

BCC Mtg. Date: May 19, 2020

Effective Date: May 21, 2020

**ORDINANCE NO. 2020-12**

**AN ORDINANCE PERTAINING TO A NEEDLE AND SYRINGE EXCHANGE PROGRAM; ENACTING A NEW CHAPTER 20, ARTICLE VIII OF THE ORANGE COUNTY CODE OF ORDINANCES; PROVIDING FOR INTENT; PROVIDING FOR A TITLE; PROVIDING FOR APPLICABILITY; PROVIDING FOR DEFINITIONS; AUTHORIZING SUCH PROGRAM; PROVIDING FOR CONDITIONS PRECEDENT TO ESTABLISHING SUCH PROGRAM; PROVIDING FOR THE CONTRACT WITH THE OPERATOR; PROVIDING FOR SECURITY OF SITES AND EQUIPMENT; PROVIDING FOR NEEDLE AND SYRINGE EXCHANGE OPERATIONS; PROVIDING FOR DATA AND REPORTING REQUIREMENTS FOR SUCH PROGRAM; PROVIDING FOR LAWFUL PARTICIPATION IN SUCH PROGRAM; PROHIBITING THE USE OF STATE, COUNTY, OR MUNICIPAL FUNDS FOR THE OPERATION OF SUCH PROGRAM; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to the Infectious Disease Elimination Act, enacted by the Florida Legislature in 2019 and codified in Section 381.0038(4), Florida Statutes, the Board of County Commissioners of Orange County may authorize a sterile needle and syringe exchange program under the provisions of a county ordinance with the goal of preventing disease transmission; and

**WHEREAS**, according to the Center for Disease Control and Prevention (“CDC”) the opioid crisis is fueling a dramatic increase in infectious diseases associated with the injection of drugs, such as viral hepatitis and human immunodeficiency virus (“HIV”); and

**WHEREAS**, the use of contaminated injection drug equipment, such as needles and syringes, is a primary transmission route for both HIV and hepatitis C; and

**WHEREAS**, in 2017 there were four hundred seventy-three (473) newly diagnosed HIV cases in Orange County, which increased to five hundred (500) newly diagnosed HIV cases in Orange County in 2018; and

**WHEREAS**, in 2016 there were seven (7) cases of acute hepatitis C in Orange County, which increased to twenty-nine (29) cases of acute hepatitis C in Orange County in 2017; and

**WHEREAS**, in 2018 there were 339 accidental drug deaths in Orange County, which increased to 343 accidental drug deaths in Orange County in 2019; and

**WHEREAS**, in 2016 the Florida Legislature authorized the University of Miami to establish a sterile needle and syringe exchange pilot program in Miami-Dade County; and

**WHEREAS**, from 2017 to 2018, opioid-related deaths fell thirty-nine-percent (39%) in Miami-Dade County; and

**WHEREAS**, according to the CDC, nearly thirty years of research shows that comprehensive syringe service programs are safe, effective, and cost-saving, do not increase illegal drug use or crime, and play an important role in reducing the transmission of infectious diseases; and

**WHEREAS**, the Board of County Commissioners of Orange County (the "Board") finds that it will serve the public health, safety, and welfare of the citizens of Orange County to authorize a sterile needle and syringe exchange program that provides for the one-to-one exchange of used needles and syringes for sterile needles and syringes as provided in Section 381.0038(4), Florida Statutes, and as authorized by this Ordinance.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA:

***Section 1. Enactment of New Chapter 20, Article VIII, Infectious Disease Elimination Program Ordinance.*** A new Infectious Disease Elimination Program Ordinance, to be codified at Chapter 20, Article VIII of the Orange County Code, Section 20-221 through Section 20-232, is hereby enacted to read as follows:

## **CHAPTER 20. HEALTH AND HUMAN SERVICES**

\* \* \*

### **ARTICLE VIII. INFECTIOUS DISEASE ELIMINATION PROGRAM ORDINANCE**

#### ***Section 20-221. Intent.***

It is the intent of the Board to authorize a sterile needle and syringe exchange program to operate within the boundaries of Orange County with the goal of preventing disease transmission.

***Section 20-222. Title.***

This Ordinance shall be titled, "Infectious Disease Elimination Program Ordinance."

***Section 20-223. Applicability.***

All provisions of this Ordinance shall be applicable throughout the incorporated and unincorporated areas of Orange County and in all municipalities that have not adopted an ordinance covering the same subject matter, activity, or conduct.

***Section 20-224. Definitions.***

When used in this article, the following words or phrases shall have the meanings ascribed to them unless the text requires or specifies a different meaning:

- (a) *Board* shall mean the Orange County Board of County Commissioners.
- (b) *County* shall mean Orange County, Florida.
- (c) *Department* shall mean the Orange County Health Services Department.
- (d) *Exchange Program* shall mean a sterile needle and syringe exchange program authorized by the Board pursuant to this Ordinance and operated pursuant to the requirements established in Section 381.0038(4), Florida Statutes, and in accordance with the terms and conditions of the Operator's contract approved by the Board.
- (e) *Operator* shall mean a contracted provider of the Exchange Program.

***Section 20-225. Authorization for the Exchange Program.***

- (a) In accordance with Section 381.0038(4), Florida Statutes, the Exchange Program is authorized to operate within the boundaries of Orange County, Florida.
- (b) The Exchange Program may operate at one or more fixed locations or through mobile health units.

- (c) The Exchange Program shall offer the free exchange of clean, unused needles and hypodermic syringes for used needles and hypodermic syringes as a means to prevent the transmission of HIV, AIDS, viral hepatitis, or other blood-borne diseases among intravenous drug users and their sexual partners and offspring.
- (d) It shall be unlawful to operate an Exchange Program unless the Operator is under a Board-approved contract with the County pursuant to the requirements of this Ordinance and Section 381.0038(4), Florida Statutes.

***Section 20-226. Conditions Precedent to Establishing the Exchange Program.***

The Board shall have completed the following conditions precedent before an Exchange Program is established:

- (a) Entered into a letter of agreement with the Florida Department of Health in which the Board agrees that the Exchange Program will operate in accordance with Section 381.0038(4), Florida Statutes;
- (b) Enlisted the Orange County Health Department to provide ongoing advice, consultation, and recommendations for the operation of the Exchange Program; and
- (c) Contracted with an Operator pursuant to Section 20-227 herein.

***Section 20-227. Contract with the Operator.***

- (a) An Operator must be one of the following entities to operate the Exchange Program:
  - (1) A hospital licensed under Chapter 395, Florida Statutes;
  - (2) A health care clinic licensed under Part X of Chapter 400, Florida Statutes;
  - (3) A medical school in the State of Florida accredited by the Liaison Committee on Medical Education or the Commission on Osteopathic College Accreditation;
  - (4) A licensed addictions receiving facility as defined in Section 397.311(26)(a)1, Florida Statutes; or

- (5) A 501(c)(3) HIV/AIDS service organization.
- (b) The Operator shall contract with the Board to provide services authorized by this article. The Operator's contract must include, at a minimum, provisions establishing each of the following:
  - (1) An oversight and accountability system to ensure the Operator's compliance with the contract and the requirements of Section 381.0038, Florida Statutes, including:
    - i. Measurable objectives for meeting the goal and objectives of the Exchange Program;
    - ii. Monthly tracking of the Exchange Program goal and objectives;
    - iii. Routine reporting of the progress made by the Operator toward achieving the Exchange Program goal and objectives; and
    - iv. Specific consequences and remedies for the noncompliance with the oversight and accountability system.
  - (2) Requirements that the Operator comply with all Florida Statutes and Florida Administrative Code regulations, whether now existing or hereafter promulgated, concerning a sterile needle and syringe exchange program, and all local laws and regulations concerning zoning, licensing, fire safety, and any other local requirements pertaining to operation of the Exchange Program, whether now existing or hereafter promulgated.

***Section 20-228. Security of Sites and Equipment.***

The Operator shall provide for the maximum security of sites, whether fixed or mobile, where needles and syringes are exchanged and of any equipment used under the Exchange Program and shall establish written security procedures. These security procedures shall be included in the Operator's training and on-boarding process for all contractors, employees, and volunteers

assisting with the Exchange Program. The security procedures, at a minimum, shall include:

- (a) An accounting of the number of needles and syringes in use;
- (b) The number of needles and syringes in storage;
- (c) Safe disposal of returned needles; and
- (d) Any other measure that may be required to control the use and dispersal of sterile needles and syringes.

***Section 20-229. Exchange Program Operations.***

- (a) The Exchange Program shall operate a one-to-one exchange, whereby a participant shall receive one sterile needle and syringe unit in exchange for each used one.
- (b) The Exchange Program must make available educational materials regarding the transmission of HIV, viral hepatitis, and other blood-borne diseases, and the Operator shall offer such materials to Exchange Program participants whenever needles or syringes are exchanged.
- (c) The Exchange Program must provide onsite counseling or referrals for drug abuse prevention, education, and treatment, and provide onsite HIV and viral hepatitis screening or referrals for such screening. If such services are offered solely by referral, they must be available to participants within 72 hours of that referral.
- (d) The Exchange Program must provide kits containing an emergency opioid antagonist, as defined in Section 381.887, Florida Statutes, or provide referrals to a program that can provide such kits.

***Section 20-230. Data and Reporting Requirements for the Exchange Program.***

- (a) The Exchange Program shall prepare an annual report to the Board and the Florida Department of Health which must be submitted no later than August 1 annually. The Exchange Program shall collect and monitor, at a minimum, the following data elements to be included in the annual report:

- (1) The number of participants served;
  - (2) The number of used needles and syringes received and the number of clean, unused needles and syringes distributed through exchange with participants;
  - (3) The demographic profiles of the participants served;
  - (4) The number of participants entering drug counseling or treatment;
  - (5) The number of participants receiving testing for HIV, AIDS, viral hepatitis, or other blood-borne diseases; and
  - (6) Any other data that may be required by the Florida Department of Health or the Operator's contract.
- (b) The personal identifying information of Exchange Program participants may not be collected for any purpose.

***Section 20-231. Lawful Participation in the Exchange Program.***

- (a) Pursuant to Section 381.0038(4), Florida Statutes, the possession, distribution, or exchange of needles or syringes as part of the Exchange Program established by this article is not a violation of any part of Chapter 893, Florida Statutes, or any other law.
- (b) An Exchange Program staff member, volunteer, or participant is not immune from criminal prosecution for:
- (1) The possession of needles or syringes that are not a part of the Exchange Program; or
  - (2) The redistribution of needles or syringes in any form, if acting outside of the Exchange Program.

***Section 20-232. State, County, or Municipal Funding Prohibited.***

State, county, or municipal funds may not be used to operate the Exchange Program. The Exchange Program shall be

funded through grants and donations from private resources and funds.

**Section 2. Repeal of Laws in Conflict.** All local laws and ordinances in conflict with any provision of this Ordinance are hereby repealed to the extent of such conflict.

**Section 3. Filing of Ordinance and Effective Date.** This Ordinance shall take effect pursuant to general law.

**MAY 19 2020**

ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

ORANGE COUNTY, FLORIDA  
By: Board of County Commissioners

By: *Jerry L. Demings*

*for* Jerry L. Demings  
Orange County Mayor

ATTEST: Phil Diamond, CPA, County Comptroller  
As Clerk of the Board of County Commissioners

By: *Phil Diamond*  
Deputy Clerk

