



CITY OF WHEATLAND

CITY COUNCIL MEETING STAFF REPORT September 8th, 2020

SUBJECT: Introduce and waive the first reading of Ordinance 477 of the City of Wheatland imposing a ban on the establishment and operation of the Needle Exchange Programs within Wheatland.

PREPARED BY: Damiean Sylvester, Police Chief

Recommendation

Introduce and waive the first reading of Ordinance 477 of the City Council of the City of Wheatland imposing a ban on the establishment and operation of Needle Exchange Programs within Wheatland by adding Chapter 8.36.

Background/Discussion

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 and Community Outreach (YHRCO) to provide syringe services within Yuba and Sutter Counties. Neighboring jurisdictions in both Yuba and Sutter counties have established ordinances banning the program, which resulted in YHRCO discontinuing the program at this time.

At the July 14th, 2020 City Council meeting, City Council directed staff to proceed with preparation of a City Ordinance banning the operation of needle exchange programs within the City of Wheatland.

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. The needles create a hazardous condition for community members and increase the risk of injury.

In the past two years we have had approximately 5 incidents where community members and City staff have found used syringes discarded at local parks and within the community of Wheatland. If the needle exchange program is allowed in Wheatland,

it is likely these incidents will be more frequent, which carries the risk of negatively impacting the City.

Fiscal Impact

Staff time to administer and enforce the ordinance as appropriate.

Attachments

1. Ordinance

ORDINANCE NO. 477

AN ORDINANCE OF THE CITY OF WHEATLAND AMENDING THE WHEATLAND MUNICIPAL CODE TO ADD CHAPTER 8.36 BANNING THE ESTABLISHMENT AND OPERATION OF NEEDLE EXCHANGE PROGRAMS

SECTION 1. The City Council of the City of Wheatland hereby finds and declares as follows:

(A) 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

(B) CDPH has certified the Yuba Sutter Harm Reduction & Community Outreach (YSHRCO) to provide needle exchange services to residents within Yuba County, including the City of Wheatland; and

(C) 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

(D) A collection of needles and syringes near the levees and river bottoms presents a threat to the health, property, waterways, safety and welfare of the public in the event of high-water levels; and

(E) 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 Wheatland has the authority to enact and enforce ordinances and regulations for the public peace, health and welfare of the City and its residents; and

(F) Absent a local regulation, a needle exchange program may potentially be operated in virtually any location in the City; and

(G) 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; and

(H) The City Council now desires to impose a ban on the establishment of needle exchange programs within the City of Wheatland.

THE CITY COUNCIL OF THE CITY OF WHEATLAND ORDAINS AS FOLLOWS:

SECTION 2. The Wheatland Municipal Code is amended by adding Chapter 8.36 to read, in its entirety, as follows:

Chapter 8.36
NEEDLE EXCHANGE PROGRAMS

Sections

- 8.36.010 Purpose and Intent
- 8.36.020 Prohibition
- 8.36.030 Violations and Penalties
- 8.36.040 Penalties Not Exclusive

8.36.010 PURPOSE AND INTENT

The city council recognizes that the establishment and operation 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.

8.36.020 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.

8.36.030 VIOLATIONS AND PENALTIES

- (A) Administrative Citation. An administrative citation may be issued by an Enforcement officer to any person or responsible party who violates any of the provisions of this Chapter pursuant to the procedures as set forth in Chapter 1.18 of the Wheatland Municipal Code.

8.36.040 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 Wheatland 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. Effective Date. This ordinance shall be effective thirty days after its adoption and shall be published as provided by law.

SECTION 5. Posting. Within 15 days after the date of passage of this ordinance, the City Clerk shall post a copy of it in at least three public places in the City.

INTRODUCED by the City Council on September 8, 2020.

PASSED AND ADOPTED by the City Council of the City of Wheatland on _____, 2020 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Rick West, Mayor

Attest:

Lisa J. Thomason, City Clerk

I hereby certify that the foregoing is a true and correct copy of City of Wheatland Ordinance No. 477, which ordinance was duly introduced, adopted and posted pursuant to law.

Lisa J. Thomason, City Clerk