

LEON COUNTY ORDINANCE NO.

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 8 OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA; ADDING A NEW ARTICLE IV ESTABLISHING A SYRINGE EXCHANGE PROGRAM PURSUANT TO FLORIDA STATUTES SECTION 381.0038(4); PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature has approved the Infectious Disease Elimination Act, as codified in Section 381.0038(4), Florida Statutes, authorizing the Board of County Commissioners of Leon County to establish a sterile needle and syringe exchange program with the goal of eliminating infectious disease; and

WHEREAS, the Board of County Commissioners finds that it will serve the public health, safety, and welfare of the citizens of Leon County to establish authority for operation of an Syringe Exchange Program to authorize the one-to-one exchange of used needles and syringes for sterile needles and syringes, as approved in Section 381.0038(4), Florida Statutes, and as authorized in this Ordinance; and

WHEREAS, the Board of County Commissioners desires to enact an ordinance establishing authority for a Syringe Exchange Program;

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

Section 1. Amendments to Code.

Chapter 8 of the Code of Laws of Leon County, Florida, is hereby amended by adding a new Article IV to read as follows:

ARTICLE IV. SYRINGE EXCHANGE PROGRAM

Sec. 8-110. Definitions.

The following words shall have the meanings ascribed to them unless the text requires or specifies a different meaning:

- i. *BOCC* is the Leon County Board of County Commissioners.
- ii. *Syringe Exchange Program* means a sterile needle and syringe exchange program authorized by the BOCC 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 with the BOCC.

1 iii. *Operator* is the contracted provider of the Syringe Exchange Program.
2

3 **Sec 8-111. Authorization for a Syringe Exchange Program.**
4

- 5 a) Pursuant to the requirements of the Infectious Disease Elimination Act, established in Section
6 381.0038(4), Florida Statutes, a Syringe Exchange Program is authorized to operate in the
7 geographic boundaries of Leon County, provided the Operator is under contract with the BOCC.
8
9 b) The Syringe Exchange Program shall offer the free exchange of clean, unused needles and
10 hypodermic syringes for used needles and hypodermic syringes, with the primary goal of
11 preventing the transmission of HIV, AIDS, viral hepatitis, and/or other blood-borne
12 diseases among injection drug users and their sexual partners and offspring, and with the
13 secondary goal of providing a bridge to drug treatment.
14
15 c) The Syringe Exchange Program may operate at one or more fixed locations or through mobile
16 health units.
17
18 d) It shall be unlawful to operate a Syringe Exchange Program unless the Operator is under
19 contract with the BOCC pursuant to the requirements of Section 381.0038(4), Florida Statutes.
20

21 **Sec. 8-112. Conditions Precedent to Establishing the Syringe Exchange Program.**
22

23 The following requirements must be completed by the BOCC prior to the start of the Syringe
24 Exchange Program:
25

- 26 a) Establish a letter of agreement with the Florida Department of Health in which the BOCC
27 agrees that the Syringe Exchange Program will operate in accordance with the
28 requirements of Sections 381.0038(4), Florida Statutes;
29
30 b) Enlist the Leon County Health Department to provide ongoing advice, consultation, and
31 recommendations for the operation of the Syringe Exchange Program; and
32
33 c) Establish and approve the Operator's contract pursuant to Section 6 herein.
34

35 **Sec. 8-113. Approval of Operator.**
36

- 37 a) The BOCC shall approve an Operator for the Syringe Exchange Program which must be one of
38 the following entities:
39
40 i. A hospital licensed under chapter 395;
41
42 ii. A health care clinic licensed under part X of chapter 400;
43
44 iii. A medical school in this state accredited by the Liaison Committee on Medical
45 Education or the Commission on Osteopathic College Accreditation;
46

1 iv. A licensed addictions receiving facility as defined in Section 397.311(26)(a), Florida
2 Statutes; or

3
4 v. A 501(c)3 HIV/AIDS service organization.

5
6 b) The Operator shall contract with the BOCC to provide the services authorized by this ordinance
7 and the contract. The Operator's contract shall include provisions establishing each of the
8 following:

9
10 i. An oversight and accountability system to ensure compliance with the
11 requirements of the Infectious Disease Elimination Act and the contractual
12 obligations and requirements of the Operator's contract with the BOCC;

13
14 ii. The oversight and accountability system must include measurable objectives for
15 achieving the goals and objectives of the Syringe Exchange Program;

16
17 iii. Tracking of the Syringe Exchange Program goals and objectives and the progress
18 in achieving those goals and objectives;

19
20 iv. Specific consequences and remedies for noncompliance with the oversight and
21 accountability system; and

22
23 v. Requirements to comply with all State statutes and Florida Administrative Code
24 regulations, whether now existing or hereafter promulgated, concerning the
25 Infectious Disease Elimination Act, and to comply with all local laws and
26 regulations concerning zoning, licensing, fire safety, and any other local
27 requirements pertaining to operation of the Syringe Exchange Program, whether
28 now existing or hereafter promulgated.

29
30 **Sec. 8-114. Security of Sites and Equipment.**

31
32 The Operator shall provide for maximum security of sites where needles and syringes are exchanged
33 and of any equipment used under the Syringe Exchange Program and shall establish written security
34 procedures. These security procedures shall be included in the Operator's training and on-boarding
35 process for all contractors, employees, and volunteers assisting in the Syringe Exchange Program.
36 Maximum security procedures shall include, at a minimum:

37
38 a) An accounting of the number of needles and syringes in use;

39
40 b) The number of needles and syringes in storage;

41
42 c) Safe disposal of returned needles; and

43
44 d) Any other measure that may be required to control the use and dispersal of sterile needles and
45 syringes.

46

1 **Sec. 8-115. Syringe Exchange Program Operations.**
2

- 3 a) The Syringe Exchange Program authorized under this Ordinance shall operate on a one- to-one
4 exchange basis, whereby a Syringe Exchange Program participant shall receive one sterile
5 needle and syringe unit in exchange for each used one.
6
7 b) Whenever needles or syringes are exchanged, the Syringe Exchange Program shall offer
8 educational materials regarding the transmission of HIV, viral hepatitis, and other blood- borne
9 diseases.
10
11 c) The Operator shall provide onsite counseling or referrals for drug abuse prevention, education,
12 treatment, and recovery support services and provide onsite HIV and viral hepatitis screening
13 or referrals for such screening. If such services are offered solely by referral, they must be
14 made available to participants within 72 hours of referral.
15
16 d) The Operator shall provide kits containing an emergency opioid antagonist, as defined in
17 Section 381.887, Florida Statutes, or provide referrals to a program that can provide such kits.
18

19 **Sec. 8-116. Data and Reporting Requirements for Syringe Exchange Program.**
20

- 21 a) The Syringe Exchange Program shall prepare an annual report to the BOCC and to the Florida
22 Department of Health which shall be submitted no later than August 1 annually. The Syringe
23 Exchange Program shall collect and monitor, at a minimum, the following data elements to be
24 included in the annual report:
25
26 i. The number of participants served;
27
28 ii. The number of used needles and syringes received and the number of clean, unused
29 needles and syringes distributed through exchange with participants;
30
31 iii. The number of participants entering drug counseling and treatment
32
33 iv. The number of participants receiving testing for HIV, AIDS, viral hepatitis, or other
34 blood-borne diseases;
35
36 v. Any other data collection methods and outcomes measurements that may be required
37 under Florida Department of Health rule or BOCC contract requirement; and
38
39 vi. The demographic profiles of the participants served.
40
41 b) The personal identifying information of a Syringe Exchange Program participant shall not be
42 collected for any purpose.
43

44 **Sec. 8-117. Lawful Participation.**
45

- 1 a) The possession, distribution, or exchange of needles or syringes as part of the Syringe
2 Exchange Program established by the BOCC pursuant to Section 381.0038(4),
3 Florida Statutes, is not a violation of any part of Chapter 893, Florida Statutes, or any other
4 law.
5
6 b) However, a Syringe Exchange Program staff member, volunteer, or participant is
7 not immune from criminal prosecution for:
8
9 i. The possession of needles or syringes that are not a part of the Syringe Exchange
10 Program; or
11
12 ii. The redistribution of needles or syringes in any form, if acting outside the Syringe
13 Exchange Program.
14

15 **Sec. 8-118. Enforcement.**

- 16
17 a) This Ordinance shall be enforceable by all means provided by law.
18
19 b) Pursuant to Section 125.69, Florida Statutes, violations of county ordinances shall be prosecuted
20 in the same manner as misdemeanors are prosecuted. Any person violating any of the provisions
21 of the Ordinance, or who shall fail to abide by and obey all orders and resolutions promulgated
22 as herein provided, shall, on conviction, be punished by a fine not exceed \$500 or imprisonment
23 for not more than 60 days, or both, for each violation, and payment of all costs and expenses
24 involved in prosecuting the offense.
25
26 c) Additionally, Leon County may choose to enforce this Ordinance by seeking injunctive relief
27 in the Circuit Court of Leon County.
28

29 **Sec. 8-119. State, County and Municipal Funding Prohibited.**

30
31 State, county and municipal funds cannot be used to operate a Syringe Exchange Program. The
32 Operator will be required to fund Syringe Exchange Program operations through grants and donations
33 from private resources and funds.
34

35 **Section 2. Severability.**

36
37 If any word, phrase, clause, section, or portion of this Ordinance is declared by any court of competent
38 jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions
39 of this Ordinance shall remain in full force and effect.
40

41 **Section 3. Conflicts.**

42
43 All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby
44 repealed to the extent of such conflict, except to the extent of any conflicts with the Tallahassee-Leon
45 County 2030 Comprehensive Plan as amended, which provisions shall prevail over any parts of this
46 ordinance which are inconsistent, either in whole or in part, with the said Comprehensive Plan.
47

1 **Section 4. Effective Date.**

2
3 This ordinance shall have effect upon becoming law.

4
5 DONE, ADOPTED AND PASSED by the Board of County Commissioners of Leon County,
6 Florida, this 10th day of December, 2019.

7
8 LEON COUNTY, FLORIDA

9
10
11 By: _____
12 Bryan Desloge, Chairman
13 Board of County Commissioners

14
15 ATTESTED BY:
16 Gwendolyn Marshall, Clerk of Court
17 & Comptroller, Leon County, Florida

18
19
20 By: _____

21
22 APPROVED AS TO FORM:
23 Leon County Attorney's Office

24
25
26 By: _____
27 Herbert W. A. Thiele, Esq.
28 County Attorney
29