

ORDINANCE NO. 009-20

**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 (YSHRCO) 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: Councilmembers Boomgaarden, Cardoza, Shaw and Mayor Harris

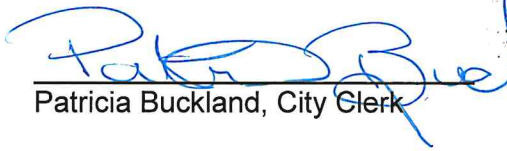
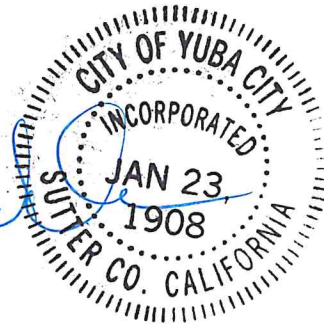
NOES: None

ABSTAIN: Councilmember Espindola



Shon Harris, Mayor

ATTEST:


Patricia Buckland, City Clerk

APPROVED AS TO FORM:



Shannon Chaffin, City Attorney