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

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

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

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

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

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

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

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

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

CHAPTER 9.29 SYRINGE EXCHANGE PROGRAMS -- PROHIBITED

9.29.010 Purpose and intent
9.29.020 Prohibition
9.29.030 Violations punishable as an infraction or misdemeanor
9.29.040 Penalties not exclusive
9.29.010 Purpose and intent

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

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

9.29.020 Prohibition

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

9.29.030 Violations punishable as an infraction or misdemeanor

Violation of 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. Each needle or syringe distributed in a needle exchange program shall be an independent and separate violation of this Chapter.

9.29.040 Penalties not exclusive

Nothing in this Section shall be intended to limit any of the penalties provided for 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
Section 15378 of the State CEQA Guidelines, and pursuant to Sections 15061(b)(3) of the State
CEQA Guidelines will not cause a direct or reasonably foreseeable indirect effect or change to the
physical environment. This ordinance is therefore exempt from the California Environmental
Quality Act.

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

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

SECTION 6. 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.

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

AYES: Denlay, Morgan, Tandon, Reynolds, Coolidge
NOES: Brown, Huber
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)