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**ORDINANCE NO. 2560**

**AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF CHICO AMENDING TITLE 9 PUBLIC PEACE, SAFETY AND  
MORALS BY ADDING SECTION 9.29 “SYRINGE EXCHANGE  
PROGRAMS – PROHIBITED” TO THE CHICO MUNICIPAL CODE TO  
BAN SYRINGE EXCHANGE PROGRAMS**

**WHEREAS,** the City of Chico (“City”) is a charter city, incorporated under the laws of the State of California;

**WHEREAS,** under article II, section 201 and article VI, section 609 of the Chico City Charter, the City Council has the power to make and enforce within the City’s jurisdictional limits all local police, sanitary, and other ordinances and regulations;

**WHEREAS,** Government Code Section 38771 authorizes the City, through its legislative body, to declare actions and activities that constitute a public nuisance;

**WHEREAS,** the Chico Municipal Code sets forth all the regulatory and penal ordinances and certain of the administrative ordinances of the City. As to matters concerning land use, and of buildings thereon, Title 19 of the Chico Municipal Code is intended to promote the growth of the City in an orderly manner and promote and protect the public health, safety, peace, comfort and general welfare;

**WHEREAS,** needle exchange programs are not an enumerated use under the Zoning Code and the Chico Municipal Code does not specifically address allowing or regulating needle exchange programs within the City of Chico;

**WHEREAS,** absent a local regulation, a needle exchange program may become established in virtually any location in the City;

**WHEREAS,** the California Department of Public Health (“Department”), through its Office of Aids, may independently authorize syringe exchange programs under Health and Safety

1 Code, section 121349 et seq. and Code of Regulations, title 17, section 7000 et seq.;

2       **WHEREAS**, on October 14, 2019, the Department authorized the Northern Valley Harm  
3 Reduction Coalition (“Coalition”) to operate a syringe exchange program in the City;

4       **WHEREAS**, in August 2020, the Coalition ceased operating the exchange as a condition  
5 to settle a lawsuit against it;

6       **WHEREAS**, the Coalition’s syringe exchange led to an increase in hypodermic needle  
7 litter, provision of drug paraphernalia to minors, and creation of a public nuisance harmful to the  
8 City’s residents and businesses;

9       **WHEREAS**, the cities of Biggs, Marysville, Oroville, Paradise, Wheatland, and Yuba City  
10 and Sutter County have all banned syringe exchange programs to prevent similar deleterious  
11 effects of such programs in their communities;

12       **WHEREAS**, section 612 of the Chico City Charter, establishes that the City Council upon  
13 four affirmative votes has the power to make and enforce as an emergency measure for the  
14 preservation of the public peace, welfare, health or safety an emergency ordinance by reading such  
15 ordinance in full, and adopted at the same meeting; and

16       **WHEREAS**, in order to prevent new or unauthorized syringe exchange programs and the  
17 hazardous litter associated with syringe exchange programs, the City finds this emergency ban on  
18 needle exchanges is necessary to preserve the public peace, welfare, health and safety in the City.

19       **NOW, THEREFORE**, the City Council of the City of Chico does ordain as follows:

20       **SECTION 1.** The City Council of the City of Chico hereby determines and finds that the  
21 facts set forth in the recitals are true and correct and are hereby incorporated as substantive  
22 findings.

23       **SECTION 2.** Section 9.29 is added to Title 9 of the Chico Municipal Code as follows:

24       **CHAPTER 9.29 SYRINGE EXCHANGE PROGRAMS -- PROHIBITED**

25       **9.29.010 Purpose and intent**

26       **9.29.020 Prohibition**

27       **9.29.030 Violations punishable as an infraction or misdemeanor**

28       **9.29.040 Penalties not exclusive**

1  
2 **9.29.010 Purpose and intent**

3 The Council recognizes that the establishment of a needle exchange program will  
4 increase improperly disposed needles, which pose a serious risk to public health,  
5 safety and welfare due to the potential for personal bodily injury, property  
6 damage, and contamination of waterways. It is the purpose and intent of this  
7 Chapter to ban the establishment, operation, engagement, use, and/or  
8 participation in a needle exchange program within the City to protect the public  
9 health, safety, and general welfare of its residents.

10 This Chapter authorizes the imposition of all penalties available under state law  
11 and the Chico Municipal Code against any person or entity who violates any  
12 provision of this Ordinance to encourage and obtain compliance with the  
13 provisions of this Ordinance for the benefit and protection of the entire  
14 community.

15 **9.29.020 Prohibition**

16 It shall be unlawful and a public nuisance for any person to create, establish,  
17 operate, conduct, or participate in a needle exchange program, as defined by  
18 Health and Safety Code Section 121349, et seq. or any similar program within  
19 the City.

20 **9.29.030 Violations punishable as an infraction or misdemeanor**

21 Violation of this chapter shall be a misdemeanor or an infraction and may be  
22 enforced by the filing of a criminal action by the city attorney or the issuance of  
23 an administrative citation in accordance with Chapter 1.15 of this code. Each  
24 needle or syringe distributed in a needle exchange program shall be an  
25 independent and separate violation of this Chapter.

26 **9.29.040 Penalties not exclusive**

27 Nothing in this Section shall be intended to limit any of the penalties provided for  
28 under the California Health and Safety Code or Penal Code with regard to the  
establishment, operation, engagement, use, and/or participation in a needle  
exchange program. The penalties set forth herein are intended to be nonexclusive  
and are intended to be in addition to any other remedies provided in the Chico  
Municipal Code or any other law, statute, ordinance or regulation.

**SECTION 3.** CEQA. The City Council finds that this ordinance is not subject to the California Environmental Quality Act (CEQA). This ordinance is not a "project", as defined in

1 Section 15378 of the State CEQA Guidelines, and pursuant to Sections 15061(b)(3) of the State  
2 CEQA Guidelines will not cause a direct or reasonably foreseeable indirect effect or change to the  
3 physical environment. This ordinance is therefore exempt from the California Environmental  
4 Quality Act.

5 **SECTION 4.** Severability. If any section, subsection, sentence, clause, portion, phrase or  
6 word of this ordinance is for any reason held to be illegal, invalid or unconstitutional by a court of  
7 competent jurisdiction, such decision shall not affect the validity of the remaining portions of this  
8 ordinance. The City Council hereby declares that it would have passed this Chapter and each  
9 section, subsection, sentence, clause, portion, phrase, or word hereof, irrespective of the fact that  
10 any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or  
11 unconstitutional.

12 **SECTION 5.** Effective Date. The Chico City Council finds that an emergency ordinance  
13 is necessary to prevent hypodermic needle litter, provision of drug paraphernalia to minors, and  
14 criminal behavior dangerous to the health, safety, and welfare of the City's residents and  
15 businesses. Therefore, under section 612 of the Charter of the City of Chico, this ordinance will  
16 be effective immediately as an emergency ordinance to preserve the public peace, welfare, health,  
17 or safety and as an emergency ordinance be effective for 180 days from date of adoption.

18 **SECTION 6.** Certification. The City Clerk shall certify to the passage and adoption of  
19 this ordinance and shall cause the same to be published or posted in the manner required by law.

20 **THE FOREGOING EMERGENCY ORDINANCE** was adopted at a meeting of the  
21 City Council of the City of Chico on January 5, 2021, by the following vote:

22  
23 AYES: Denlay, Morgan, Tandon, Reynolds, Coolidge

24 NOES: Brown, Huber

25 ABSENT: None


26 ABSTAINED: None

27 DISQUALIFIED: None

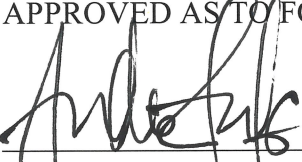
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ATTEST:

  
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)