

ORDINANCE NO. 21-02

AN ORDINANCE OF THE COUNTY OF PINELLAS RELATED TO PUBLIC HEALTH AND SAFETY; ESTABLISHING AUTHORITY FOR AN INFECTIOUS DISEASE ELIMINATION PROGRAM FOR PINELLAS COUNTY, TO BE CODIFIED AS ARTICLE XV OF CHAPTER 42 OF THE PINELLAS COUNTY CODE; PROVIDING A SHORT TITLE PROVIDING A PURPOSE; PROVIDING DEFINITIONS; PROVIDING AUTHORIZATION FOR A STERILE NEEDLE AND SYRINGE EXCHANGE PROGRAM (SYRINGE EXCHANGE) PURSUANT TO FLORIDA STATUTE 381.0038(4); PROVIDING FOR CONDITIONS PRECEDENT TO ESTABLISHING A SYRINGE EXCHANGE PROGRAM; PROVIDING FOR APPROVAL OF AN OPERATOR; PROVIDING FOR SECURITY OF SITES AND EQUIPMENT; PROVIDING FOR SYRINGE EXCHANGE PROGRAM OPERATION; PROVIDING FOR DATA AND REPORTING REQUIREMENTS FOR SYRINGE EXCHANGE PROGRAM; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PROHIBITION OF COUNTY, STATE, AND MUNICIPAL FUNDING SUPPORT FOR SYRINGE EXCHANGE; PROVIDING THAT THE DEFINED SYRINGE PROGRAM IS NOT IN CONFLICT WITH OTHER ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREAS EMBRACED; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR 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 Pinellas County (“Board”) to establish a sterile needle and syringe exchange program with a goal of eliminating infectious disease; and

WHEREAS, the U.S. Department of Health and Human Services, Office of the Surgeon General’s 2018 Report, *Facing Addiction in America: The Surgeon General’s Spotlight on Opioids*, references syringe exchanges as programs that are effective in reducing infectious disease transmission without increasing rates of community drug use; and

WHEREAS, the *National HIV/AIDS Strategy for the United States: Updated in 2020* lists increased access to new, sterile syringes as a key strategy to reduce new Human Immunodeficiency Virus (HIV) infections from injection drug use; and

WHEREAS, the *President’s Emergency Plan for AIDS Relief (PEPFAR)* Blueprint endorses syringe exchanges as effective policy to reduce transmission of infectious disease; and

WHEREAS, the Board finds that participation in counseling services further the goals of reducing substance abuse and the transmission of infectious disease from injection drug use; and

WHEREAS, the Centers for Disease Control’s (CDC) *Syringe Services Program Fact Sheet*, June 2019, estimates up to 50% reduction in HIV and Hepatitis C Virus (Hepatitis C) incidence associated with syringe services programs; and

WHEREAS, the United States Department of Health and Human Services (HHS), estimates that 3 million people in the United States are living with chronic Hepatitis C. Additionally, the CDC estimates that acute Hepatitis C cases almost quadrupled in the United States between 2010 to 2017 linked to the ongoing opioid epidemic; and

WHEREAS, the United States Department of Health and Human Services website references Hepatitis A Virus (Hepatitis A) outbreaks in 30 states with close to 30,000 infections since 2016 and intravenous drug use as one of the common risk factors; and

WHEREAS, the Florida Department of Health reports a 500% increase in Hepatitis A cases from 2018 to 2019. Florida had 3,956 cases from January 2018 through December 2019, with 58% of the cases associated to drug use as a risk factor, 71% of the cases hospitalized, and 58 individuals died; and

WHEREAS, the Florida Department of Health’s *2019 HIV Data Profile* shows that 74,106 individuals in Florida received medical care for HIV in 2015. In Pinellas, prevalence for HIV was 491.9 per 100,000 residents in 2015; and

WHEREAS, Pinellas County is listed as one of the 48 priority counties in the HHS Initiative, *Ending the HIV Epidemic: A Plan for America*, February 2019; due to levels of new HIV diagnoses. The CDC analysis found that more than 50 percent of new HIV diagnoses in 2016 and 2017 occurred in only 48 counties, Washington D.C. and San Juan Puerto Rico; and

WHEREAS, this ordinance will provide minimum standards and limitations for the operation of a syringe exchange within Pinellas County.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS of Pinellas County, Florida that:

SECTION 1. There is hereby created a new Article XV of Chapter 42 of the Pinellas County Code (the Code), entitled Pinellas County Infectious Disease Elimination Program”.

SECTION 2. Article XV of Chapter 42 of the Code is hereby created to read as follows:

Sec. 42-460. Short Title.

Infectious Disease Elimination Program.

Sec. 42-461. Intent and Purpose.

The purpose of this article is to authorize a sterile needle and syringe exchange program to operate within the boundaries of Pinellas County. The program must offer free exchange of clean, unused needles and hypodermic syringes for used needles and hypodermic syringes as a means to prevent the transmission of the human immunodeficiency virus (HIV), acquired immunodeficiency Syndrome (AIDS), viral hepatitis, or other blood-borne diseases among intravenous drug users and their sexual partners or offspring.

Sec. 42-462. Authority.

This Article enacted as provided for by the Florida Legislature in Section 381.0038(4), Florida Statutes, authorizing the Board of County Commissioners of Pinellas County to establish a sterile needle and syringe exchange program with a goal of eliminating infectious disease.

Sec. 42-463. Definitions.

For the purposes of this Article, the following definitions apply:

- (a) *Department* means Pinellas County Human Services or any successor department.
- (b) *Syringe Exchange Program* means a sterile needle and syringe exchange program authorized by the Board 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 Board.
- (c) *Operator* means the contracted provider of the Syringe Exchange Program responsible for operating the program.
- (d) *HIV* means human immunodeficiency virus.
- (e) *AIDS* means acquired immunodeficiency syndrome.
- (f) *Viral Hepatitis* means an infection that may inflame or damage the liver caused by one or more types of hepatitis viruses (ie: most commonly hepatitis A, hepatitis B, or hepatitis C).
- (g) *Board* means the Board of County Commissioners for Pinellas County.

Sec. 42-464. Authorization for a Syringe Exchange Program:

- (a) Pursuant to the requirements of the Infectious Disease Elimination Act, established in Section 381.0038(4), Florida Statutes, a Syringe Exchange Program is authorized to operate within the geographic boundaries of Pinellas County, provided the Operator is under contract with the Board.
- (b) The Syringe Exchange Program must offer the free exchange of clean, unused needles and hypodermic syringes for used needles and hypodermic syringes, with the primary goal of preventing the transmission of HIV, AIDS, viral hepatitis, and/or other blood-borne diseases among intravenous drug users and their sexual partners and offspring, and with the secondary goal of providing a bridge to drug treatment, recovery support and other social services for intravenous drug users.
- (c) The Syringe Exchange Program must only operate at one or more fixed locations within Pinellas County.
- (d) It is unlawful to operate a Syringe Exchange Program unless the Operator is under contract with the Board pursuant to the requirements of Section 381.0038(4), Florida Statutes.

Sec. 42-465. Conditions Precedent to Establishing the Syringe Exchange Program:

The following requirements must be completed by the Board prior to the start of the Syringe Exchange Program:

- (a) Establish a letter of agreement with the Florida Department of Health in which the Board agrees that the Syringe Exchange Program will operate in accordance with the requirements of Section 381.0038(4), Florida Statutes;
- (b) Enlist the Florida Department of Health in Pinellas County to provide ongoing advice, consultation, and recommendations for the operation of the Syringe Exchange Program; and
- (c) Execute the required Syringe Exchange Program Operator Contract pursuant to Section 42-466 herein.

Sec. 42-466. Approval of Operator:

- (a) The Syringe Exchange Program Operator must be one of the following entities:
 - i. A hospital licensed under chapter 395;
 - ii. A health care clinic licensed under part X of chapter 400;
 - iii. A medical school in this state accredited by the Liaison Committee on Medical Education or the Commission on Osteopathic College Accreditation;
 - iv. A licensed addiction receiving facility as defined in Section 397.311(26)(a)1, Florida Statutes; or
 - v. A 501(c)3 HIV/AIDS service organization.
- (b) The Operator must contract with the Board in order to provide the services authorized by this ordinance and the contract. The Operator's contract must include provisions establishing each of the following:
 - i. An oversight and accountability system to ensure compliance with the requirements of the Infectious Disease Elimination Act and the contractual obligations and requirements of the Operator's contract with the Board;
 - ii. The oversight and accountability system must include measurable objectives for achieving the goals and objectives of the Syringe Exchange Program;
 - iii. Monthly tracking of the Syringe Exchange Program goals and objectives and the progress in achieving those goals and objectives;
 - iv. Specific consequences and remedies for noncompliance with the oversight and accountability system; and
 - v. Requirements to comply with all State statutes and Florida Administrative Code regulations, whether now existing or hereafter promulgated, concerning the Infectious Disease Elimination Act, and to comply with all local laws and regulations concerning zoning, licensing, fire safety, and any other local requirements pertaining to operation of the Syringe Exchange Program, whether now existing or hereafter promulgated.

Sec. 42-467. Security of Sites and Equipment:

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

- (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.

Sec. 42-468. Syringe Exchange Program Operations:

- (a) The Syringe Exchange Program authorized under this Ordinance must operate on a one-to-one exchange basis, whereby a Syringe Exchange Program participant will receive one sterile needle and syringe unit in exchange for each used one.
- (b) Whenever needles or syringes are exchanged, the Syringe Exchange Program must offer educational materials regarding the transmission of HIV, viral hepatitis, and other blood-borne diseases.
- (c) The Operator must provide, and the recipient must attend, onsite counseling, and referrals for drug abuse prevention, education, treatment, and recovery support services and provide onsite HIV and viral hepatitis screening or referrals for such screening. Referral services must be made available to participants within 72 hours of referral.
- (d) The Operator 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. Kits may not include spoons or spoon-like tools, or material for filtration, such as cotton balls, string, bands, or material of a size that allows for use as a tourniquet, lighters, or pipes.
- (e) The Operator must support and facilitate, to the maximum extent practicable, linkage to health care and mental health services, housing assistance, career employment-related and education counseling for participants.

Sec. 42-469. Data and Reporting Requirements for Syringe Program:

- (a) The Syringe Exchange Program must prepare an annual report to the Board and to the Florida Department of Health which must be submitted no later than August 1st annually.
- (b) The Syringe Exchange Program must collect and monitor, at a minimum, the following data elements to be included in the annual report:
 - i. The number of participants served;
 - ii. The number of used needles and syringes received, and the number of clean, unused needles and syringes distributed through exchange with participants;
 - iii. The number of participants entering drug counseling and treatment, recovery support, and other social services;
 - iv. The number of participants receiving testing for HIV, AIDS, viral hepatitis, or other blood-borne diseases;
 - v. Any other data collection methods and outcomes measurements that may be required under Florida Department of Health rule or Board contract requirement; and
 - vi. The demographic profiles of the participants served; and
 - vii. Program operation details, staffing, funding sources, and operational costs; and
 - viii. Additional programmatic or community planning information as required by the County.
- (c) The Syringe Exchange Program is prohibited from collecting personal identifying information of a Syringe Exchange Program participant for any purpose.

Sec. 42-470. Lawful Participation in Syringe Exchange Program:

The possession, distribution, or exchange of needles or syringes as part of the Syringe Exchange Program established by the Board pursuant to Section 381.0038(4), Florida Statutes, is not a violation of any part of Chapter 893, Florida Statutes, or any other law.

Sec. 42-471 Unlawful Acts By Participants in Syringe Exchange Program

Syringe Exchange Program staff members, volunteers, or participants are not immune from criminal prosecution for:

- (a) The possession of needles or syringes that are not a part of the Syringe Exchange Program;
or
- (b) The redistribution of needles or syringes in any form, if acting outside the Syringe Exchange Program.

Sec. 42-472. Enforcement:

- (a) Any violation of this article may be enforced as provided by code through Pinellas County Consumer Protection and any county code enforcement officers or officials as designated.
- (b) The Sheriff and other local law enforcement agencies are authorized to enforce this article.
- (c) Any person violating the terms of this article will be punished as prescribed in Section 1-8 of Pinellas County Code.
- (d) A law enforcement officer acting in good faith who arrests or charges a person who is thereafter determined to be immune from prosecution under this section shall be immune from civil liability that might otherwise be incurred or imposed by reason of the officer's actions.

Sec. 42-47. County, State, and Municipal Funding Prohibited

County, state, and municipal funds cannot be used to operate a Syringe Exchange Program. The Operator will be required to fund Syringe Exchange Program operations through grants and donations from private resources and funds.

SECTION 3. 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 4. Severability:

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding will not affect the remainder of this Ordinance.

SECTION 5. Areas Embraced:

This article shall be in effect in the incorporated and unincorporated areas of Pinellas County.

SECTION 6. Codification:

The provisions of this Ordinance shall be included and incorporated in the Pinellas County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Code.

SECTION 7. Filing of Ordinance; Effective Date:

Pursuant to Section 125.66, Florida Statutes (2019), a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners and shall become effective upon filing with the Department of State.

APPROVED AS TO FORM

By: Matthew Tolnay
Office of the County Attorney