



## CITY COUNCIL AGENDA REPORT

### City of Anaheim CITY MANAGER'S OFFICE

**DATE:** AUGUST 27, 2019

**FROM:** CITY MANAGER'S OFFICE

**SUBJECT: EXTENSION OF URGENCY ORDINANCE NO. 6445  
ADOPTING AN INTERIM MEASURE IMPOSING A  
MORATORIUM ON THE ESTABLISHMENT OF NEEDLE  
EXCHANGE PROGRAMS WITHIN THE CITY OF  
ANAHEIM**

**ATTACHMENT (Y/N): YES**

**ITEM # 35**

#### **RECOMMENDATION:**

Following a public hearing, that the City Council take the following actions:

1) By motion, determine that this urgency ordinance extending the moratorium on the establishment of needle exchange programs is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2), 15060(c)(3) and 15061(b)(3) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, 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 State CEQA Guidelines; and

2) By motion, approve by at least four-fifths (4/5) vote, an urgency ordinance extending the existing moratorium on the establishment of needle exchange programs within the City of Anaheim for an additional one (1) year such that Ordinance No. 6445 will now expire on August 29, 2020, unless terminated earlier by the City Council.

#### **DISCUSSION:**

In July 2018, the California Department of Public Health ("CDPH") authorized the Orange County Needle Exchange Program ("OCNEP") to provide mobile needle exchange services at four locations in Orange County beginning on August 6, 2018. In addition to locations in Santa Ana, Orange, and Costa Mesa, OCNEP requested that it be allowed to operate in Anaheim in the area bounded by the Riverside Freeway, North Olive Street, East La Palma Avenue, and North Anaheim Boulevard.

Prior to its authorization, the City of Anaheim sent letters to CDPH expressing opposition to the mobile needle exchange program proposed by OCNEP, which letters set forth the City's concerns related to prior operations of OCNEP in the City of Santa Ana and the endangerment to the public peace, health and welfare due to proliferation of both used and unused hypodermic needles. The City joined a lawsuit challenging the mobile needle exchange program in light of these public safety concerns.

On August 28, 2018, the City Council adopted Ordinance No. 6445, a 45-day urgency ordinance measure (also known as a moratorium) prohibiting the establishment of needle exchange programs (NEPs) in the City of Anaheim for the protection of the public health, safety and welfare pursuant to Government Code Section 65858.

On October 9, 2018, the City Council held a public hearing and adopted an extension to Ordinance No. 6445 for an additional ten months and 15 days. Unless extended pursuant to Government Code Section 65858, the moratorium will expire on August 29, 2019.

Ten days prior to the expiration of the moratorium, the City Council is required to issue a written report describing the measures taken to alleviate the condition which led to the adoption of the moratorium. The report is required by Government Code Section 65858(d). The written report was presented to the City Council at the meeting on August 13, 2019 and is attached for the City Council's information. The report outlines the City's efforts, following the adoption of moratorium, to evaluate the various legal, land use, fiscal, public safety, and public health issues associated with needle exchange programs. The report notes that the purpose of the City's ongoing evaluation and outreach efforts is to gather pertinent information and make informed recommendations to the City Council.

While staff has made progress evaluating the various issues associated with needle exchange programs, additional time is required to complete the analysis and present options and policy recommendations. Consequently, at the meeting on July 30, 2019, staff informed the City Council of its plan to agendaize a public hearing for August 27, 2019 to request the Council adopt an urgency ordinance to extend the moratorium for an additional twelve (12) months. The attached urgency ordinance would extend the moratorium for twelve (12) months. The urgency ordinance requires a four/fifths (4/5) vote to be adopted, which equates to six (6) affirmative votes. While staff is requesting the maximum amount of time allowed by State law, staff does not anticipate needing the entire twelve (12) months to complete its work and present its recommendations to the City Council. Staff anticipates completing its research and outreach within the next four months and presenting recommendations for the City Council's consideration, including a draft ordinance.

## **ENVIRONMENTAL DETERMINATION**

This ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2), 15060(c)(3) and 15061(b)(3) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, 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 State CEQA Guidelines.

## **IMPACT ON BUDGET:**

This interim ordinance would have minimal impact to the City's General Fund, as the recommended action would only place a hold on the establishment of needle exchange programs during the moratorium period.

Respectfully submitted,

David Belmer  
Deputy City Manager

## **Attachments:**

1. Ordinance Extending Urgency Ordinance No. 6445
2. Staff Report (August 13, 2019 Council Meeting) and Report Submitted Pursuant to Government Code Section 65858(d)