



## Staff Report 10/10/2023

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**TO:** Honorable Mayor and Members of the Town Council  
**FROM:** Wes Heathcock, Town Manager  
Jeff Mitchell, Town Attorney  
**DATE:** October 10, 2023  
**RE:** Needle Exchange and Distribution Program – Urgency Ordinance

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### **Recommendation**

1. Adopt an urgency ordinance prohibiting the establishment, operation, use, and/or participation in needle exchange or distribution programs within the Town of Loomis.
2. Determine that the proposed action is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines section 15061(b)(3) and is not a project pursuant to section 15378.

### **Issue Statement and Discussion**

At its meeting of September 12, the Town Council adopted Urgency Ordinance 23-293. The ordinance added Chapter 5.24 of the Loomis Municipal Code as an interim ban (until October 27<sup>th</sup>) on the establishment, operation, use and/or participation in needle exchange or distribution programs within the Town of Loomis. This action was precipitated by an application submitted by Safer Alternatives through Networking & Education (SANE) to the California Department of Public Health (CDPH). The public comment period on this application closed on September 21<sup>st</sup>. At this time it is unknown when CDPH will issue a decision on the application.

Staff recommends that the Town Council make Chapter 5.24 permanent. The improper collection and disposal of used hypodermic needles and syringes presents an imminent threat to the health, property, safety and welfare of the public. Syringe services programs that provide services near schools, parks and playgrounds have especially

negative effects since they result in improper disposal of syringes and the congregation of persons addicted to drugs near schools, parks and playgrounds.

Of note, residents who require syringe exchange services for medical purposes are currently able to acquire these services at pharmacies and hospitals, which provide new syringes and the proper disposal of used syringes. Those existing activities would not change with the proposed prohibition.

The Town has police power, as granted broadly under Article XI, Section 7 of the California Constitution, to enact and enforce ordinances and regulations for the public peace, health and welfare of the Town and its residents. Syringe services programs negatively impact the Town, by degrading the visual and scenic resources of the community and increasing the risk of injury and illness due to treatment and disposal of hazardous materials. Government Code Sections 36934 and 36937 allow ordinances to be approved as urgency measures for the immediate preservation of the public health, safety and welfare. Findings supporting the need for an urgency ordinance are contained in the proposed ordinance.

### **CEQA Requirements**

The proposed action is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines section 15061(b)(3) and is not a project pursuant to section 15378 because it will not result in a direct or reasonably foreseeable indirect physical change in the environment.

### **Financial and/or Policy Implications**

There is no fiscal impact to the Town by approving this request.

### **Attachments**

- A. Proposed Ordinance

# Item 12 Attachment A

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOOMIS  
ADOPTING CHAPTER 5.24 OF THE MUNICIPAL CODE PROHIBITING THE  
ESTABLISHMENT, OPERATION, USE, AND/OR PARTICIPATION IN NEEDLE  
EXCHANGE OR DISTRIBUTION PROGRAMS WITHIN THE TOWN OF LOOMIS**

WHEREAS, improper collection and disposal of used hypodermic needles and syringes presents an imminent threat to, the health, property, safety and welfare of the public; and

WHEREAS, syringe services programs that provide services near schools, parks and playgrounds have especially negative effects since they result in improper disposal of syringes and the congregation of persons addicted to drugs near schools, parks and playgrounds; and

WHEREAS, pursuant to the Town's police power, as granted broadly under Article XI, Section 5 of the California Constitution, the Town Council of the Town of Loomis has the authority to enact and enforce ordinances and regulations for the public peace, health and welfare of the Town and its residents; and

WHEREAS, Government Code Section 38771 et seq. authorizes the Town, through its legislative body, to declare actions and activities that constitute a public nuisance; and

WHEREAS, this ordinance is adopted as an urgency ordinance pursuant to the authority granted to the Town by Government Code Sections 36934 and 36937, and is for the immediate preservation of the public health, safety and welfare. The facts constituting the urgency are:

1. The California Department of Public Health has considered syringe services programs that would provide home delivery and pickup of syringes within the Town of Loomis;
2. Absent the adoption of this Ordinance, the establishment of a syringe services program in the Town is expected to result in an increase in nuisance conditions negatively affecting the well-being of the community, thereby diminishing property values and introducing incompatible land uses to existing neighborhoods or in close proximity thereto; and
3. Absent the adoption of this Ordinance, the establishment of a syringe services program in the Town will increase the burden upon Town services due to enforcement of the established standards and regulations relating to syringe services programs;
4. In a letter dated September 6, 2023, the Placer County Sheriff, on behalf of the County and the Town of Loomis, identified numerous health and public safety concerns specific to the syringe services program then under consideration for approval by the California Department of Public Health.

WHEREAS, this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines 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 CEQA Guidelines.

WHEREAS, on September 12, 2023, the Town Council adopted Urgency Ordinance 23-\_\_\_ establishing a prohibition on needle exchange or distribution programs within the Town of Loomis; and

WHEREAS, for the protection of the public's health, safety, and general welfare, the City desires to make permanent the limitations on such activities within the Town, while referring to the Planning Commission

the question of whether modifications to the Town's zoning regulations are necessary and appropriate; and

**WHEREAS**, the City desires that such extension take effect immediately upon its adoption in accordance with §36934 of the California Government Code.

**NOW, THEREFORE, BE IT ORDAINED BY THE LOOMIS TOWN COUNCIL AS FOLLOWS:**

Section 1. Chapter 5.24 of the Loomis Municipal Code, as adopted on an interim basis by Ordinance 23-\_\_ is hereby made permanent.

Section 2. Findings. In adopting this ordinance, the Town Council finds and determines that each of the recitals and findings set forth above, as well as the applicable recitals and findings contained in Urgency Ordinance 23-\_\_, are true and correct and are incorporated herein by reference, and that the adoption of this ordinance is necessary to continue to protect against the immediate threats to the public safety, health, and welfare which were identified in Urgency Ordinance 23-\_\_.

Section 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The Town Council of the Town of Loomis hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective.

Section 4. No Mandatory Duty of Care. This Ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 5. Effective Date. This Ordinance shall be in force and take effect immediately from and after its passage and approval by at least four-fifths vote of the Town Council. Although not required by law, the City Clerk shall cause this ordinance to be published in summary format within 15 days after adoption in a newspaper of general circulation published and circulated within the Town of Loomis.

**PASSED AND ADOPTED by the Town Council of the Town of Loomis this 10<sup>th</sup> day of October, 2023, by the following vote:**

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

\_\_\_\_\_  
Danny Cartwright, Mayor

ATTEST:

\_\_\_\_\_  
Carol Parker, Deputy Town Clerk