

ORDINANCE NO. 6717

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROSEVILLE ADDING CHAPTER 9.90 TO TITLE 9 OF THE ROSEVILLE MUNICIPAL CODE REGARDING SYRINGE EXCHANGE PROGRAMS, AND DECLARING THIS ORDINANCE TO BE EFFECTIVE SEPTEMBER 20, 2023 AS AN URGENCY MEASURE

WHEREAS, according to the California Department of Public Health, there are more than sixty (60) syringe exchange programs operating in California that provide sterile syringes to, and collect used syringes from, people who inject drugs; and

WHEREAS, California Health and Safety Code Section 121349 et seq., provides that a syringe exchange program may be authorized to operate by the California Department of Public Health, even despite local objection; and

WHEREAS, since 2015, licensed pharmacies throughout California have been authorized to sell syringes to adults without a prescription with no limits on the number of syringes that may be sold; and

WHEREAS, California law allows a person eighteen (18) years of age and older to purchase and possess an unlimited number of syringes for personal use when acquired from a pharmacy, physician or authorized syringe exchange program; and

WHEREAS, no provision of the Roseville Municipal Code specifically addresses syringe exchange programs; and

WHEREAS, while the California Health and Safety Code and California Code of Regulations provide some general parameters for operating a syringe exchange program, such regulations are not exhaustive; and

WHEREAS, absent sufficient local regulation, syringe exchange programs may operate in a manner that creates significant negative impacts on the public health and welfare; and

WHEREAS, although the California Health and Safety Code requires that used syringes and other sharps be stored, transported, and disposed of in a specific manner, and prohibits the loose disposal of sharps, syringes and corresponding waste in trash or recycling containers, certain individuals within the community who inject drugs have and continue to improperly dispose of used and potentially contaminated sharps and syringes, which has direct and negative impacts on the public health and safety of the entire Roseville community and increases the risk of community members coming into contact with used and potentially contaminated sharps and syringes; and

WHEREAS, used and potentially contaminated sharps, syringes, and corresponding waste represent a significant public health hazard for all community members and visitors of the city, as well as to city staff, including but not limited to those in the police, fire, code enforcement, environmental utilities, electric utility, parks and recreation, public works, and

building departments and divisions through unnecessary exposure and risk of injury due to improper disposal of such sharps, syringes, and corresponding waste, which presents an imminent threat to the health, safety, and welfare of the community; and

WHEREAS, additional local regulation of syringe exchange programs is necessary to minimize the significant and imminent threat to the health, safety, and welfare of the community and to mitigate the demonstrated negative effects of syringe exchange programs, including but not limited to the improper disposal of sharps, syringes, and other corresponding waste, and the congregation of persons who regularly inject drugs near schools, parks, playgrounds, and other sensitive areas within the city; 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 Roseville 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, Government Code Section 38771 authorizes the city, through its legislative body, to declare actions and activities that constitute a public nuisance; and

WHEREAS, the City of Roseville is a charter city, incorporated under the laws of the State of California, and under Article I, Section 1.07 of the City Charter, the city has the power and authority to make and enforce all laws and regulations in respect to municipal affairs; and

WHEREAS, Article 5, Sections 5.02 and 5.03 of the City Charter, authorize the city to enact ordinances, and further authorize the City to make ordinances effective immediately when such ordinances are necessary for the preservation of the public peace, health or safety so long as adopted by the affirmative vote of not less than three councilmembers if three or four councilmembers are present, or by the affirmative vote of not less than four councilmembers if five councilmembers are present; and

WHEREAS, the City of Roseville desires to exercise its local powers and authorities to regulate syringe exchange programs within the city to ensure that such programs operate in conformity with state law, and to minimize the significant and imminent threat to the health, safety, and welfare of the community caused by improper disposal of used sharps, syringes, and other corresponding waste, and the congregation of persons who regularly inject drugs near schools, parks, playgrounds, and other sensitive locations; and

WHEREAS, based on the findings, above, the City Council of the City of Roseville has determined that there exists a threat to public health, safety and welfare if the City does not add Chapter 9.90 to Title 9 of the Municipal Code to regulate syringe exchange programs and the safe disposal of sharps and syringes within the city, and that such regulations fall within broad authorities of the city to enact ordinances and regulations for the public peace, health and welfare and to make and enforce regulations in respect to its municipal affairs; and

NOW, THEREFORE, THE CITY OF ROSEVILLE ORDAINS:

SECTION 1. Chapter 9.90 is hereby added to Title 9 of the Roseville Municipal Code to read as follows:

## **Chapter 9.90**

### **SYRINGE EXCHANGE PROGRAMS**

#### **Sections:**

**9.90.010 Purpose.**

**9.90.020 Definitions.**

**9.90.030 Unauthorized needle exchange programs—Prohibited.**

**9.90.040 Operation of syringe exchange programs—Restrictions and regulation.**

**9.90.050 Disposal of sharps.**

**9.90.060 Public nuisance declared.**

**9.90.070 Penalties for violations.**

**9.90.080 Conformance to law.**

**9.90.090 Severability.**

#### **9.90.010 Purpose.**

The purpose and intent of this chapter is to protect the health, safety and welfare of the public by regulating syringe exchange programs and providing for the safe disposal of sharps, syringes, and corresponding waste.

#### **9.90.020 Definitions.**

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

- A. “Participant” means a person who uses syringe exchange services.
- B. “Person” means an individual, partnership, corporation, joint venture, or other entity of any nature.
- C. “Sharps” means a device that has acute rigid corners, edges, or protuberances capable of cutting or piercing, including, but not limited to syringes, needles, and lancets.
- D. “Sharps container” means a puncture-resistant plastic container with leak-resistant sides and bottom, and a tight fitting, puncture-resistant lid, 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, syringes, or other sharps.
- E. “Staff” means anyone who provides syringe exchange services on behalf of a syringe exchange program.

F. “Syringe” means both the needle and syringe used to inject fluids into the body, referred to in California Health and Safety Code Section 121349, as may be amended from time to time, as a ‘hypodermic needle and syringe’.

G. “Syringe exchange program” means a program operating within the jurisdictional boundaries of the City of Roseville that acts as a point of access to health education and care for people who inject drugs, where hypodermic needles and syringes are dispensed, or where used hypodermic needles and syringes are collected pursuant to the authority of Chapter 18 of Part 4 of Division 105 of the California Health and Safety Code, as may be amended from time to time, such that persons participating in and/or operating such programs are exempted from criminal prosecution for acts related to the possession of hypodermic needles and syringes.

#### **9.90.030 Unauthorized needle exchange programs—Prohibited.**

Except as otherwise provided in California Health and Safety Code Section 121349 et seq., as may be amended from time to time, it shall be unlawful for any person to own, manage, conduct, or operate any syringe exchange program on public and/or private property within the jurisdictional limits of the city.

#### **9.90.040 Operation of syringe exchange programs—Restrictions and regulation.**

A. No person may conduct or operate any syringe exchange program without approval of the California Department of Public Health pursuant to Health and Safety Code Section 121349 et seq., and such approval must be maintained at all times during the operation of such syringe exchange program.

B. No person may conduct, operate, or engage in any syringe exchange program, including any staff providing syringe exchange services, or any participant receiving or using syringe exchange services, within a six hundred (600) foot radius of any public or private school, day care center, playground, public park, community center, or library, unless such syringe exchange services are provided on a private residential property having a valid street address.

C. No participant or other person receiving syringes through any syringe exchange program may give, sell, trade, or otherwise transfer any syringe(s) so received to any other person.

D. No person conducting or operating any syringe exchange program, including staff providing syringe exchange services, shall provide any syringe(s) to a participant unless a sharps container is also given to the participant at the time any syringes are provided, or it is determined to a reasonable degree of certainty that the participant possess or has access to a readily available sharps container that will allow for prompt disposal of used sharps and syringes immediately after use thereof.

E. No person conducting or operating any syringe exchange program, including staff providing syringe exchange services, shall provide any syringe(s) to any participant where such person or staff has actual or constructive notice that said participant has improperly disposed of

any syringes or other sharps previously provided through the syringe exchange program to the participant. For purposes of this paragraph, constructive notice shall be effected when, based on all of the relevant facts and circumstances, a reasonable person would know that the subject participant has improperly disposed of any sharps of syringes previously provided to the participant through the syringe exchange program.

F. No person conducting or operating any syringe exchange program, including staff providing syringe exchange services, shall provide any syringe(s) to any participant under the age of eighteen (18) without a parent or guardian present.

#### **9.90.50 Disposal of sharps.**

A. Each syringe or sharps used in any way for the injection of a substance into the body shall be disposed of and secured in a sharps container immediately after its first use.

B. All disposal of sharps and sharps containers shall comply with California Health and Safety Code Section 118275 et seq., as may be amended from time to time, and Roseville Municipal Code Section 9.12.150, as may be amended from time to time.

C. It shall be unlawful for any participant or person to leave any used sharps or syringe in any location, place, or manner such that the sharps or syringe is able to come into contact with any other person.

D. It shall be unlawful for any participant or person to discard or otherwise dispose of any used sharps or syringe in any garbage receptacle, recycling receptacle, sink, toilet, or any other bin or receptacle that is not specifically designed for disposal of used sharps and syringes.

#### **9.90.060 Public nuisance declared.**

Any violation of the provisions of this chapter is hereby declared a public nuisance and may be abated by all available means.

#### **9.90.070 Penalties for violations.**

Violation of any provision of this chapter may be charged as an administrative citation, infraction, or misdemeanor, at the discretion of the City Attorney.

#### **9.90.080 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 city to be in violation of any such law(s).

#### **9.90.090 Severability.**

The provisions of this chapter are hereby declared to be severable. If any provision, clause, word, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

SECTION 2.   Urgency Ordinance.

This ordinance is hereby declared to be an urgency measure, immediately necessary for the public peace, health and safety and shall take effect September 20, 2023. A statement of urgency is as follows:

It is necessary to add Chapter 9.90 of Title 9 of the Roseville Municipal Code to ensure that needle exchange programs operate in conformity with state law, and to minimize the significant and imminent impacts to the community caused by improper disposal of used sharps and syringes and the congregation of persons who regularly inject drugs near schools, parks, playgrounds, and other sensitive locations, which are necessary for the protection of the public peace, health, safety and welfare.

SECTION 3. The City Clerk is hereby authorized and directed to post a true copy of the foregoing ordinance in each of three (3) conspicuous locations in the City and she shall immediately after such posting enter in the Ordinance Book under the record of the ordinance a certificate under her hand stating the time and place of said publication by posting.

PASSED AND ADOPTED by the Council of the City of Roseville this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by the following vote on roll call:

AYES           COUNCILMEMBERS:

NOES           COUNCILMEMBERS:

ABSENT        COUNCILMEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Clerk