

# Memorandum



Winston-Salem

City Attorney's Office

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**TO:** Public Safety Committee  
**FROM:** Angela I. Carmon, City Attorney  
Jerry N. Kontos, Assistant City Attorney  
**DATE:** March 29, 2017  
**RE:** Proposed Unified Development Ordinances Text Amendments Adding  
Needle and Hypodermic Syringe Exchange Program as a Use  
**CC:** Lee Garrity, City Manager  
Paul Norby, Planning and Development Services Director

At its March 20, 2017 meeting, the Public Safety Committee was presented a draft Unified Development Ordinances ("UDO") text amendment creating the use "Needle and Hypodermic Syringe Exchange Program." The proposed text amendment, attached hereto, limited Needle and Hypodermic Syringe Exchange Programs to the HB, GB, C, and GO zoning districts. Members of the Committee desired that other options be explored to allow the Committee the ability to see other options for the regulation of such programs.

The City Attorney's Office has prepared two additional UDO text amendments for Needle and Hypodermic Syringe Exchange Programs, also attached hereto, for the Committee's consideration. The first would allow a Needle and Hypodermic Syringe Exchange Program in any zoning district upon the approval, by the Elected Body, of a special use district rezoning. The consideration of a special use district rezoning request is a legislative process, whereby greater flexibility for community input would be available.

The second would allow a Needle and Hypodermic Syringe Exchange Program in any zoning district upon the approval, by the Elected Body, of a special use permit. The consideration of a special use permit is made pursuant to quasi-judicial procedure. Accordingly, Council must make a decision on the four required findings of fact (for the approval of special use permits) based upon substantial, material and competent evidence presented at the hearing. Quasi-judicial hearings often involve issues such as standing, competency of witnesses and hearsay, and make it much more difficult for the community at large to voice its opinions to Council. This procedure would also prevent constituents from speaking to members of Council prior to the hearing, as *ex parte* communications are prohibited. If it is the Committee's desire to be able to solicit as much input from the community as possible, the special use district rezoning process may be the more appropriate course of action. Should you have any questions, please feel free to contact us.

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**City Council:** Mayor Allen Joines; Vivian H. Burke, Mayor Pro Tempore, Northeast Ward; Denise D. Adams, North Ward; Dan Besse, Southwest Ward; Robert C. Clark, West Ward; John C. Larson, South Ward; Jeff MacIntosh, Northwest Ward; Derwin L. Montgomery, East Ward; James Taylor, Jr., Southeast Ward; City Manager: Lee D. Garrity