


ORDINANCE NO. _____

**AN URGENCY ORDINANCE
ADDING EL DORADO COUNTY ORDINANCE CODE
TITLE 9 – PUBLIC PEACE, MORALS AND WELFARE
CHAPTER 9.56. – SYRINGE EXCHANGE PROGRAMS,
PROHIBITING NEEDLE EXCHANGE OR DISTRIBUTION
PROGRAMS WITHIN THE COUNTY OF EL DORADO**

WHEREAS, pursuant to the County’s police power, as granted broadly under Article XI, Section 7 of the California Constitution and Section 210 of the Charter of the County of El Dorado, the Board of Supervisors of the County of El Dorado has the authority to enact and enforce ordinances and regulations for the public peace, health and welfare of the County and its residents; and

WHEREAS, Government Code Section 25845 authorizes the County, through its legislative body, to declare actions and activities that constitute a public nuisance; and

WHEREAS, the 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 streams, rivers, lakes, and other waterways presents a threat to the health, property, waterways, safety and welfare of the public as they recreate and in the event of high-water levels; and

WHEREAS, the County is 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, 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; and

WHEREAS, the County is seeing an increase in the number of syringes and other drug paraphernalia found in its public places, specifically its main County Library, as residents of the County's emergency shelter leave during the day to receive supplies from a syringe exchange program and are stashing these supplies in the landscape around the Main Library. The Main Placerville Library is a vital resource for families and the presence of syringes and pipes is a public safety hazard; and

WHEREAS, absent a local regulation, a needle exchange or distribution program may be operated in virtually any location within the County; and

WHEREAS, the operation of needle exchange or distribution programs carries the risk of negatively impacting the goals of the County's General Plan including, but not limited to, decreasing the risk of exposure to hazardous materials and hazardous waste; and

WHEREAS, this ordinance is an urgency ordinance adopted pursuant to the authority granted to the County by Government Code Section 25123(d) and is for the immediate preservation of the public peace, health, and safety. The facts constituting the urgency are:

1. The California Department of Public Health has certified a syringe exchange program that operates within El Dorado County, supposedly “reducing harm” by providing “clean” needles to drug users to reduce the prevalence of diseases such as HIV and Hepatitis C.
2. Contrary to these assertions, diagnoses of these diseases have not been meaningfully reduced since the program has been in operation.
3. However, deaths by drug overdose have been rising in the nation, and the County has been experiencing a year-on-year rise in deaths due to fentanyl overdose since the syringe exchange program has been in operation. Deaths due to overdose in the County are far more prevalent than deaths due to HIV and Hepatitis C, with this discrepancy likely to increase in the coming years based on existing data.
4. Absent the adoption of this Ordinance, the operation of a syringe exchange program in the County will continue to burden public services which have to respond to the consequences of increased overdoses, *including those likely to occur within the next thirty days*, as well as handling the environmental consequences of syringes being disposed in our environment, contaminating the County’s waterways and posing a public health risk and damage to property and property values.
5. Absent the adoption of this Ordinance, the operation of a syringe exchange program in the County will likely result in preventable overdoses and additional syringes being improperly disposed of with the corresponding public harm within the next thirty days.

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.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO DOES ORDAIN AS FOLLOWS:

Section 1. El Dorado County Ordinance Code Title 9 – Public Peace, Morals and Welfare, Chapter 9.56 – Syringe Exchange Programs, is hereby added as follows:

Chapter 9.56 - SYRINGE EXCHANGE PROGRAMS

Sec. 9.56.010. – Purpose and Intent.

The board of supervisors recognizes that the establishment and operation of a syringe 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. It is the purpose and intent of this section to prohibit the establishment, operation, use, and/or participation in a syringe exchange program within the unincorporated areas of the county to protect the public health, safety, and general welfare of its residents.

Sec. 9.56.020. – Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Syringe exchange program” means any and all needle and syringe exchange or distribution programs or projects whereby hypodermic needles and/or syringes are exchanged or dispensed such that persons participating in and/or operating such programs are exempted from criminal prosecution for acts related to the possession of needles and/or syringes.

Sec. 9.56.030. – Public Nuisance.

It shall be unlawful and a public nuisance for any person to create, establish, operate, conduct, or participate in a syringe exchange program within the unincorporated areas of the County of El Dorado.

Sec. 9.56.040. – Enforcement.

- A. *Administrative citations.* A violation of any provision of this chapter shall constitute grounds for issuance of a notice of violation and assessment of an administrative fine by the County. The County's procedures on imposition of administrative fines as set forth in Chapter 9.02 of the County Code are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter, except as otherwise indicated in this chapter.

- B. *Penalty for violation.* Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished according to the general penalties described in Chapter 1.24. Each person is guilty of a separate offense for every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by such person. The penalty shall be in addition to any civil or administrative remedy provided for by this chapter.

- C. *Other remedies not precluded.* Nothing in this section is intended to preclude alternate enforcement mechanisms under other applicable laws. The remedies identified in this chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal, available at law or in equity.

Sec. 9.56.050. – Conformance to Law.

The provisions of this chapter shall be interpreted in accordance with otherwise applicable state and federal law(s) and will not apply if determined by the county to be in violation of any such law(s).

Section 2. The recitals and statements of fact set forth in this ordinance are true and correct, constitute a substantive part of this ordinance, and are incorporated herein by this reference. Based on those facts, the County finds, determines and declares that this ordinance is necessary for the immediate preservation of the public peace, health or safety pursuant to, and as authorized by, Government Code section 25123(d).

Section 3. The Board hereby declares, based on the findings set forth above, that there is an immediate need to preserve the public peace, health and safety constituting the urgency for adoption of this ordinance pursuant to Government Code section 25123(d). Accordingly, this ordinance is adopted as an urgency ordinance and shall take effect and be in force immediately, unless otherwise repealed.

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Section 4. The Clerk is directed to publish this ordinance, or a summary thereof, within fifteen (15) days in accordance with Government Code section 25124.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the _____ day of _____, 2023, by the following vote of said Board:

ATTEST
KIM DAWSON
Clerk of the Board of Supervisors

Ayes:
Noes:
Absent:

By _____
Deputy Clerk

Wendy Thomas
Chair, Board of Supervisors

APPROVED AS TO FORM

David A. Livingston
COUNTY COUNSEL