

ORDINANCE NO. 2585

AN ORDINANCE OF THE CITY OF CHICO AMENDING TITLE 12 OF  
THE CITY OF CHICO MUNICIPAL CODE TO ENFORCE  
VIOLATIONS THEREOF AS MISDEMEANORS OR INFRACTIONS

WHEREAS, unauthorized camping, sleeping and/or storage of personal property on public property by individuals has caused, and continues to cause a disturbance of the peace, health, safety and general welfare of the community and pose hazardous threats to camp occupants, nearby residents and businesses; and

WHEREAS, finding constructive alternatives and solutions for the homeless population remains a top priority for the State of California as the lack of affordable housing compounded with the cost of living have contributed to a homelessness crisis in cities across California; and

WHEREAS, despite the City's extensive efforts to combat the problem of homelessness, the City's most recent Point-in-Time count identifies 393 unsheltered individuals within the City of Chico; and

WHEREAS, on April 1, 2019, the United States Ninth Circuit Court of Appeals held that the Cruel and Unusual Punishments Clause of the Eighth Amendment precluded the enforcement of a statute prohibiting sleeping outside against homeless individuals with no access to alternative shelter (*Martin v. City of Boise*, 902 F.3d 1031 hereinafter referred to as the "*Martin decision*"); and

WHEREAS, based on the ruling in the *Martin decision*, enforcement of the City's current Code can only be effectuated under circumstances in which shelter space is available and voluntarily refused; and

WHEREAS, the provisions of the current version of Chapter 12.18 of the Code lack the specificity required to enforce that chapter not only as infraction violations, but also as misdemeanor violations that carry a greater deterrent effect, and thus amendments to Title 12 of the City of Chico Municipal Code are necessary to ensure adequate enforcement related to protection of public property, including the City Plaza, parks, greenways, playgrounds and waterways, from the adverse effects of camping, sleeping and/or storage of personal property on public property; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Chico does hereby adopt the following ordinance amending Title 12 of the City of Chico Municipal Code:

SECTION 1. City Code Amendment.

The City Council of the City of Chico hereby amends Title 12, Chapter 12.18 ("Park Rules and Regulations") by adding the following section:

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**Chapter 12.18**  
**PARK RULES AND REGULATIONS**

**12.18.465 Violations.**

A violation of any provision within this chapter shall be a misdemeanor or an infraction and may be enforced by the filing of a criminal action by the city attorney or the issuance of an administrative citation in accordance with Chapter 1.15 of this code.

This section is not applicable to unsheltered individuals when there is no available shelter space, as defined in Section 9.20.020, for the unsheltered individual otherwise in violation of this Chapter 12.18.

SECTION 2. Authority. This Ordinance is enacted pursuant to the City of Chico's general police powers, Article II of the Charter of the City of Chico, Article VI of the Charter of the City of Chico, and Article XI of the California Constitution.

SECTION 3. This Ordinance is consistent with the City's General Plan, Municipal Code, and applicable federal and state law.

SECTION 4. This Ordinance will not be detrimental to the public interest, health, safety, convenience or welfare.

SECTION 5. CEQA. The City Council, on the basis of the whole record and exercising independent judgment, finds that this Ordinance is not subject to environmental review pursuant to Sections 15060(c)(2) and 15060(c)(3) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA). Sections 15060(c)(2) and 15060(c)(3) pertain to activities that will not result in a direct or reasonably foreseeable indirect change to the environment and that are not defined as a project under Section 15378.

SECTION 6. Severability. If any section, subsection, line, sentence, clause, phrase, or word of this Ordinance is for any reason held to be invalid or unconstitutional, either facially or as applied, by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Chico hereby declares that it would have passed this Ordinance, and each and every individual section, subsection, line, sentence, clause, phrase, or word without regard to any such decision.

SECTION 7. Effective Date. The Ordinance shall be effective 30 days after adoption by the City Council.

SECTION 8. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted in the manner required by law.

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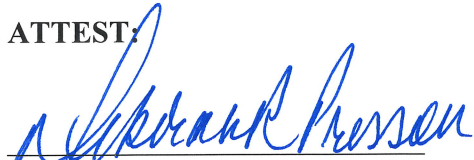
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THE FOREGOING ORDINANCE was adopted by the City Council of the City of Chico at its duly noticed meeting held on January 17, 2023, by the following vote:

AYES: Bennett, Morgan, Tandon, van Overbeek, Reynolds, Coolidge  
NOES: Winslow  
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)