

1 **ORDINANCE NO. 2520**

2 **ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHICO**  
3 **AMENDING SECTION 9.44.015 OF TITLE 9, DIVISION 6,**  
4 **CHAPTER 9.44 OF THE CHICO MUNICIPAL CODE**

5 **WHEREAS**, on November 19, 2013, the City Council of the City of Chico (“City Council”)  
6 approved Ordinance 2445, which added Chico Municipal Code (“CMC”) Section 9.44.015, prohibiting  
7 the sitting or lying on sidewalks abutting commercial properties throughout the City between the hours  
8 of 7:00 a.m. and 11:00 p.m., with an expiration date for such ordinance of January 1, 2016;

9 **WHEREAS**, on September 4, 2018, the City of Chico Police Department (“Chico PD”) reported  
10 to the City Council that CMC Section 9.44.015 was enforced from December 19, 2013 to January 1,  
11 2016, and during that time period the following enforcement statistics: two hundred and twenty-one  
12 (221) people received a total of two hundred and forty-seven (247) verbal warnings pertaining to CMC  
13 Section 9.44.015 violations, and thirty-nine (39) people received a total of fifty-six (56) citations under  
14 CMC Section 9.44.015;

15 **WHEREAS**, the Ninth Circuit Court of Appeal recently issued the decision in *Martin, et al v.*  
16 *City of Boise* (9<sup>th</sup> Cir. 2018) 902 F.3d 1031 (“*Martin Decision*”), holding that cities may not impose  
17 criminal sanctions against individuals sleeping outdoors with minimal protection from the elements (i.e.,  
18 a blanket) while on public property, when no alternative shelter is available to them;

19 **WHEREAS**, the *Martin Decision* provided clarification that a city may continue enforcing  
20 ordinances based on time, place and manner restrictions prohibiting sitting, lying, or sleeping outside at  
21 particular times or in particular locations, as well as ordinances barring the obstruction of public rights  
22 of way or the erection of certain structures;

23 **WHEREAS**, CMC Section 9.44.015 was specific as to prohibiting narrow enforcement of sitting  
24 or lying on sidewalks abutting commercial properties between the hours of 7:00 a.m. and 11:00 p.m.;

25 **WHEREAS**, Chico PD recently reported that during the period of enforcement, CMC Section  
26 9.44.015 deterred individuals from obstructing the rights of way and reduced panhandling and  
27 harassment of business patrons in the downtown area of the City;

1           **WHEREAS**, Chico PD further reported that the concerns giving rise to CMC Section 9.44.015  
2 continue to exist and therefore recommended that the City Council reinstate CMC Section 9.44.015 to  
3 address such continued concerns; and

4           **WHEREAS**, an amendment of CMC Section 9.44.015 via the adoption of the Ordinance herein  
5 is necessary to reinstate said section.

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

7           **Section 1.**     Section 9.44.015 of the Chico Municipal Code is amended to read as follows:  
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9           **9.44.015       Sitting on Sidewalks in Commercial Districts.**

10           A. Prohibition. No person shall sit or lie down upon a public sidewalk, curb or street, or upon a  
11 blanket, stool, chair or other object placed upon a public sidewalk, curb or street which is adjacent to  
12 any property zoned or used for commercial uses, as defined in Title 19 of this Code, between the hours  
13 of 7:00 a.m. and 11:00 p.m.

14           B. Exceptions. This section shall not apply to any person:

- 15                     1. Sitting or lying down on a public sidewalk due to a medical emergency;
- 16                     2. Using a wheelchair, walker or similar device as the result of a disability;
- 17                     3. Operating or patronizing a commercial establishment conducted on the public sidewalk  
18 pursuant to an outdoor café permit issued pursuant to Chapter 14.70 of this code;
- 19                     4. Sitting on a public bench or bus stop bench that is located on the public sidewalk;
- 20                     5. Participating in or attending or viewing any parade, festival, performance, rally or  
21 other event conducted in accordance with this code and for which the appropriate permit has been  
22 obtained; or
- 23                     6. Who is a child seated in a stroller.

24           C. Penalties. Any person violating this section shall be guilty of an infraction and, upon  
25 conviction, shall be punished by:

- 26                     1. A fine not exceeding one hundred dollars (\$100.00) for a first violation.
- 27                     2. A fine not exceeding two hundred dollars (\$200.00) for a second violation occurring  
28 within a one year period.

1           3. A fine not exceeding three hundred dollars (\$300.00) for a third and subsequent  
2 violation occurring within a one year period.

3           **Section 2.** The City Council finds and determines that the enactment of this Ordinance is not  
4 a project under the California Environmental Quality Act (“CEQA”) (Cal. Pub. Resource Code §§21000  
5 *et seq.*) in that activities described in the Ordinance are a continuing administrative activity of the City  
6 involving general policy and procedure making and organization or administrative activities of  
7 governments that will not result in direct or indirect physical changes in the environment. (State CEQA  
8 Guidelines, Cal. Code of Regs., Title 14, §15378.) Therefore, no environmental assessment is required  
9 or necessary.

10           **Section 3.** If any section, subsection, line, sentence, clause, phrase, word, part, provision, or  
11 portion of this Ordinance, or its application to any individual, entity, or circumstance, for any reason, is  
12 held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such  
13 decision shall not affect the validity of the remaining portions of this Ordinance and shall continue in  
14 full force and effect. To this end, any section, subsection, line, sentence, clause, phrase, word, part,  
15 provision, or portion of this Ordinance is severable. The City Council of the City of Chico declares that  
16 this Ordinance would have been adopted by the City Council regardless of the fact that any section,  
17 subsection, line, sentence, clause, phrase, word, part, provision, or portion thereof, might be declared to  
18 be invalid or unconstitutional.

19           **Section 4.** The City Clerk shall attest to the passage and adoption of this Ordinance and shall  
20 cause the same to be published as required by law, and this Ordinance shall take effect thirty (30)  
21 calendar days after its adoption.

22 THE FOREGOING ORDINANCE WAS ADOPTED by the City Council of the City of Chico at its  
23 meeting held on November 6, 2018, by the following vote:

24 AYES: Coolidge, Fillmer, Sorensen, Morgan

25 NOES: Ory, Schwab, Stone

26 ABSENT: None

27 ABSTAIN: None

28 DISQUALIFIED: None

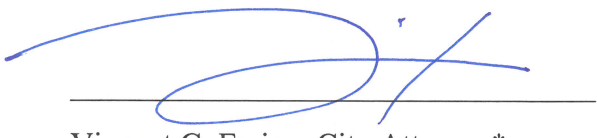
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ATTEST:



Deborah R. Presson, City Clerk

APPROVED AS TO FORM:



Vincent C. Ewing, City Attorney\*

\*Approved pursuant to The Charter of the City of Chico §906 (E)