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ORDINANCE NO. 2472

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHICO, CALIFORNIA, AMENDING CHAPTER 9.38 OF THE CHICO MUNICIPAL CODE RELATING TO NOISE CONTROL

WHEREAS, noise is highly disruptive to the peace and quiet of neighborhoods;

WHEREAS, on November 2012, the City amended their Noise Ordinance to allow the Chico Police Department to effectively respond to calls for service regarding excessive noise in residential areas;

WHEREAS, the City has determined that despite the amendments to 2012 Noise Ordinance, there has not been a significant decrease in noise complaints and repeated calls for service;

WHEREAS, responding to noise complaints is very taxing on the Chico Police Department's vital resources and, in some cases, leaves other areas of the City with inadequate law enforcement protection;

WHEREAS, the City desires to streamline the noise complaint process by eliminating the citizen complaint requirement;

WHEREAS, the current penalties for noise violations do not provide an adequate deterrent;

WHEREAS, the City desires to establish more stringent penalties for subsequent responses to excessive noise complaints;

WHEREAS, the City desires to further enhance the ability of police officers to address noise related problems; and

WHEREAS, the City finds that allowing construction projects to have an earlier start time, during the hottest period of the year, would reduce construction workers exposure to hot and humid conditions and reduce the likelihood of heat-related illnesses;

WHEREAS, City Council of the City of Chico finds that residents of the City of Chico have a right to and should be ensured of an environment free from sound that jeopardizes the public health, welfare, peace, and safety or degrades the quality of life.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Chico:

Section 1. The recitals set forth above are incorporated herein and by this reference made an operative part hereof.

1 **Section 2.** That subsection (B) of Section 9.38.015 of Chapter 9.38 of the Chico Municipal
2 Code is hereby amended as follows:

3 B. The provisions of this chapter may be enforced without receipt of a citizen complaint.
4 This chapter allows for different methods of enforcement. The appropriate method of
5 enforcement shall be determined by the enforcement officer.

6 **Section 3.** That Section 9.38.054 of Chapter 9.38 of the Chico Municipal Code is hereby
7 amended as follows:

8 B. Notwithstanding the above, an enforcement officer is not required to issue a warning and
9 may issue a citation for a violation of section 9.38.030, 9.38.050 or 9.38.052 under any of the
10 following circumstances:

11 1. The enforcement officer has responded to two or more incidents of unreasonable noise
12 regarding the same location, activities or circumstances; or

13 2. The noise occurs between the following hours:

14 a. 10:00 p.m. Sunday and 7:00 a.m. Monday;

15 b. 10:00 p.m. Monday and 7:00 a.m. Tuesday;

16 c. 10:00 p.m. Tuesday and 7:00 a.m. Wednesday;

17 d. 10:00 p.m. Wednesday and 7:00 a.m. Thursday;

18 e. 10:00 p.m. Thursday and 7:00 a.m. Friday; or

19 f. 12:01 a.m. and 7:00 a.m. on Saturday and Sunday.

20 C. Once a violation of any provision of this chapter has been verified by a police officer or
21 other authorized person, the owner(s) of the property where the violation occurred may be
22 subject to a violation of this chapter for allowing a subsequent violation of this chapter to occur
23 on the property within 180 days after the date of the previous violation, provided the property
24 owner has received written notification from the city of the previous violation and at least
25 fourteen days have passed since the date the notification was mailed to the property owner(s).

26 **Section 4.** That subsection (B) of Section 9.38.060 of Chapter 9.38 of the Chico Municipal
27 Code is hereby amended as follows:

28 **9.38.060 Categorical exemptions.**

B. Construction and Alteration of Structures.

1. Notwithstanding any other provision of this chapter, between the hours of ten a.m. and six
p.m. on Sundays and holidays, and seven a.m. and nine p.m. on other days, construction, alteration
or repair of structures shall be subject to one of the following limits:

1 a. No individual device or piece of equipment shall produce a noise level exceeding eighty-
2 three (83) dBA at a distance of twenty-five (25) feet from the source. If the device or equipment is
3 housed within a structure on the property, the measurement shall be made outside the structure at a
distance as close as possible to twenty-five (25) feet from the equipment.

4 b. The noise level at any point outside of the property plane of the project shall not exceed
5 eighty-six (86) dBA.

6 2. Notwithstanding any other provision of this chapter, including but not limited to section
7 9.38.060(B)(1), for new residential development projects, or construction, alteration or repairs
8 taking place in commercial or industrial zones between June 15 – September 15, of each calendar
9 year, work will be allowed between the hours of 10:00 a.m. and 6:00 p.m. on Sundays and
holidays, and 6 a.m. and 9:00 p.m. on other days. Construction, alteration or repairs of structures
shall be subject to one of the following limits:

10 a. No individual device or piece of equipment shall produce a noise level exceeding eighty-
11 three (83) dBA at a distance of twenty-five (25) feet from the source. If the device or equipment is
12 housed within a structure on the property, the measurement shall be made outside the structure at a
distance as close as possible to twenty-five (25) feet from the equipment.

13 b. The noise level at any point outside of the property plane of the project shall not exceed
14 eighty-six (86) dBA.

15 **Section 5.** That Section 9.38.130 of Chapter 9.38 of the Chico Municipal Code is hereby
amended as follows:

16 **9.38.130 Violations - Penalties.**

17 A. Any person violating, or causing or permitting a violation of, any of the provisions of this
18 chapter is guilty of an infraction and shall be punished by a fine in the amount set forth by
19 resolution of the City Council pursuant to section 1.15.050 of this code. These minimum fines
20 include the base fine and any and all fines, fees and assessments imposed by the Butte County
21 Superior Court. A separate offense is committed for each and every hour or part of an hour
during which any such violation is committed or caused or permitted to continue. Each offense
is punishable separately from every other offense.

22 B. The administrative procedures for the imposition, enforcement, collection, and
23 administrative review of civil fines for noise violations are established pursuant to Chapter 1.15,
of this code.

24 C. A violation of this chapter shall be a misdemeanor and may be enforced by the filing of a
25 criminal action by the city attorney if:

26 1. Within thirty (30) days from the issuance of a written citation, a second noise complaint
27 is received from a citizen complainant;

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1 2. A citizen complainant fills out and signs a statement form stating the manner in which
2 the citizen was disturbed; and

3 3. The citizen complainant is willing to appear in Court to testify if the charges are
4 contested.

5 D. Subsection C shall not be applicable to a property owner when they do not reside or occupy
6 the property where the noise violation has occurred and the property owner is entitled to receive
7 rent or other valuable consideration for the use of the property. A property owner that meets the
8 above conditions and continues to allow violations of this chapter shall be guilty of an infraction
9 and may be subject to civil or administrative enforcement in accordance with Chapter 1.15 of this
code. The city may defer or delay administrative action against any property owner who can
demonstrate due diligence in preventing future noise violations, such as evicting those responsible
for such violations.

10 **Section 6.** The City Council finds and determines that the enactment of this Ordinance is not
11 a project under the California Environmental Quality Act (CEQA) (Cal Pub. Resource Code §§
12 21000 et seq.) in that the activities described in the Ordinance are a continuing administrative
13 activity of the City involving general policy and procedure making and organizational or
14 administrative activities of governments that will not result in direct or indirect physical
changes in the environment. (State CEQA Guidelines, Cal. Code of Regs., Title 14, § 15378.)
Therefore, no environmental assessment is required or necessary.

15 **Section 7.** If any part of this Ordinance, or its application to any individual, entity, or
16 circumstance, is held to be invalid, the remainder of the Ordinance, including the application or
17 provision to other persons or circumstances, shall be not be affected and shall continue in full
force and effect. To this end, the provisions of this Ordinance are severable.

18 **Section 9.** The City Clerk shall attest to the passage and adoption of this Ordinance, and
19 shall cause same to be posted as required by law, and this Ordinance shall take effect thirty (30)
calendar days after its adoption.

20 THE FOREGOING ORDINANCE was adopted by the City Council of the City of Chico
21 at its meeting held on January 5, 2016 by the following vote.

22 AYES: Coolidge, Fillmer, Schwab, Morgan, Sorensen

23 NOES: Ritter, Stone

24 ABSENT: None

25 ABSTAINED: None

26 DISQUALIFIED: None

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28 *[Signatures on the following page]*

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APPROVED AS TO FORM:



Vincent C. Ewing
City Attorney*

ATTEST:



Deborah R. Presson, MMC
City Clerk

*Pursuant to The Charter of the City of Chico, Section 906(D)