

ORDINANCE NO. 2579

AN ORDINANCE OF THE CITY OF CHICO ADDING SECTION 1.14.240 OF CHAPTER 1.14 TO THE CHICO CITY MUNICIPAL CODE TO ESTABLISH A RIGHT FOR RESIDENTS TO DEMAND PUBLIC NUISANCE ABATEMENT ON PUBLIC PROPERTY

Section 1. Chapter 1.14 of the Chico Municipal Code is hereby revised as set forth below, thereby granting a private right of action for a resident demand for public nuisance abatement.

CHAPTER 1.14 - NUISANCE
ABATEMENT

1.14.020 Findings.

The city council finds as follows:

A. That, from time to time, there may be buildings, structures and other conditions on or pertaining to real property located in the city which constitute nuisances as defined in this chapter;

B. That the existence of such nuisances is injurious to the public health, safety and welfare;

C. That abatement of such nuisances in the manner provided by this chapter is a proper exercise of the city's police powers and is specifically authorized by Article 6, Chapter 10, Part 2, Division 3 of the Government Code (commencing with Section 38771);

D. That the vision for Chico is, "A safe place to raise a family, an ideal place for business, and a premier place to live." The citizens of Chico hereby reaffirm that these qualities of life expressed in our vision represent our aspirations and goals for the future of the City of Chico. These qualities of life require improving the conditions of safety, economic vitality, cleanliness, and beauty. It is hereby reaffirmed that policies and actions which protect and enhance these conditions are favorable to those that are dangerous, dirty, ugly, or detrimental to our local economy.

E. That the city owns public property, and the city should be held responsible, to the extent permitted by law, to abide by the same public nuisance laws that the city imposes on the owners of private property, as a means to ensure the city strives to uphold its vision statement that the City of Chico be a safe place to raise a family, an ideal location for business, and a premier place to live.

F. That abatement of such nuisances in the manner provided by this chapter is reasonable and affords to the owner of the property on which the nuisance is located all of the due process rights guaranteed by the federal and state constitutions.

1.14.240 Abatement of public nuisance on public property owned by the city.

A. Any resident harmed in a manner that is different in kind as well as in degree from that harm suffered by other members of the general public by a public nuisance is authorized to commence proceedings to demand the city abate the public nuisance.

B. To commence proceedings to demand the city to abate a public nuisance on public property owned by the city, a resident must file with the city clerk a notice of violation and demand to abate ("notice and demand"). The city manager shall create a form for the notice and demand and establish a process for filing the notice and demand that complies with this section. The process for filing the notice and demand shall include options to file online, by personal delivery, and by mail. No fee shall be imposed for the filing of a notice and demand. The notice and demand must contain:

1. The street address or such other description needed to identify the location of the subject public property or parcel;
2. A description of the conditions that constitute the public nuisance;
3. A description of the harm to the resident caused by the violation, and how this harm is different in kind as well as in degree from that suffered by other members of the general public;
4. Contact information of the resident;
5. A demand that the city take action to abate the violation, and the action demanded.

C. Within twenty (20) business days from the date the city receives the notice and demand, the city shall inspect the subject public property location and respond to the notice and demand by informing the resident, using the contact information provided in the notice and demand, that the city will:

1. Abate the violations and the date of anticipated abatement; or
2. Provide notice to the resident that it will not abate the violation and the reason for its denial, which may include, but is not limited to, because a public nuisance does not exist, a public nuisance has not substantially caused the resident to suffer harm of a different kind and degree than the general public, the city does not own the subject property, the city cannot abate the public nuisance without violating the city's legal obligations, or it is otherwise not in the best interest of the city to take the demanded action.

D. For purposes of this section:

1. "Harm" means an injury to health, an offense to one's senses, and/or an interference with the comfortable enjoyment or the use of the public property at issue.
2. "Public nuisance" means all conditions defined in Section 1.14.030 of this code, existing upon public property owned by the city which, other than those conditions of public

property which cannot be a public nuisance due to the public nature of the property.

3. "Resident" includes a person who resides within the city or conducts business within the city pursuant to a business license issued by the city.

Section 2. If any provision or subsection of this Ordinance or application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or subsections or applications of the Ordinance which can be given effect without the invalid provision or subsection or application, and to this end the provisions of this Ordinance are severable.

Section 3. This Ordinance shall take effect immediately, upon approval by a simple majority of voters voting on the question at the November 8, 2022 election.

Section 4. The Act may be amended by the City Council upon a two-third vote of the Members of the Council but only to further the purpose of the Act.

PASSED AND ADOPTED by the City Council of the City of Chico at its duly noticed special meeting held on December 6, 2022, by the following vote:

AYES: Bennett, Brown, Morgan, O'Brien, Tandon, Reynolds, Coolidge


NOES: None

ABSENT: None

ABSTAINED: None

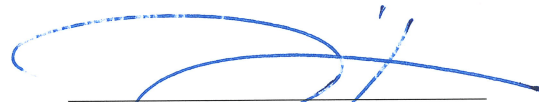
DISQUALIFIED: None

ATTEST:



Deborah R. Presson, City Clerk

APPROVED AS TO FORM:



Vincent C. Ewing, City Attorney*

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