

**AN ORDINANCE OF THE CITY OF EUREKA ADDING TITLE IX, CHAPTER 94 -
REGULATION OF SYRINGE EXCHANGE PROGRAMS AND SAFE DISPOSAL OF
SHARPS SECTIONS 94.50 THRU 94.57**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EUREKA AS FOLLOWS:

Section 1. FINDINGS:

WHEREAS, the City of Eureka supports the concept of harm reduction through hypodermic syringe exchange as a benefit to the health threat incurred by spreading disease such as HIV and Hepatitis C through the sharing of needles during drug use;

WHEREAS, there are more than forty Syringe Exchange Programs (SEPs) operating in California in a variety of settings, including health clinics, mobile vans, churches, county public health offices, as well as home delivery services;

WHEREAS, since 1999, the California State Legislature has acted several times to expand access to sterile syringes through SEPs, authorized by local governments. In 2012, Assembly Bill (AB) 604 granted authority to the California Department of Public Health, Office of Aids to permit organizations to apply directly to the Department of Public Health for authorization to provide syringe exchange services;

WHEREAS, syringe and needle waste represents a potential public health hazard for children, adults, and public employees-including Police, Fire, and maintenance workers in Community Services and Public Works through unnecessary exposure and risk of poisoning and injury due to improper disposal of sharps;

WHEREAS, Humboldt Bay, public parks, roads, alleys, sidewalks, trails, and private property have been subjected to improper disposal of sharps;

WHEREAS, the City of Eureka, private businesses, individuals, and organized community clean-ups have collected thousands of improperly disposed of sharps on an annual basis on public and private property;

WHEREAS, there is no mandatory statewide stewardship program for sharps in California, and manufacturers, retailers, and producers have not provided support for a permanent collection program to date;

WHEREAS, California Health and Safety Code Section 118286 requires that home-generated sharps be transported to a collection center in sharps containers or other containers authorized by the local enforcement agency, and prohibits the loose disposal of home-generated sharps waste in trash or recycling containers, many people continue

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to dispose of contaminated sharps in manners that increase the risk that others will come into contact with them;

WHEREAS, the regulation of Syringe Exchange Programs is necessary to ensure that such programs operate in conformity with state law, demonstrate a plan and implementation for injection drug users to seek treatment for substance abuse, and require the removal of syringe litter from public and private property.

Section 2.

The following section is hereby *added* to Title IX, Chapter 94:

94.50 CITY OF EUREKA REGULATION OF SYRINGE EXCHANGE PROGRAMS AND SAFE DISPOSAL OF SHARPS

- 94.51 Purpose and Intent
- 94.52 Title
- 94.53 Definitions
- 94.54 Regulation of Syringe Exchange Programs (SEPs)
- 94.55 Disposal of Sharps
- 94.56 Enforcement

94.51 PURPOSE AND INTENT.

The purpose of this chapter is to protect the health, safety and welfare of the public and of the use of the environment by providing regulation of SEPs and for the safe disposal of sharps.

94.52 TITLE.

This chapter may be cited as the "City of Eureka Regulation of Syringe Exchange Programs and Safe Disposal of Sharps Ordinance"

94.53 DEFINITIONS.

For the purpose of this chapter, the following terms have the meanings given below.

1. "City Council" refers to the City Council of the City of Eureka.
2. "City" means the City of Eureka, California.
3. "City Manager" means the City Manager of the City of Eureka and/or his or her designee.
4. "County" means the County of Humboldt, California.
5. "Drug" means: (a) articles recognized in the official United States Pharmacopoeia, the official National Formulary, the official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (b)

articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals; (c) articles, other than food, intended to affect the structure or any function of the body of humans or other animals; and (d) articles intended for use as a component of any article specified in clause (a), (b), or (c) of this definition. Notwithstanding the foregoing sentence, "Drugs" does not include or mean medical devices, their component parts or accessories.

6. "Person" means an individual, firm, sole proprietorship, corporation, limited liability company, general partnership, limited partnership, limited liability partnership, association, cooperative, or other entity of any kind or nature, however organized.
7. "Provider" means any Person that sells or otherwise furnishes Drugs or Sharps to consumers at a medical or veterinary office, clinic, hospital or approved needle-exchange program located in the City.
8. "Sharps" means one or more hypodermic needles, pen needles, intravenous needles, lancets and other devices used to penetrate the skin for drawing blood, or for the delivery of medications or Drugs.
9. "Syringe Exchange Programs" (SEPs) means a program operating within the jurisdictional boundaries of the City of Eureka that provides sterile syringes, collects used ones, or acts as a point of access to health education and care for people who inject drugs.
10. "Sharps Container" means a rigid puncture-resistant container used in patient care or research activities meeting the standards of and receiving approval from the United States Food and Drug Administration as a medical device used for the collection of discarded medical needles or other sharps.

93.54 REGULATION OF SYRINGE EXCHANGE PROGRAMS (SEPs)

Syringe Exchange Programs shall operate in conformance with California Health and Safety Code sections 121349 through 121349.3 as part of a network of comprehensive services to combat the spread of HIV and blood-borne hepatitis infection among injection drug users.

1. A provider interested in administering a clean needle and syringe exchange program in the City shall notify the City Manager prior to beginning the program and shall comply with any program rules and regulations established by the City for administration of the program.
2. A provider shall report to the City Manager, on a quarterly basis, statistics that include but need not be limited to:
 - a) number of needles distributed;
 - b) number of needles returned/collected;
 - c) the location of the returned/collected needles;
 - d) the number of referrals made for other services; and
 - e) the number of law enforcement incidents related to the SEP.

3. SEPs must demonstrate a plan and implementation for injection drug users to seek treatment for substance abuse; and provide referral for substance abuse treatment and other preventative health care services to participants in the program.
4. SEPs are required to organize and participate in clean-ups of used needles on a weekly basis and to report the results of such efforts quarterly.
5. SEPs shall issue identification cards for employees and volunteer workers for the program.
6. SEPs are not allowed to operate within one thousand (1,000) feet of a elementary and/or secondary school meeting all of the requirements of the compulsory education laws of the state or a licensed day care center, except for mobile outreach workers.
7. SEPs are required to insure that sharps are disposed of at the organizational level in conformance with OSHA standards. SEPs shall contract with a licensed bio-waste hauling company for disposal of sharps.
8. SEPs shall implement and maintain syringe collection and disposal procedures that:
 - a. Encourage program participants to return used syringes to the program, and/or to dispose of them properly;
 - b. Collect sharps waste in such a way to minimize direct handling by program staff, volunteers and clients.

93.55 DISPOSAL OF SHARPS

1. Home generated sharps as well as sharps generated from individual and group clean-ups shall be transported to a California Department of Health and Human Services approved collection center or consolidation point in sharps containers meeting the minimum standards of the U. S. Food and Drug Administration. Loose disposal of sharps waste in trash or recycling containers is prohibited.
2. No provider shall dispose of sharps in the City or County owned or provided kiosks or sharps containers.

93.56 ENFORCEMENT

Any person or provider found to be in violation of this chapter shall be subject to its remedies including any other available remedy such as administrative and civil fines and criminal prosecution pursuant to §10.99 and may be charged with an infraction or misdemeanor at the discretion of the City Attorney.

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93.57 SEVERABILITY.

If any subsection, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this section, and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the ____ day of _____, 2018 by the following vote:

AYES: COUNCILMEMBERS

NOES: COUNCILMEMBERS

ABSENT: COUNCILMEMBERS

Kim Walford Bergel, Mayor Pro Tem

THE ABOVE ORDINANCE WAS PRESENTED TO THE MAYOR on the ____ day of _____, 2018, and hereby approved.

Frank J. Jager, Mayor

Approved as to Administration:

Approved as to form:

Greg L. Sparks, City Manager

Cyndy Day-Wilson, City Attorney

THE ABOVE ORDINANCE WAS ATTESTED BY THE CITY CLERK OF THE CITY OF EUREKA on the ____ day of _____, 2018.

Pamela J. Powell, City Clerk