



City Attorney's Office

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Memorandum

TO: Public Safety Committee
FROM: Angela I. Carmon, City Attorney
Jerry N. Kontos, Assistant City Attorney
Margaret Bessette, AICP, Assistant Director, Planning
DATE: May 31, 2017
RE: Needle and Hypodermic Syringe Exchange Programs
CC: Lee Garrity, City Manager
Paul Norby, Planning and Development Services Director

At its May 8, 2017 meeting, the Public Safety Committee requested further information from staff for in advance of the Committee's further consideration of the proposed Unified Development Ordinances ("UDO") text amendments creating the use "Needle and Hypodermic Syringe Exchange Program."

Licensure

City Attorney staff was asked to gather information regarding licensure of the needle and hypodermic syringe exchange programs. Staff contacted Chris Hoke, Director of Regulatory and Legal Affairs at the NC Division of Public Health ("Division"), to discuss licensure and oversight of such programs by the state. Mr. Hoke stated that there is not a true licensing structure in place for these programs. He reiterated several times that the Division is supportive of the new law, and that they want to make the program very successful given their great relationship with the harm reduction coalition. To that end, if anyone was violating any of the requirements or if there were complaints regarding a particular location, their course of action would merely be to talk to folks to get them back in line. Mr. Hoke admitted that the Division does not have much legal authority to shut a program down. In fact, the most he would commit to is having the authority to try to modify behavior. Accordingly, there is not much assurance that potential problematic programs would be dealt with via licensing channels by the NC Division of Public Health.

Though the programs are not licensed, at the local level there are actions that could be taken to address programs with problems, depending on the type of issues that arise. For example, if there is an accumulation of trash outside of a location, the Community Development Department would be contacted to initiate an enforcement action. Should there be a breach of the peace, the Police Department would be contacted to investigate the situation. If there are any other activities at the site that trigger zoning concerns, the Planning and Development Services Department, Inspections Division would be contacted.

Prohibition in Residences

City Attorney staff was also asked if the programs located in residential areas could be limited to church/institutional type settings and prohibited from residences. If needle and hypodermic syringe exchange programs are added as a use in the UDO, language could be crafted in the use conditions to prohibit needle and hypodermic syringe exchange programs from being located in residences.

Locations of Programs in the State

Planning staff was asked to identify locations in other cities where these types of programs are in place. Attached are details of each of the 14 fixed locations currently established in North Carolina. Of the 14 locations, 4 are in residential neighborhoods, 9 are in predominantly commercial/office areas, and 1 is in a sparsely developed suburban area. At present, we are not aware of any municipality that regulates such programs either through zoning ordinances or otherwise.

Should you have any questions, please feel free to contact us.