4 This ordinance shall be effective thirty (30) days after its adoption and shall be published as provided for by law.

Introduced and read at a regular meeting of the City Council of the City of Yuba City the 16th day of June 2020, and adopted at a regular meeting thereof held on the 7th day of July 2020, by the following vote:

AYES:

NOES:

ABSENT:

Shon Harris, Mayor

ATTEST:

Patricia Buckland, City Clerk

APPROVED AS TO FORM:

Shannon Chaffin, City Attorney