

Subject: Amendment to Camping Ordinance

- **Recommendation: To introduce for publication amendments to Section 6.36 of the Municipal Code (Camping) to remove reference to the act of sleeping and use of blankets as violations of the ordinance.**
- Santa Cruz does not need a sleeping prohibition in our Camping ordinance to effectively manage our public and private spaces.
- All the activities that trouble so many of us: dirty campsites, long-term occupation of locations within parks and greenbelts, human waste depositing, etc. are fully addressed in other provisions in our Camping Ordinance, along with our ordinances on littering, public urination/defecation, trespassing and “hours of use” in our parks.
- Santa Cruz’s ban on sleeping outside has not been an effective tool in reducing the number of homeless individuals in the city, even with one of the most restrictive “sleeping” ordinances in California.
- Once the winter shelter program ends in March or April, the city of Santa Cruz will have something like 15 to 20 unrestricted emergency shelter beds available on any given night. At the same time, there will be literally hundreds of individuals in our community without shelter. In other words, adequate shelter space does not exist. Our existing ordinance, under current circumstances and based on the DoJ (Department of Justice) opinion, is criminalizing some people simply because they are homeless.
- The US Department of Justice presented the following to a federal judge considering the constitutionality of a law in Idaho similar to Santa Cruz sleeping regulation:

*“When adequate shelter space exists, individuals have a choice about whether or not to sleep in public. However, when adequate shelter space does not exist, there is no meaningful distinction between the status of being homeless and the conduct of sleeping in public. Sleeping is a life-sustaining activity — i.e., it must occur at some time in some place. If a person literally has nowhere else to go, then enforcement of the anti-camping ordinance against that person criminalizes her for being homeless.”*
- The US Department of Housing and Urban Development, the government’s primary source of funds for homeless programs, is now telling local communities that their applications for federal funding will be scored lower if criminalization of involuntary acts such as sleeping outside is part of local policy. If one reads the government’s definitions of “criminalization of homelessness” it is abundantly clear that Santa Cruz’s ordinance on sleeping falls within that definition. (The Santa Cruz area receives more than \$2 million annually from the HUD and some of this could be in jeopardy.)

- HUD has begun scrutinizing communities' efforts to reduce criminalization as part of the nationally competitive CoC funding process. The 2015 CoC application required that communities implement 'specific strategies that prevent criminalization of homelessness ... [and] describe how they are reducing criminalization of homelessness.' Thus, communities that continue counter-productive criminalization are at greater risk of losing critically needed HUD (Continuum of Care) CoC funds."
- The United Nations Human Rights Committee made the following statement in reference to the criminalization of homelessness in the United States:

*While appreciating the steps taken by federal and some state and local authorities to address homelessness, the Committee is concerned about reports of criminalization of people living on the street for everyday activities such as eating, sleeping, sitting in particular areas etc. The Committee notes that such criminalization raises concerns of discrimination and cruel, inhuman, or degrading treatment (Articles 2, 7, 9, 17, and 26 of the Human Rights Covenant the US ratified in 1992.).*

Below are segments of a news article on HUD and Dept of Justice stance on criminalization.

Criminalizing Homelessness Can Now Cost Cities Federal Money

BY **SCOTT KEYES** SEP 22, 2015 2:22 PM

*"Last week, though, HUD announced that it would begin asking applicants to describe the steps they are taking to reduce the criminalization of homelessness. Ordinances that criminalize homelessness, also known as "anti-vagrancy" or "quality of life" laws, include making it illegal to sit down on a sidewalk, ask passersby for spare change, or sleep in a public place. Applicants for the federal money will have to show they are engaging with local policymakers or law enforcement about criminalization policies, as well as implementing new community plans to ensure homelessness is not criminalized. Failing to combat such ordinances will hurt a Continuum of Care's chances of winning new funds."*

*"The change comes after the administration filed a brief in federal court arguing that criminalization violates the Eighth Amendment's protections against cruel and unusual punishment."*

*"Criminalization policies are problematic not only from a human rights perspective, but also because they're costly and counterproductive."*

*"Criminalizing homelessness also hurts taxpayers. When accounting for law enforcement and emergency health care costs, numerous studies have found that leaving homeless people on the streets winds up costing taxpayers more than three times as much as simply giving them housing and supportive services."*

## Proposed amendment

Section 1: Section 6.36.010 of the Santa Cruz Municipal Code is hereby amended to read as follows:

"6.36.010 Camping Prohibited. No person shall camp anywhere in the city of Santa Cruz, whether on public or private property, except as hereinafter expressly permitted. "To camp" means to do any of the following:

~~(a) Sleeping – 11 p.m. to 8:30 a.m. To sleep at any time between the hours of 11 p.m. to 8:30 a.m. in any of the following places:~~

~~(1) Outdoors with or without bedding, tent, hammock or other similar protection or equipment;~~

~~(2) In, on or under any structure not intended for human occupancy, whether with or without bedding, tent, hammock or other similar protection or equipment;~~

~~(3) In, on or under any parked vehicle, including an automobile, bus, truck, camper, trailer or recreational vehicle.~~

(ba) Setting-up Bedding – 11 p.m. to 8:30 a.m. To establish or maintain outdoors or in, on or under any structure not intended for human occupancy, at any time between the hours of 11 p.m. to 8:30 a.m., a temporary or permanent place for sleeping camping, by setting up any bedding, sleeping bag, blanket, mattress, tent, hammock or other sleeping equipment in such a manner as to be immediately usable for sleeping camping purposes.

(e b) Setting-up Campsite – Anytime. To establish or maintain outdoors or in, on, or under any structure not intended for human occupancy, at any time during the day or night, a temporary or permanent place for cooking or residing, by setting up any bedding, sleeping bag, mattress, tent, hammock or other camping equipment or by setting up any cooking equipment with the intent to remain in that location overnight.