

ORDINANCE 19-46

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, ESTABLISHING AUTHORITY FOR AN INFECTIOUS DISEASE ELIMINATION PROGRAM PURSUANT TO SECTION 381.0038(4), FLORIDA STATUTES; AMENDING CHAPTER 2-18 OF THE MANATEE COUNTY CODE TO CREATE ARTICLE II RELATING TO THE INFECTIOUS DISEASE ELIMINATION PROGRAM; PROVIDING FOR THE PURPOSE; PROVIDING FOR AREA OF APPLICABILITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR AUTHORIZATION FOR THE EXCHANGE PROGRAM; PROVIDING FOR CONDITIONS PRECEDENT TO ESTABLISHING THE EXCHANGE PROGRAM; PROVIDING FOR APPROVAL OF OPERATOR; PROVIDING FOR SECURITY OF SITES AND EQUIPMENT; PROVIDING FOR THE EXCHANGE PROGRAM OPERATIONS; PROVIDING FOR DATA AND REPORTING REQUIREMENTS FOR THE EXCHANGE PROGRAM; PROVIDING FOR LAWFUL PARTICIPATION IN THE EXCHANGE PROGRAM; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PROHIBITION OF STATE, COUNTY OR MUNICIPAL FUNDING; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Manatee County is the 15th largest county in Florida with an estimated population of more than 380,000 residents and is one of the fastest growing counties in the United States; and

WHEREAS, according to the Centers for Disease Control and Prevention (CDC), the opioid crisis is fueling a dramatic increase in infectious diseases associated with the injection of drugs, such as viral hepatitis, human immunodeficiency virus (HIV), and bacteria that cause heart infections; and

WHEREAS, the use of contaminated injection drug equipment, such as needles and syringes, is a primary transmission route for both HIV and hepatitis C; and

WHEREAS, since 2015 there have been more than 340 opioid-related deaths and since 2016 there have been more than 1,918 opioid-related overdoses in Manatee County; and

WHEREAS, in 2018, there were approximately 1,130 persons living with HIV in Manatee County, and since 2015 there has been an increase in the number of new HIV cases with an average of approximately 40 new HIV infections in Manatee County each year; and

WHEREAS, according to the CDC, for people who inject drugs, the best way to reduce the risk of acquiring and transmitting disease through injection drug use is to stop injecting drugs, and for people who do not stop injecting drugs, using sterile injection

equipment for each injection can reduce the risk of acquiring and transmitting infections and can prevent outbreaks of such diseases; and

WHEREAS, the Florida Legislature enacted the Infectious Disease Elimination Act, codified in Section 381.0038(4), Florida Statutes, authorizing the Board of County Commissioners of Manatee County to establish a sterile needle and syringe exchange program with the goal of preventing the transmission of infectious diseases; and

WHEREAS, the Board of County Commissioners finds that it will serve the public health, safety, and welfare of the citizens of Manatee County to authorize the one-to-one exchange of used needles and syringes for sterile needles and syringes, in accordance with Section 381.0038(4), Florida Statutes; and

WHEREAS, the Board of County Commissioners pursuant to its home rule authority under the Florida Constitution, Article VIII, and Section 125.01(1)(e), Florida Statutes, hereby adopts the Manatee County Infectious Disease Elimination Program Ordinance; and

WHEREAS, the Board of County Commissioners of Manatee County finds that the provisions of this Ordinance are in the best interests of the County, its citizens, taxpayers and business community.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Manatee County:

Section 1. The title of Chapter 2-18 is hereby amended as follows:

Chapter 2-18 – ~~PAIN-MANAGEMENT CLINICS~~ PUBLIC HEALTH.

Section 2. Article II of Chapter 2-18 is hereby created as follows.

ARTICLE II. – MANATEE COUNTY INFECTIOUS DISEASE ELIMINATION PROGRAM ORDINANCE

Sec. 2-18-21. – Purpose.

The purpose of this article is to authorize a sterile needle and syringe exchange program to operate within the boundaries of Manatee County. The program shall offer the free exchange of clean, unused needles and hypodermic syringes for used needles and hypodermic syringes as a means to prevent the transmission of the human immunodeficiency virus (HIV), acquired immunodeficiency syndrome (AIDS), viral hepatitis, or other blood-borne diseases among intravenous drug users and their sexual partners and offspring. The goal of the program is to prevent the transmission of infectious disease.

Sec. 2-18-22. – Area of applicability.

This article shall be applicable within the unincorporated areas of Manatee County, and in all municipalities that have not adopted an ordinance in conflict. Unless otherwise provided, nothing in this article shall be construed to relieve any person from compliance with any applicable county or municipal regulations.

Sec. 2-18-23. – Definitions.

When used in this article, the following words or phrases have the following meanings:

Board means the Board of County Commissioners of Manatee County, Florida.

County means Manatee County, Florida.

Department is the Manatee County Department of Neighborhood Services, or its successor department.

Exchange Program means the sterile needle and syringe exchange program authorized by the Board and operated pursuant to the requirements established in Section 381.0038(4), Florida Statutes, and in accordance with the terms and conditions of the Operator's contract with the County.

Operator is the contracted provider of the Exchange Program.

Person means any natural person, or nongovernmental legal entity or organization of any kind.

Sec. 2-18-24. – Authorization for the Exchange Program.

(a) Pursuant to the requirements of the Infectious Disease Elimination Act, established in Section 381.0038(4), Florida Statutes, the Exchange Program is authorized to operate in the geographic boundaries of Manatee County, provided the Operator is under contract with the Board.

(b) The Exchange Program may operate at one or more fixed locations or through mobile health units.

(c) It shall be unlawful to operate the Exchange Program unless the Operator is under contract with the County pursuant to the requirements of Section 381.0038(4), Florida Statutes.

Sec. 2-18-25. – Conditions Precedent To Establishing the Exchange Program.

The following requirements must be completed by the Board prior to the start of the Exchange Program:

(a) Establish a letter of agreement with the Florida Department of Health in Manatee County in which the Board agrees that the Exchange Program will operate in accordance with the requirements of Sections 381.0038(4), Florida Statutes;

(b) Enlist the Florida Department of Health in Manatee County to provide ongoing advice, consultation, and recommendations for the operation of the Exchange Program; and

(c) Establish and approve the Operator's contract pursuant to Section 2-18-26 herein.

Sec. 2-18-26. – Approval of Operator(s).

(a) An Operator for the Exchange Program must be one of the following entities:

1. A hospital licensed under chapter 395, Florida Statutes;
2. A health care clinic licensed under part X of chapter 400, Florida Statutes;
3. A medical school in this state accredited by the Liaison Committee on Medical Education or the Commission on Osteopathic College Accreditation;
4. A licensed addictions receiving facility as defined in Section 397.311(26)(a)1, Florida Statutes; or
5. A 501(c)3 HIV/AIDS service organization.

(b) An Operator must contract with the County to provide the services authorized by this article. The Operator's contract shall include, at a minimum, provisions establishing each of the following:

1. An oversight and accountability system to ensure compliance with all applicable statutory, regulatory and contractual requirements and with all local laws and regulations concerning zoning, licensing, fire safety, and any other local requirements pertaining to the operation of the Exchange Program, whether now existing or hereafter promulgated;
2. The oversight and accountability system must include measurable objectives for achieving the goals and objectives of the Exchange Program;

3. The oversight and accountability system must include monthly tracking of the Exchange Program goals and objectives and the progress in achieving those goals and objectives;

4. Specific consequences and remedies for noncompliance with the oversight and accountability system; and

5. Provide for maximum security of sites and equipment.

(c) The Department is authorized to enter into contracts with Operators required by this article on behalf of the County, provided that no County funds are obligated in any such contracts.

Sec. 2-18-27. – Security of Sites and Equipment.

The Operator shall provide for maximum security of sites where needles and syringes are exchanged and of any equipment used under the 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 Exchange Program. Maximum security procedures shall include, at a minimum:

(a) An account of the number of needles and syringes in use;

(b) The number of needles and syringes in storage;

(c) Safe disposal of returned sharps; and

(d) Any other measure that may be required to control the use and disposal of sterile needles and syringes.

Sec. 2-18-28. – Exchange Program Operations.

(a) The Exchange Program authorized under this article shall operate on a one-to-one exchange basis, whereby the Exchange Program participant shall receive one sterile needle and syringe unit in exchange for each used one.

(b) Whenever needles or syringes are exchanged, the Exchange Program shall offer educational materials regarding the transmission of HIV, viral hepatitis, and other blood-borne diseases.

(c) The Operator shall provide onsite counseling or referrals for drug abuse prevention, education, treatment, and recovery support services and provide onsite HIV and viral hepatitis screening or referrals for such screening. If such HIV services are

offered solely by referral, those services must be made available to participants within 72 hours of referral.

(d) The Operator shall provide kits containing an emergency opioid antagonist, as defined in Section 381.887, Florida Statutes, or provide referrals to a program that can provide such kits.

(e) The Operator shall also support and facilitate, to the maximum extent practicable, linkages to health care and mental health services, housing assistance, career employment-related and education counseling for participants.

Sec. 2-18-29. – Data and Reporting Requirements for the Exchange Program.

(a) The Exchange Program shall prepare an annual report to the Board, the Department, and the Florida Department of Health in Manatee County which shall be submitted no later than August 1 annually. The 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 syringes received, and the number of clean, unused needles and syringes distributed through exchange with participants;
3. The demographic profiles of the participants served;
4. The number of participants entering drug counseling, treatment, recovery, support, and/or other social services;
5. The number of participants receiving testing for HIV, AIDS, viral hepatitis, or other blood-borne diseases; and
6. Any other data collection methods and outcome measurements that may be required under a rule promulgated by the Florida Department of Health or specific contract requirements.

(b) The personal identifying information of the Exchange Program participant, including but not limited to personal health information protected by the Health Insurance Portability and Accountability Act (HIPAA), shall not be collected for any purpose.

Sec. 2-18-30. – Lawful Participation in the Exchange Program.

(a) The possession, distribution, or exchange of needles or syringes as part of the Exchange Program established by the article is not a violation of any part of Chapter 893, Florida Statutes, or any other law.

(b) The Exchange Program staff member, volunteer, or participant is not immune from criminal prosecution for:

1. The possession of needles or syringes that are not a part of the Exchange Program; or

2. The redistribution of needles or syringes in any form, if acting outside the Exchange Program.

Sec. 2-18-31. – Enforcement.

(a) Any violation of this article may be enforced as provided by code enforcement provisions contained in the Manatee County Code and Chapter 162, Florida Statutes. In addition, the County may bring suit for damages for any violation of this article, and to restrain, enjoin, or otherwise prevent a violation of or mandate compliance with this article.

(b) The sheriff and other law enforcement agencies are authorized to enforce this article.

(c) Each violation of this article is punishable upon conviction by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the county jail not to exceed sixty (60) days or by both such fine and imprisonment, as provided in Section 125.69, Florida Statutes. Each violation of this article shall constitute a separate offense.

Sec. 2-18-32. – Prohibition on State, County or Municipal Funding.

State, county or municipal funds cannot be used to operate the Exchange Program. The Exchange Program shall be funded through grants and donations from private resources and funds.

Section 3. For purposes of codification of any section of the Manatee County Code herein amended, words underlined represent additions to original text, and words **stricken** are deletions from the original text.

Section 4. Pursuant to Section 125.68(1), F.S., the Codifier shall codify the substantive amendments to the Manatee County Code contained in Section 1 and Section 2 of this Ordinance as provided therein, and shall not codify any other sections not designated for codification.

Section 5. If any section, subsection, sentence, clause, provision or word of this Ordinance is held invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the Board of County Commissioners would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

Section 6. This Ordinance shall take effect immediately upon filing with the State of Florida Department of State.

DULY ADOPTED with a quorum present and voting this 10th day of December, 2019.



**BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA**

By: Stephen R. Dysson
Chairperson

ATTEST: ANGELINA COLONNESO
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

By: Robin P. De
Deputy Clerk

BRADENTON HERALD

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AFFIDAVIT OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Depth
733687	0004478508	NOTICE OF PUBLIC HEARING NOTICE IS HER	Public Hearing	\$114.66	1	9.80 In

Attention: Joshua T. Barnett

MANATEE COUNTY NEIGHBORHOOD SERVICES DEPT
1112 MANATEE AVENUE WEST
BRADENTON, FL 34205

NOTICE OF PUBLIC HEARING NOTICE IS HEREBY GIVEN pursuant to Section 125.66, Florida Statutes, that the Board of County Commissioners of Manatee County, Florida, will conduct a public hearing on the **10th day of December, 2019, at 9:00 a.m.**, or as soon thereafter in the Commission Chambers on the First Floor of the Manatee County Government Administrative Center, located at 1112 Manatee Avenue West, Bradenton, Florida, 34205, to consider, act upon, adopt, or reject the following ordinance:
An ordinance of Manatee County, Florida, establishing authority for an Infectious Disease Elimination Program pursuant to Section 381.0038(4), Florida Statutes; Amending Chapter 2-18 of the Manatee County Code to create Article II relating to the Infectious Disease Elimination Program; Providing for the purpose; Providing for area of applicability; Providing for definitions; Providing for authorization for the exchange program; Providing for conditions precedent to establishing the exchange program; providing for approval of operator; Providing for security of sites and equipment; Providing for the exchange program operations; Providing for data and reporting requirements for the exchange program; Providing for lawful participation in the exchange program; Providing for enforcement; Providing for prohibition of state, county or municipal funding; Providing for severability; Providing for codification; and providing an effective date.

Copies of proposed **ORDINANCE 19-46** may be inspected by the public during normal business hours in the Office of the County Attorney, 1112 Manatee Avenue West, Suite 969, Bradenton, Florida. Interested parties may appear at the public hearing and be heard with respect to the proposed ordinance.

According to Section 286.0105, Florida Statutes, if any person decides to appeal any decision made by the Board with respect to any matter to be considered at the meeting or hearing, he/she will need a record of the proceedings and for such purposes, he/she may need to ensure that a verbatim record of the proceedings is made, which record would include any testimony and evidence presented.

**THE STATE OF TEXAS
COUNTY OF DALLAS**

Before the undersigned authority personally appeared VICTORIA RODELA, who, on oath, says that she is a Legal Advertising Representative of The Bradenton Herald, a daily newspaper published at Bradenton in Manatee County, Florida; that the attached copy of the advertisement, being a Legal Advertisement in the matter of **Public Notice**, was published in said newspaper in the issue(s) of:

1 Insertion(s)

Published On:
November 30, 2019

**THE STATE OF FLORIDA
COUNTY OF MANATEE**

Affidavit further says that the said publication is a newspaper published at Bradenton, in said Manatee County, Florida, and that the said newspaper has heretofore been continuously published in said Manatee County, Florida, each day and has been entered as second-class mail matter at the post office in Bradenton, in said Manatee County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

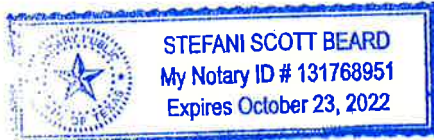


(Signature of Affiant)

Sown to and subscribed before me this
3rd day of December in the year of 2019



SEAL & Notary Public



Extra charge for lost or duplicate affidavits.
Legal document please do not destroy!

may and evidence upon which the appeal is to be based.

The Board of County Commissioners of Manatee County does not discriminate upon the basis of any individual's disability status. This non-discrimination policy involves every aspect of the Board's functions, including one's access to, participation in, employment with, or treatment in its programs or activities. Anyone requiring reasonable accommodation for this meeting as provided for in the Americans with Disabilities Act should contact Nicholas Azzara at 941-745-3771 or FAX 745-3790. THIS HEARING MAY BE CONTINUED FROM TIME TO TIME PENDING ADJOURNMENTS. Manatee County Neighborhood Services Department Manatee County, Florida.

Date to be published: **November 30, 2019**



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

December 12, 2019

Honorable Angelina Colonnese
Clerk of the Circuit Court
Manatee County
Post Office Box 25400
Bradenton, Florida 34206

Attention: Robin Toth

Dear Ms. Colonnese:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of **Manatee County Ordinance 19-46, which was filed in this office on December 12, 2019.**

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

From: ords@municode.com
To: tammy.larsen@mymanatee.org; [Robin Toth](#)
Subject: Manatee County, FL Code of Ordinances - 1981 (10428) Supplement 110
Date: Friday, December 13, 2019 10:01:47 AM
Attachments: [ATT00001.bin](#)
[ATT00002.bin](#)

****THIS IS AN AUTOMATICALLY GENERATED EMAIL****

Below, you will find the material that we have received/recorded to your account. This material is being considered for inclusion in your next/current update, Supplement 110

Document	Adopted Date	Recorded	Recorded Format
Ordinance No. 19-46	12/10/2019	12/13/2019	PDF
Ordinance No. 19-48	12/10/2019	12/13/2019	Word



Update the internet version of your Code more often than a printed supplement. We can update the Internet quarterly, monthly, even weekly.



We can post newly enacted ordinances in the online Code after each meeting.