

**ORDINANCE
NO.1842**

AN ORDINANCE OF THE CITY OF OROVILLE IMPOSING A BAN ON THE ESTABLISHMENT OF NEEDLE EXCHANGE PROGRAMS WITHIN THE CITY OF OROVILLE

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 certified Northern Valley Harm Reduction Coalition (NVHRC) to provide needle exchange services in the City of Chico; and

WHEREAS, local law enforcement officers have seen an increase in property destruction and improper needle disposal related to the Chico NEP; and

WHEREAS, some syringes issued by NVHRC in Chico have been improperly disposed of in Oroville, Gridley and throughout Butte County; and

WHEREAS, according to a February 27, 2020 letter from CDPH to Assembly Member Gallagher, CDPH intends to discuss NVHRC “expanded services in the Oroville and Gridley areas”; 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, pursuant to the City’s police power, as granted broadly under Article XI, Section 7 of the California Constitution and Oroville City Charter, the City Council of the City of Oroville 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 Oroville Municipal Code sets forth all the regulatory and penal ordinances and certain of the administrative ordinances of the City. As to matters concerning land use, and of buildings thereon, Title 17 (Zoning) of the Oroville Municipal Code is intended to promote the growth of the City in an orderly manner and promote and protect the public health, safety, peace, comfort and general welfare in conformance with the City’s General Plan; and

WHEREAS, needle exchange programs are not an enumerated use under the Zoning Code and the Oroville Municipal Code does not specifically address or regulate needle exchange programs within the City of Oroville; 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 Safety Element of City's General plan including but not limited to decreasing the risk of exposure to hazardous materials and hazardous waste; and

WHEREAS, the City Council finds that the commencement, establishment and/or operation of a needle exchange program would pose a current and immediate threat to the public health, safety or welfare, and that a moratorium on the issuance of permits, variances, building permits, business licenses, certificates of occupancy, and any other applicable entitlements related to a needle exchange program is therefore necessary; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OROVILLE DOES ORDAIN AS FOLLOWS:

SECTION 1.

The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2), 15060(c)(3) and 15061(b)(3) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, 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 State CEQA Guidelines.

SECTION 2.

No person shall establish, operate, conduct, or engage in a needle exchange program, as defined by Health and Safety Code section 121349, et seq. within the City of Oroville.

SECTION 3.

No property in any zone of the City is to be used for purposes of a needle exchange program. The use of any property for such purpose shall be a public nuisance and may be abated as provided in the Oroville Municipal Code or pursuant to state law. A violation of this Ordinance shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of the City, create a cause of separate action for injunctive relief as well as any other available civil remedies.

SECTION 4.

The City Council of the City of Oroville hereby declares that should any section, paragraph, sentence, phrase, term or word of this Ordinance be declared for any reason to be invalid, it is the intent of the City Council that it would have adopted all other portions of this Ordinance independent of the elimination of any such portion as may be declared invalid. If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this

Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION 5.

The City Clerk shall attest to the adoption of this Ordinance and cause same to be published in the manner required by the City Charter.

This Ordinance shall take effect on the 30th day after its adoption.


PASSED AND APPROVED by the Oroville City Council on this 7th day of April, 2020, by the following vote:

YES: Hatley, Smith, Thomson, Pittman, Goodson, Draper, Reynolds

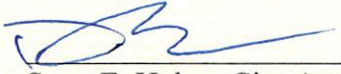
NOES: None

ABSTAIN: None

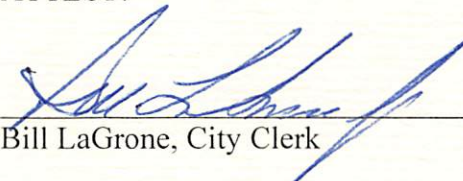
ABSENT: None



Chuck Reynolds, Mayor

APPROVED AS TO FORM:
for S. Huber


Scott E. Huber, City Attorney

ATTEST:


Bill LaGrone, City Clerk