

[New Article to Be Added to Auburn Code of Ordinances
Chapter 14 – Business Licenses and Permits]

ARTICLE _____. – SYRINGE SERVICE PROGRAMS

Sec. 1. - Purpose.

The purpose of this article is to protect the public health, safety, and welfare of Auburn residents and visitors by requiring licensure of syringe services programs. The city council finds that appropriate regulation and siting of the operations of syringe services programs, including consideration of the proximity of syringe services program operations to schools, is important in order to protect the public health, safety, and welfare; that with the reasonable and necessary restrictions listed in this ordinance there remain sufficient suitable areas within the city to operate syringe services programs; and that licensing and regulation of syringe services programs is appropriate and consistent with the city's policies and practices to review and license business activities that impact its citizens. For these reasons, the intent of this ordinance is to impose requirements to protect public health, safety, and welfare that are separate from any licensing or certification done at the state level, including pursuant to 10-144 C.M.R. Ch. 252 Syringe Services Programs Rule.

Sec. 2. - Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

Administrator means a person having the authority and responsibility for the operation of a syringe services program and for staff performance.

Brick-and-Mortar Site means a type of service model for the provision of syringe services to consumers within a permanent building pursuant to 10-144 C.M.R. Ch. 252 Syringe Services Programs Rule.

Business operator means a specific individual person with a legal ownership interest in a legal owner who makes financial, maintenance, and policy decisions regarding the syringe services program. The business operator need not have a legal ownership interest if the applicant provides proof that legal owner is an entity that does not have ownership interests (for example, a nonprofit corporation.)

Certified syringe services program means a syringe services program that holds a current certification from the Maine Center for Disease Control and Prevention (Maine CDC).

City inspector means the city assessor, police chief, fire chief, health officer, building inspector, code enforcement officer, sanitarian, or other duly authorized city official.

Delivery services means a type of service model for the provision of hypodermic apparatuses to participants by delivery within an operation area pursuant to 10-144 C.M.R. Ch. 252 Syringe Services Programs Rule.

Emergency contact means the individual who responds to emergency after-hour calls from public safety personnel to the certified syringe services program.

Legal owner means the individual or legal entity, including but not limited to a corporation, limited liability company or limited partnership, holding the deed or the lease to the premises of the syringe services program.

Licensing authority means the city clerk.

Mobile site means a type of service model for the provision of syringe services that may include temporary setups or rotating locations at set or variable schedules within the operation area pursuant to 10-144 C.M.R. Ch. 252 Syringe Services Programs Rule.

Operation area means the sites and geographic territory where the syringe services program is approved by the Maine CDC to operate and provide syringe services.

School means a primary or secondary school approved by the Maine Department of Education.

Syringe means a compressible tube used with a hollow needle for the injection of material beneath the skin, which definition incorporates the term as used in 10-144 C.M.R. Ch. 252 and the term “hypodermic apparatus” as used in 22 M.R.S. §1341.

Syringe services include, but are not limited to, the furnishing of new syringes, the exchange of used syringes, referrals, and educational materials about prevention, treatment, and proper disposal of syringes.

Syringe services program means a program that provides syringe services.

Syringe services program participant or “participant” means a person eighteen (18) years of age or older who has enrolled in a certified syringe services program.

Sec. 3. License required.

No person, corporation, partnership, association, or other entity shall establish, operate or maintain a syringe services program within the city without obtaining a valid license from the city pursuant to this article.

Sec. 4. Application.

This section shall apply to an application for an initial license to operate a syringe services program as well as an application for the renewal of a license to operate a syringe services program. All applications for licenses under this article shall be filed with, and in a form satisfactory to, the city clerk. An application shall include, but is not limited to, the following:

- A. All information required by section 14-32.
- B. The name, address, and contact information including the phone number of the applicant, the administrator, the business operator, the legal owner, and all other persons having a legal ownership interest in the syringe services program and the individual(s) hired by the applicant to manage operation of the syringe services program.
- C. The name, address, and contact information of the emergency contact of the syringe services program.
- D. A description of all service models offered by the syringe services program, in accordance with 22 M.R.S. § 1341 (5), including any site location(s), as specified below for each service model.

Brick-and-Mortar Sites: Description must include the building address(es), city tax map and lot number(s), floor plan and contact information of the owner(s) of each building utilized by the syringe services program.

Mobile Sites: Description must identify the address of each location or venue temporarily set-up for Syringe Service Program operations, and the name and contact information of the Administrator.

Delivery services: Description must identify the intended area within the city where syringes may be lawfully delivered.

- E. An operations plan with a detailed description of the proposed syringe services program that describes how the syringe services program will satisfy the operations requirements outlined in section 8 of this article and also to include the following: population to be served; services to be provided;

staffing requirements; security provisions; and hours of operation; anticipated parking demand; and anticipated peak hour traffic.

- F. A good neighbor community engagement policy that establishes a process for the syringe services program to engage with and maintain relationships with the local community and expectations for how syringe services program participants, staff and volunteers will be respectful of neighbors within 250 feet of any bricks-and-mortar or mobile site and in the immediate area of any delivery by the syringe services program. Such a policy should include the following: a prohibition against public drug use, mechanisms for area residents and business to submit complaints, procedures for the syringe services program to respond to complaints from surrounding areas, procedures for making calls for public safety services, and compliance with public nuisance laws.
- G. Evidence of all land use approvals or conditional land use approvals required to operate brick-and-mortar sites and mobile sites, including, but not limited to, development review approval, conditional use approval, building permit, change of use permit, and/or certificate of occupancy.
- H. Any information that the police chief may require for an investigation of applicants, pursuant to section 14-33.
- I. All names, including but not limited to maiden name, ever used by the applicant must be noted on the application.
- J. A copy of the current certification to operate a syringe services program granted by the Maine CDC and a copy of the application materials submitted to the Maine CDC for certification to operate a syringe services program, including but not limited to:
 - 1. A copy of the syringe service program's consumer confidentiality protocol.
 - 2. A copy of the syringe services program's consumer education and referral plan
 - 3. A copy of the syringe services program's needle or syringe disposal plan.

4. A copy of the syringe services program policy for the handling and exchange of syringes that is consistent with this Code and state and federal law.
 5. A copy of the syringe services program's staff training plan.
 6. A copy of the syringe services program's data collection protocols.
 7. A copy of the syringe services program's policy and procedures manual.
- K. A copy of the most recent annual notice (if any) provided to the Maine CDC of all data gathered for the prior year pursuant to 10-144 C.M.R. Ch. 252 Syringe Services Programs Rule.
- L. Each applicant for a syringe services program license shall submit to the city clerk the applicable license fee in accordance with sections 14-29, 14-30 and 14-44 and one complete paper copy and one digital copy of the application, except that a first-time applicant must submit 12 complete paper copies.

No person shall make any false, untruthful or fraudulent statement, either written or oral, or in any way conceal any material fact, or give or use any fictitious name in order to secure or aid in securing a license required by this article. Any application with false information shall be denied and any license so secured shall be void.

Sec. 5. Location Criteria.

- A. Any brick-and-mortar site or mobile site of a syringe services program may only be located within the following land use zones: T-5.1, T-5.2, T-6, GB I, and GB II.
- B. A location for delivery of syringes by a syringe services program shall not be within 1000 feet of any school, and no brick-and-mortar site or mobile site of a syringe services program shall be located within 250 feet of any school. Distances shall be measured in a straight line from the nearest property line of a delivery location or a proposed brick-and-mortar site or mobile site to the nearest property line of the school.
- C. No brick-and mortar site or mobile site of a syringe services program shall be located within or share the premises of a for-profit commercial business. This shall

not prevent a brick-and-mortar site or mobile site of a syringe services program from sharing the premises of an organization that provides social services or healthcare services.

Sec. 6. Inspections authorized; Right to enter.

Holding a syringe services program license or submitting an application for a syringe services program license shall constitute permission for any city inspector to enter and inspect any brick-and-mortar site or mobile site, or conveyance used for the delivery of syringes, subject to the license or application.

It shall be the duty of every person responsible for the management or control of a syringe services program to afford free access to every part of such establishment or conveyance and to render all aid and assistance necessary to enable any City Inspector to make a full, thorough and complete inspection. This access shall include, but is not limited, to, all rights of inspection and access afforded to the Maine CDC under Section 4(C) of 10-144 C.M.R. Ch. 252 Syringe Services Programs Rule. Failure to cooperate with an inspection shall be grounds for license suspension or revocation.

This section augments section 14-36 of this article.

Sec. 7. Administration

- A. Limitation on number of licenses and determination of priority.
 - 1. No more than two syringe services programs shall be licensed to operate within the city at one time. No licensing authority may issue a license to any applicant for any time period that there are two licenses in effect in the city.
 - 2. The clerk shall review submitted applications in the order that they are submitted or resubmitted, as the case may be.
 - 3. Licenses shall be issued on a first-come-first-served basis, with the priority established as follows:
 - a. For a renewal application submitted by a current licensee, the current licensee has priority if it submits an application to the city clerk no later than 80 days from the expiration date.
 - b. For an initial application, if there are fewer current licensees than the maximum number allowed, priority shall be established by the date and time of completed applications as determined by the city clerk.

- c. For an application received after the city clerk has published notice that a license is available and that applications shall be accepted on a date certain, priority shall be established by the date and time of completed applications as determined by the city clerk. Applications may only be submitted after the date set by the city clerk.
 4. An initial or renewal application shall maintain its priority until the final determination on the application and shall lose its priority if the applicant fails to timely comply with any deadline imposed by this ordinance for an application.
 5. After the city clerk determines that a current licensee has not timely complied with a deadline imposed by this ordinance for an application for license renewal, the city clerk shall distribute, file and publish a notice that one or more licenses is available and that applications shall be accepted by the city clerk beginning one week after the notice is published.
- B. Process for the issuance of a license.
1. The city clerk shall be responsible for the initial review of the application to ensure compliance with the requirements of this chapter and to obtain recommendations from other city officials as required.
 2. If the city clerk determines that a submitted application is not complete, the applicant shall be notified within ten (10) business days after receipt of the application of the additional information required to process the application. If such additional information is not submitted within fourteen (14) days of the city clerk's request, or such later time that the city clerk provides, the application shall be deemed denied. If the city clerk deems the application complete, the city clerk shall notify the applicant and the review procedures set forth in this section will take place.
 3. The city clerk shall provide a copy of the license application to the police department, fire department, planning and code enforcement department, and public health division of the business and community development department. along with a form upon which each department or division shall promptly note its findings and

conclusions, as well as any recommended conditions of approval. No license shall be granted by the licensing authority until the completion of any inspections requested by the clerk and until these departments have all set forth their recommendations regarding the applicant's ability to comply with this article and any other applicable city ordinance, state, or federal law.

5. All applications for an initial license or the renewal of an existing license shall be reviewed by the city clerk. In reviewing license applications, the clerk shall consider the approval standards under this article as well as other applicable local, state, or federal laws and, for license renewals, the licensee's record of compliance with the same.
7. The clerk shall have the authority to impose any conditions on a license that may be reasonably necessary to ensure compliance with the requirements of this article or to otherwise address concerns about operations.
8. The clerk shall, upon review of all staff recommendations, applicable laws, and the factual circumstances, determine whether to grant, grant with conditions, or deny the license application, and shall provide written notice of the decision to the applicant.

C. Standard. Applicants and licensees must demonstrate to the satisfaction of the licensing authority that a license application meets all standards and requirements of this article, that it can meet and is meeting the operating requirements of section 8, and that it is meeting and has met over the past year all applicable local, state, or federal laws.

D. Revocation or Suspension of a License. Revocation or suspension of a license may occur pursuant to article 2 of chapter 14 of this Code.

E. Appeal.

1. An applicant may appeal a decision by the city clerk regarding an application for an initial license or renewal of an existing license, including placing conditions of such approval, to the city council by filing an appeal within thirty (30) days of such decision pursuant to section 14-39.

2. Appeals of a final determination issued by the city council may be made to the Androscoggin Superior Court within thirty (30) days of the date of the decision being appealed.

F. Enforcement.

A city inspector may enforce this article by the authority in 30-A M.R.S. § 4452. Failure to timely remedy a notice of violations shall be grounds for license suspension. This section does not affect any existing enforcement authority of any city inspector.

G. Civil Penalties.

Any person who violates this article shall be subject to civil penalties or other amounts imposed by sections 1-15 or 14-27 of this Code or 30-A M.R.S. § 4452.

Sec. 8. Operating requirements.

During the term of the license, the licensee shall comply with each of these requirements:

- A. At all times, the licensee shall maintain and timely renew its certification with the Maine CDC to operate a syringe services program.
- B. The licensee shall not permit and shall take reasonable measures to prevent individuals served by the program from the injection of illicit drugs on or near the premises of any brick-and-mortar site or mobile site.
- C. The licensee shall not knowingly distribute syringes to participants under 18 years of age.
- D. The licensee shall only operate from any brick-and-mortar site and mobile site for which it was granted a license, and shall only provide delivery services within the operation area for which it was granted a license, subject to the location criteria applicable to delivery services set forth in section 5 of this article.
- E. The premises of any brick-and-mortar site and mobile sites shall be clean and well-maintained, meeting applicable requirements for sanitation, property maintenance, and life safety for the exterior and interior of the site. Any conveyance used for delivery shall be clean and well maintained, meeting applicable requirements for sanitation and vehicle maintenance.

- F. The licensee shall perform criminal history record checks through the Maine State Police, State Bureau of Identification, of all individuals who will be working on a paid staff or volunteer basis for the syringe services program within the city. The licensee shall not engage as a staff member or volunteer any person if the licensee determines, through an individualized assessment, that there exists a direct and demonstrable relationship between the conviction and the specific duties and responsibilities of the position, such that the person's engagement would pose an unreasonable risk to the property, safety, or welfare of specific individuals or the general public.

In determining whether the requisite relationship exists, the employer shall consider, at minimum, the following factors when performing an individualized assessment:

1. The specific duties and responsibilities necessarily related to the position sought;
2. The bearing, if any, that the criminal offense has on the applicant's fitness or ability to perform one or more of those duties or responsibilities;
3. The nature and seriousness of the offense;
4. The amount of time that has elapsed since the offense occurred;
5. The age of the applicant at the time the offense occurred;
6. The frequency and recency of criminal activity;
7. Any information produced by the individual, or produced on the individual's behalf, regarding rehabilitation, good conduct, or mitigating circumstances; and
8. The legitimate business interest of the licensee in protecting the property, safety, and welfare of specific individuals or the general public.

Criminal history record checks shall not be required for volunteers who work under the direct supervision of a paid staff member.

- G. All staff members and volunteers performing services for a syringe services program within the city shall display on their person identification that is clearly visible to public.
- H. Hours of operation for a syringe services program within the city shall not be scheduled or held outside the hours of 7 a.m. to 7 p.m. on Mondays through Saturdays and 1 p.m. to 5 p.m. on Sundays.
- I. A syringe services program shall locate and maintain sharps disposal containers at each brick-and-mortar site and mobile site.
- J. At the end of each business day, a syringe services program shall inspect within 250 feet of each brick-and-mortar site and mobile site to remediate litter and needle waste.
- K. At the conclusion of any delivery, a syringe services program shall inspect the immediate area of the delivery location to remediate litter and needle waste.
- L. The licensee shall comply with all applicable state and federal laws, rules, or regulations, including but not limited to the following:
 - 1. 38 M.R.S. § 1319-O(3) and any applicable rules for the handling and disposal of biomedical waste.
 - 2. The Syringe Services Programs Rule, 10-144 C.M.R. Ch. 252, including but not limited to:
 - a. Notifying all participants of all rules and laws applicable to syringe services programs;
 - b. Providing appropriate and/or required training to staff; and
 - c. Posting the certification granted by the Maine CDC in a public area of the licensee.
- M. Prior to distributing syringes to a participant, the licensee shall conduct an individualized assessment of the participant to determine the appropriate

quantity of syringes to be provided. In conducting this assessment, the provider shall consider:

1. the days and hours of operation of the program location(s) and the frequency with which the participant is reasonably able to access the program;
2. the participant's substance(s) of use, recognizing that participants who use certain substances or inject more frequently may require a greater number of syringes to ensure a sterile syringe is available for each injection;
3. the frequency of the participant's visits to the program and the distance or travel burden between the participant's residence or location and the program site; and
4. any special circumstances affecting the participant's ability to access the program on a frequent basis, including but not limited to employment, homelessness or unstable housing, caretaking responsibilities, school attendance, or disability.
5. any other factors reasonably related to reducing the transmission of bloodborne pathogens.

Based on this assessment, the provider shall determine the number of syringes reasonably necessary to meet the participant's needs until the next anticipated point of contact with the program; provided, however, that in no event shall the number of syringes provided to a single participant in a single distribution exceed the limitations established under 10-144 C.M.R. Ch. 252 Syringe Services Programs Rule.

The provider shall document the process for conducting an individualized assessment, and criteria to be used when conducting the assessment, in the provider's operations plan.

N. The licensee shall comply with its own plans, rules, procedures, and protocols including but not limited to the following:

1. All policies, procedures and protocols provided in its most recent license application
2. The needle or syringe disposal plan submitted by the licensee in its application to the Maine CDC, as such plan is defined in 10-144 C.M.R. Ch. 252 Syringe Services Programs Rule, and includes a written plan that describes a coordinated program for the terminal disposal and incineration of used syringes in compliance with the Occupational Safety and Health Administration's guidelines regarding

Occupational Exposure to Bloodborne Pathogens and the Safe Discarding and Containment of Contaminated Sharps under 29 CFR §1910.1030; and,

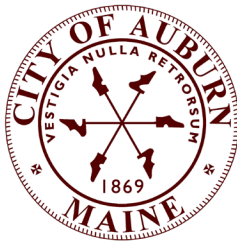
3. The consumer education and referral plan submitted by the licensee in its application to the Maine CDC.

Sec. 9. Reporting and Notifications.

- A. A licensee shall immediately notify the city clerk of any change in its state certification status, including but not limited to any state-approved change in location of a brick-and-mortar site or mobile site and any suspension or revocation of certification by the Maine CDC.
- B. A licensee shall immediately provide the city clerk with copies of any notices submitted by the licensee to the Maine CDC pursuant to Section 3(B) of 10-144 C.M.R. Ch. 252 Syringe Services Programs Rule.
- C. A licensee shall promptly provide the city clerk copies of all utilization data submitted by the licensee to the Maine CDC pursuant to Section 3(C) of 10-144 C.M.R. Ch. 252 Syringe Services Programs Rule.
- D. A licensee shall provide the City access to all records that the Maine CDC has access to under Section 3(D) of 10-144 C.M.R. Ch. 252 Syringe Services Programs Rule.

Sec. 10. Miscellaneous.

- A. Applicability. This article shall apply to any syringe services program that operates or provides delivery services within the city. Except to the extent that this article contains a contrary provision, all provisions of article I and article II of chapter 14 of this Code shall apply to this article. This article does not limit any authority under federal or state law.
- B. Severability. If any clause, sentence, paragraph, section, article, or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, article, or part thereof directly involved in the controversy in which such judgment shall have been rendered.



ORDINANCE 12-06152026

City Council Ordinance

IN CITY COUNCIL

BE IT ORDAINED, that THE CITY OF AUBURN hereby amends Chapter 14 of Auburn's Code of City Ordinances to adopt Article XX – Syringe Service Programs, as seen on the attached.

Rachel B. Randall, Ward One
Kelly L. Butler, Ward Four
Belinda A. Gerry, At Large

Timothy M. Cowan, Ward Two
Leroy G. Walker, Sr., Ward Five
Jeffrey D. Harmon, Mayor

Mathieu L. Duvall, Ward Three
Adam R. Platz, At Large
Phillip L. Crowell, Jr., City Manager