

Town of Skowhegan, Maine
NEEDLE EXCHANGE PROGRAM &
NEEDLE DISPOSAL ORDINANCE

Proposed for approval – Town Meeting August 29, 2020

Sec. 1. – Purpose and Need .

Whereas, the Town of Skowhegan supports the concept of harm reduction through hypodermic syringe exchange as a benefit to the health threat incurred by spreading disease such as HIV and Hepatitis C through the sharing of needles during drug use;

Whereas, the regulation of Needle Exchange Programs and disposal sites is necessary to ensure that such programs operate in conformity with state law, demonstrate a plan and implementation for injection drug users to seek treatment for substance abuse, and require the removal of syringe litter from public and private property;

The purpose of this Ordinance is to protect the health, safety and welfare of the public and of the use of the environment by providing regulation of Needle Exchange Programs and needle disposal sites.

Sec. 2. - Definitions.

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

Drug Paraphernalia means all equipment, products and materials of any kind that are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a scheduled drug in violation of this chapter or Title 22, section 2383

Facility means a building or area within a building, which is permanent structure, having one or more floors and a roof, which is used for the housing or enclosure of persons or property.

Needle Disposal Container means any rigid puncture-resistant container used for the collection of discarded needles or other sharps.

Needle Exchange Program (NEP) means a sterile needle and Needle exchange program authorized by the Maine CDC that meet the requirements established by state law Title 22 M.R.S.A. ch 252 –A, &1341.

Mobile Exchange refers to Needle and Syringe programs conducted through a variety of delivery methods to include but not limited to: Mobile Vans, cars, motorcycles or mopeds, and backpacked pedestrians. The delivery of program services in any way except in a fixed facility.

Operator is the contracted provider of the Needle Exchange Program.

Safe or Supervised Injection Site are medically supervised facilities designed to provide a hygienic environment in which drug addicts are able to consume illicit recreational drugs intravenously.

Town is the Town of Skowhegan, Maine.

Sec. 3. - Limitation on number of NEP operators .

- (a) Not more than one registered Needle Exchange Program (NEP) shall be licensed to operate within the Town. The registered Needle Exchange Program must operate at a single fixed location and have a secured facility.
- (b) No Mobile exchange is authorized in the Town of Skowhegan.
- (c) No Safe or Supervised Injection Site is authorized in the Town of Skowhegan.

Sec. 4. – Limitation on the Location of Needle Disposal Container sites.

Needle Disposal Containers must not be visible to the general public from any publicly owned space or right of way.

Sec. 5. – Limitation on the Location of NEP operation .

- (a) Needle Exchange Programs may only operate at a single, fixed and secured facility. This single fixed location must be approved by the Chief of Police and Board of Selectmen. No Mobile exchange is authorized.
- (b) No NEP will be allowed to operate within seven hundred and fifty (750) feet of any church, school, park, playground, library or day care center.
- (c) For the purpose of this Ordinance, measurements shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises for an Needle Exchange Program to the nearest property line of a church, school, library, day care center or to the nearest boundary of a park or playground.

Sec. 6. - Application Information to be provided by the NEP operator .

- (a) The Town shall require a full copy of all the application materials that were provided to the Maine CDC for which they received their certification to be submitted.
- (b) A list of all staff, volunteers and any other individuals working for or with the operators of the NEP. This staff list means an up-to-date written list of the names, addresses, date of birth, and social security numbers of all staff involved in a Needle Exchange Program which shall be maintained at the operator's office. All staff, volunteers and any other individuals working for or with NEP must be vetted and approved by the Skowhegan Police Department. They will be issued an identification card issued by the Skowhegan Police Department. The identification card must be visible at all times during exchange hours.
- (c) A breakdown of the annual operating cost of the NEP and the source of funding to meet these costs.
- (d) Details of the proposed days and hours of operation for the NEP.

Sec. 7. – Limitation of the days and hours of operation of the NEP.

The NEP will only be able to operate on days and times approved by the town and detailed on their permit. A request to amend these hours of operation may be submitted to the town.

Sec. 8. - Security of facilities and equipment.

Criteria for a fixed location are to include but not limited to:

- (a) A Primary entrance and emergency exit with doors and locking mechanisms.

- (b) A barrier (IE: Counter or window) inside fixed facility which allows for employees to be separated from consumers for safety precautions.
- (c) Needle Disposal Containers for securing previously used needles and other paraphernalia.
- (d) Secure containers for new needles and other paraphernalia.
- (e) Must be assessable to vehicle and foot traffic to include legal parking areas.
- (f) Must have ADA accessibility for consumers.
- (g) Must have electricity and running water availability.
- (h) Must be a commercial type property and not residential.
- (i) Must be in a well-lighted area for both Primary Entrance and emergency exists for safety issues.
- (j) The fixed facility must be single use only.
- (k) The fixed facility will not to be used for a “Safe or Supervised Injection Site” of any nature in the town of Skowhegan.

The operator shall provide for maximum security of the site where needles are exchanged and of any equipment used under the Needle exchange program and shall establish written security procedures. These security procedures shall be included in the operator's training and on-boarding process for all contractors, employees, and volunteers assisting in the Needle exchange program. Maximum security procedures shall include, at a minimum:

- (1) An accounting of the number of needles and Needles in use;
- (2) The number of needles and Needles in storage;
- (3) Safe disposal of returned needles; and
- (4) Any other measure that may be required to control the use and dispersal of sterile needles and Needles.

Sec. 9. - Needle Exchange Program operations.

- (a) The Needle exchange program authorized under this ordinance shall operate only with a valid permit issued from the town.
- (b) All staff, volunteers and any other individuals working for or with NEP must be vetted and approved by the Skowhegan Police Department. They will be issued an identification card issued by the Skowhegan Police Department. The identification card must be visible at all times during exchange hours.
- (c) The NEP shall operate a one-to-one exchange basis only, whereby a Needle exchange program participant shall receive one sterile needle and Needle unit in exchange for each used one. No other drug paraphernalia shall be issued or distributed in any manner.
- (d) Whenever needles or Needles are exchanged, the Needle exchange program shall offer educational materials regarding the transmission of HIV, viral hepatitis, and other blood-borne diseases as well as educational materials regarding treatment and recovery services available.
- (e) Consumers must formally enroll in the Needle Service Program to receive services.
- (f) Programs shall not knowingly distribute syringes to persons less than 18 years of age.
- (g) Programs shall comply with all applicable Maine Statutes, rules and regulations.

- (h) Programs shall not accept any form of remuneration from consumers for delivering Needle Service Program services.
- (i) Program staff and their representatives shall carry identification and a copy of their program's certification document and town permit while conducting program business.
- (j) Programs shall provide consumer enrollment guidelines that include notifying all consumers regarding rules and laws applicable to Needle Exchange Programs.

Sec. 10. - Data and reporting requirements for Needle exchange program.

- (a) The Needle exchange program shall prepare and submit quarterly reports to the Chief of Police. The Needle exchange program shall collect and monitor, at a minimum, the following data elements to be included in the annual report:
 - (1) The number of participants served;
 - (2) The number of used needles and Needles received and the number of clean, unused needles and Needles distributed through exchange with participants;
 - (3) The number of participants entering drug counseling and treatment;
 - (4) The number of participants receiving testing for HIV, AIDS, viral hepatitis, or other blood-borne diseases;
 - (5) Any other data collection methods and outcomes measurements that may be required under Maine CDC rules;
 - (6) The demographic profiles of the participants served.
- (b) The personal identifying information of a Needle exchange program participant shall not be collected for any purpose.

Sec. 11. - Permit Fee

A permit application to be set by the Board of Selectmen shall be payable at the time of application.

Sec. 12. - Issuing of Permit

If all information is submitted to the satisfaction of the Chief of Police, following which a permit will be presented to the Selectmen for approval and issued to the operator, that lists the name, location and hours of operation of the NEP. Permits will be valid for one year after the date of issuance and shall have to be renewed when expired. Renewal applications shall require all materials listed in this ordinance.

Sec. 13. - Lawful participation.

- (a) The possession, distribution, or exchange of needles or Needles as part of the Needle exchange program established by the Maine CDC is not a violation of any part of MRS Title 17-A, §1111., or any other law.
- (b) However, a Needle exchange program staff member, volunteer, or participant is not immune from criminal prosecution for:
 - (1) The possession of needles or Needles that are not a part of the Needle exchange program; or
 - (2) The redistribution of needles or Needles in any form, if acting outside the Needle exchange program.

Sec. 14. - Enforcement and Penalties

- (a) This Ordinance shall be enforced by the Skowhegan Police Department.
- (b) Except as otherwise provided by state law, anyone found guilty of violating any provision of this ordinance shall be subject to a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) to be recovered for the use of the Town of Skowhegan and shall be subject to such other legal and equitable remedies as may be available to the Town. Each day such violation occurs shall constitute a new and separate offense.

- (c) Violating any provision of this ordinance shall be cause to revoke any town permit issued to the operator.

Sec. 15. - Severability

If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.