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

SECTION 1. Recitals. The Recitals above are true and correct and incorporated herein by this reference.

SECTION 2. Amendment. Chapter 9.19 “Vehicle Impoundment for Prostitution and Dumping” is added to Division III “Public Health and Safety Offenses and Regulations” of Title 9 “Public Peace, Safety and Morals” of the Chico Municipal Code, as follows:

Chapter 9.19
VEHICLE IMPOUNDMENT FOR
PROSTITUTION AND UNLAWFUL DUMPING

Section:

- 9.19.010 Authority.**
- 9.19.020 Public Nuisance.**
- 9.19.030 Seizure and Impoundment of Vehicle.**
- 9.19.040 Impoundment Period.**
- 9.19.050 Notice to Owner; Post-Storage Hearing.**
- 9.19.060 Release to Registered Owner Prior to End of Impoundment Period.**
- 9.19.070 Release to Legal Owner Prior to End of Impoundment Period.**
- 9.19.080 Release to Rental Car Agency Prior to End of Impoundment Period.**
- 9.19.090 Operators of Storage Facilities.**
- 9.19.100 Costs and Fees.**
- 9.19.110 Non-Exclusive Remedy.**

9.19.010 Authority.

1 This chapter is adopted pursuant to the authority set forth in California Vehicle Code section
2 22659.5 which permits the city to declare a vehicle to be a public nuisance subject to seizure and
3 impoundment.

4 **9.19.020 Public Nuisance.**

5 Any vehicle used in the commission or attempted commission of the following crimes shall be
6 declared a public nuisance, and the vehicle may be impounded and abated as provided in this
7 chapter:

- 8 A. pimping, as defined in California Penal Code section 266h;
- 9 B. pandering, as defined in California Penal Code section 266i;
- 10 C. solicitation, as defined in California Penal Code section 647(b);
- 11 D. Dumping refuse or waste material in violation of California Penal Code section
12 374.3(h).

13 Any person or his servant, agent, or employee who owns, leases, conducts or maintains any
14 vehicle used for any of the purposes or acts set forth in this definition is guilty of a public
15 nuisance.

16 **9.19.030 Seizure and Impoundment of Vehicle.**

17 A vehicle shall be seized and impounded pursuant to this section upon the occurrence of both of
18 the following:

- 19 A. A valid arrest of the driver of a vehicle for the commission or attempted commission of an
20 act that violates Sections 266h, 266i, 647(b), or 374.3(h) of the California Penal Code; and
- 21 B. At the time of the arrest, the owner or operator of the vehicle had a prior conviction for the
22 same offense within the past three years.

23 **9.19.040 Impoundment Period.**

24 Impoundment shall be for a period of no more than 30 days. Any period during which a vehicle is
25 subjected to storage pursuant to this section shall be included as part of the period of
26 impoundment.

27 **9.19.050 Notice to Owner; Post-Storage Hearing.**

- 28 A. Within two working days after impoundment, the city shall send by certified mail, return
29 receipt requested, a notice to the legal and registered owner(s) of the vehicle at the address
30 obtained from the Department of Motor Vehicles that the vehicle has been impounded. The
31 notice shall also inform the owner of an opportunity for a post-storage hearing to determine
32 the validity of the storage or to determine mitigating circumstances establishing that the
33 vehicle should be released.
- 34 B. The notice shall include all of the following information:
 - 35 1. The name, address, and telephone number of the agency providing the notice;
 - 36 2. The location of the place of storage and description of the vehicle that shall include,
37 if available, the model or make, the manufacturer, the license plate number, and the
38 mileage;
 - 39 3. The authority and purpose for the removal of the vehicle; and

- 1 4. A statement that, in order to receive a post-storage hearing, the owner(s), or their
- 2 agent(s), shall request the hearing in person, writing or by telephone within ten (10)
- 3 days of the date appearing on the notice.
- 4 C. The city shall be prohibited from charging for more than five days of storage if it fails to
- 5 notify the legal owner within two working days after the impoundment when the legal
- 6 owner redeems the impounded vehicle.
- 7 D. The post-storage hearing shall be conducted within 48 hours of the request for hearing,
- 8 excluding weekends and holidays. Failure of the legal and registered owners, or their
- 9 respective agents, to request or to attend a scheduled hearing shall satisfy the post-storage
- 10 hearing requirement.
- 11 E. The city may designate one of its own officers or employees to conduct the hearing if that
- 12 hearing officer is not the same person who directed the seizure of the vehicle.
- 13 F. The hearing officer shall establish whether there are reasonable grounds for the storage of
- 14 the vehicle and mitigating circumstances establishing that the vehicle should be released. If
- 15 it is determined at the post-storage hearing that there are no reasonable grounds for the
- 16 storage of the vehicle, the city shall be responsible for the costs incurred for towing and
- 17 storage.
- 18 G. The city shall maintain a published telephone number that provides information 24 hours a
- 19 day regarding the impoundment of vehicles and the rights of legal and registered owners to
- 20 request a hearing.

14 **9.19.060 Release to Registered Owner Prior to End of Impoundment Period.**

- 15 A. A vehicle impounded pursuant to section 9.19.030 shall be released to the registered owner,
- 16 or the registered owner's agent, prior to the end of the impoundment period under any of
- 17 the following circumstances:
 - 18 1. The driver of the impounded vehicle was arrested without probable cause;
 - 19 2. The vehicle is a stolen vehicle;
 - 20 3. The vehicle is subject to bailment and was driven by an unlicensed employee of a
 - 21 business establishment, including a parking service or repair garage;
 - 22 4. The driver of the vehicle is not the sole registered owner of the vehicle and the
 - 23 vehicle is being released to another registered owner of the vehicle who agrees not
 - 24 to allow the driver to use the vehicle until after the end of the impoundment period;
 - 25 5. The registered owner of the vehicle was neither the driver nor passenger of the
 - 26 vehicle at the time of the alleged violation, or was unaware that the driver was using
 - 27 the vehicle to engage in activities subject to Sections 266h, 266i, 647(b), or
 - 28 374.3(h) of the California Penal Code; or
 - 6. A spouse, registered domestic partner, or other affected third party objects to the
 - impoundment of the vehicle on the grounds that it would create a hardship if the
 - subject vehicle is the sole vehicle in a household, and that hardship outweighs the
 - seriousness and severity of the act in which the vehicle was used.
- B. Notwithstanding any other provision of law, if a motor vehicle is released prior to the end
- of the impoundment period because the driver was arrested without probable cause, neither
- the arrested person nor the registered owner of the motor vehicle shall be responsible for
- the towing and storage charges.

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C. Except as provided herein in subsection 9.19.060(B), the registered owner or his or her agent shall be responsible for all towing and storage charges related to the impoundment of the vehicle.

9.19.070 Release to Legal Owner Prior to End of Impoundment Period.

A. A vehicle impounded pursuant to section 9.19.030 shall be released to the legal owner, or the legal owner's agent, prior to the end of the impoundment period if both of the following conditions are met:

- 1. The legal owner is a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in California, or is another person who is not the registered owner and holds a security interest in the vehicle; and
- 2. The legal owner, or the legal owner's agent, pays all of the towing and storage fees related to the seizure and impoundment of the vehicle.

B. No lien sale processing fees shall be charged to the legal owner who redeems the vehicle prior to the fifteenth (15th) day of the impoundment period. Neither the city, the impounding agency, nor any person having possession of the vehicle shall collect from the legal owner as described in subsection 9.19.070(A)(1) of this section, or the legal owner's agent, any administrative charges imposed pursuant to Section 22850.5 of the California Vehicle Code, unless the legal owner voluntarily requested a post-storage hearing.

C. The legal owner, or the legal owner's agent, shall present the following documentation to the Chico Police Department, impounding agency, person in possession of the vehicle, or any person acting on behalf of those agencies:

- 1. A copy of the assignment as defined in subdivision (b) of Section 7500.1 of the California Business and Professions Code;
- 2. A release of liability from the Chico Police Department;
- 3. A government-issued photographic identification card; and
- 4. Any one of the following as determined by the legal owner or the legal owner's agent:
 - a. A certificate of repossession for the vehicle;
 - b. A security agreement for the vehicle; or
 - c. Title (whether or not paperless or electronic) showing proof of legal ownership for the vehicle.

D. Any documents presented may be originals, photocopies, or facsimile copies, or may be transmitted electronically. The Chico Police Department, impounding agency, or any person acting on behalf of those agencies shall not require any documents to be notarized.

E. The Chico Police Department, or any person acting on its behalf may require the agent of the legal owner to produce a photocopy or facsimile copy of its repossession agency license or registration issued pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the California Business and Professions Code, or to demonstrate, to the satisfaction of

1 the Chico Police Department that the agent is exempt from licensure pursuant to Section
2 7500.2 or 7500.3 of the California Business and Professions Code.

- 3 F. A city, county, city and county, or state agency shall not require a legal owner or a legal
4 owner's agent to request a post-storage hearing as a requirement for release of the vehicle
5 to the legal owner or the legal owner's agent.
- 6 G. The Chico Police Department or the impounding agency or any person acting on behalf of
7 these agencies shall not require any documents other than those specified in subsection
8 9.19.070(C) for the release of the vehicle. The legal owner or the legal owner's agent shall
9 be given a copy of any documents he or she is required to sign, except for a vehicle
10 evidentiary hold log book.
- 11 H. The Chico Police Department, the impounding agency, or any person acting on behalf of
12 these agencies, or any person in possession of the vehicle may photocopy and retain the
13 copies of any documents presented by the legal owner or legal owner's agent.
- 14 I. The legal owner shall indemnify and hold harmless a storage facility from any claims
15 arising out of the release of the vehicle to the legal owner or the legal owner's agent and
16 from any damage to the vehicle after its release including the reasonable costs associated
17 with defending any such claims.
- 18 J. The legal owner, who meets the requirements for release of a vehicle pursuant to
19 subsection 9.19.070(A), or the legal owner's agent, shall not release the vehicle to the
20 registered owner of the vehicle, or the registered owner's agent (unless the registered owner
21 is a rental car agency) until after the termination of the impoundment period.
- 22 K. Prior to relinquishing the vehicle to the registered owner, the legal owner may require the
23 registered owner to pay all towing and storage charges related to the seizure and
24 impoundment of the vehicle.

25 **9.19.080 Release to Rental Car Agency Prior to End of Impoundment Period.**

- 26 A. A vehicle seized and impounded pursuant to section 9.19.030 shall be released to a rental
27 car agency prior to the end of the impoundment period if:
- 28 1. The agency is either the legal owner or registered owner of the vehicle; and
 - 1 The agency pays all towing and storage fees related to the seizure and
2 impoundment of the vehicle.
- 3 B. The rental car agency may continue to rent the vehicle upon recovery of the vehicle. The
4 rental car agency, however, shall not rent another vehicle to the driver of the vehicle that
5 was seized until the impoundment period has expired.
- 6 C. The rental car agency may require the person to whom the vehicle was rented to pay all
7 towing and storage charges related to the seizure and impoundment of the vehicle.

8 **9.19.090 Operators of Storage Facilities.**

- 9 A. A person operating or in charge of a storage facility where vehicles are stored pursuant to
10 section 9.19.030 shall accept a valid bank credit card or cash for payment of towing,
11 storage and related fees by a legal or registered owner, or the owner's agent, claiming the
12 vehicle. A credit or debit card shall be in the name of the person presenting the card. For
13 purposes of this section, "credit card" is defined as in subsection (a) of Section 1747.02 of
14 the California Civil Code and does not include a credit card issued by a retail seller.

- 1 B. A person operating or in charge of a storage facility who violates subsection 9.19.090(A)
2 shall be civilly liable to the owner of the vehicle or the person who tendered the fees for
3 four times the amount of the towing, storage and related fees.
- 4 C. A person operating or in charge of a storage facility shall have sufficient funds on the
5 premises of the primary storage facility during normal business hours to accommodate, and
6 make change for, a reasonable monetary transaction.
- 7 D. Credit charges for towing and storage services shall comply with Section 1748.1 of the
8 California Civil Code. Law enforcement agencies may include the costs of providing for
9 payment by credit when making agreements with towing companies on rates.
- 10 E. A failure by a storage facility to comply with any applicable conditions of this section shall
11 not affect the right of the legal owner, or the legal owner's agent, to retrieve the vehicle if
12 all conditions required of the legal owner, or the legal owner's agent, for the release of the
13 vehicle are satisfied.

14 **9.19.100 Costs and Fees.**

15 Costs and fees incurred by the city, or at the discretion of the city, pursuant to this section shall be
16 set by resolution or ordinance as authorized by Section 22850.5 of the California Vehicle Code.

17 **9.19.110 Non-Exclusive Remedy.**

18 This section is not the exclusive regulation or penalty for acts related to prostitution or dumping. It
19 supplements and is in addition to the other regulatory codes, statues and ordinances heretofore or
20 hereafter enacted by the city, state or any other legal entity or agency having jurisdiction.

21 **SECTION 3. Severability.** If any section, subsection, sentence, clause, phrase or word
22 of this Ordinance is for any reason held to be invalid and/or unconstitutional by a court of
23 competent jurisdiction, such decision shall not affect the validity of the remaining portions of this
24 Ordinance.

25 **SECTION 4. Effective Date.** This Ordinance shall be effective thirty days following
26 adoption.


27 **SECTION 5. Certification.** The City Clerk shall certify to the passage and adoption of
28 this Ordinance and shall cause the same to be published or posted in the manner required by law.

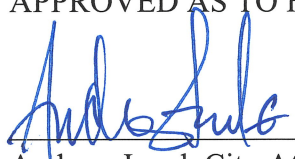
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THE FOREGOING ORDINANCE was adopted at a meeting of the City Council of the City of Chico on December 15, 2020 by the following vote:

AYES: Brown, Denlay, Huber, Morgan, Tandon, Reynolds, Coolidge
NOES: None
ABSENT: None
ABSTAINED: None
DISQUALIFIED: None

ATTEST:

Deborah R. Presson, City Clerk

APPROVED AS TO FORM:

Andrew Jared, City Attorney*

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