

Ordinance Amending Chapter 6.36 of the Santa Cruz Municipal Code Related to Regulations for Temporary Outdoor Living. Location: Citywide. CEQA: Exempt. (CN, CM, PD, CA)

Motion carried to:

- Introduce for publication Ordinance No. 2021-03 amending Chapter 6.36 of the Santa Cruz Municipal Code related to regulations for temporary outdoor living, with the following changes:
- Amend the following definitions in Section 6.36.020:
Outdoor Living Facilities

From:

“Outdoor Living Facilities” include, but are not limited to, tents, huts, vehicles, vehicle camping outfits or temporary shelter.

To:

“Outdoor Living Facilities” include, but are not limited to, tents, huts, or temporary shelter.

Outdoor Living Encampment

From:

“Outdoor Living Encampment” means a collection of items that are used or intended to be used for temporary habitation outdoors. Outdoor Living Encampments contain Outdoor Living Facilities and/or Outdoor Living Paraphernalia. This definition of Outdoor Living Encampment specifically does not include a collection of items that reasonably appear to be for less than 12-hour, daytime only use, such items brought to a park or beach for a picnic, nap, or daytime party. For the purposes of this chapter, the term Outdoor Living Encampment does not include a vehicle used for habitation.

To:

“Outdoor Living Encampment” means a collection of items that are used or intended to be used for temporary habitation outdoors. Outdoor Living Encampments contain Outdoor Living Facilities and/or Outdoor Living Paraphernalia. This definition of Outdoor Living Encampment specifically does not include a collection of items that reasonably appear to be for less than 12-hour, daytime only use, such items brought to a park or beach for a picnic, nap, or daytime party. If items have in fact been maintained in the same approximate location for a period in excess of 12 hours, then the collection shall be considered an Outdoor Living Encampment as provided in this section. For the purposes of this chapter, the term Outdoor Living Encampment does not include a vehicle used for habitation.

- Amend Section 6.36.030(b):

From:

Outdoor Living or Camping shall not be permitted on private property where it is conducted in such a manner as to create noise, inadequate sanitation, or other matters offensive to persons of ordinary sensibility; nor where the outdoor living is of such frequency, intensity or duration as to constitute a use of land prohibited by any

provision of Title 24 of this code; nor where the outdoor living activity would be prohibited under any other provision of this code concerning use of mobilehomes; nor where any fee, charge or other monetary consideration is collected for the privilege of Outdoor Living/Camping or for any services or the use of any facilities related thereto; nor where the covenants, conditions and restrictions of a duly organized homeowners association would prohibit the activity in the residential area subject to the covenants, conditions, and restrictions.

To:

Outdoor Living or Camping shall not be permitted on private property where it is conducted in such a manner as to create noise, inadequate sanitation, any trafficking in illegal drugs, a public or private nuisance, or other matters offensive to persons of ordinary sensibility; nor where the outdoor living is of such frequency, intensity or duration as to constitute a use of land prohibited by any provision of Title 24 of this code; nor where the outdoor living activity would be prohibited under any other provision of this code concerning use of mobilehomes; nor where any fee, charge or other monetary consideration is collected for the privilege of Outdoor Living/Camping or for any services or the use of any facilities related thereto; nor where the covenants, conditions and restrictions of a duly organized homeowners association would prohibit the activity in the residential area subject to the covenants, conditions, and restrictions.

- **Amend Section 6.36.040(a)(7)**

From:

Within all neighborhood and community parks, as defined by the Parks Master Plan.

To:

Within all parks, as defined by the Parks Master Plan, but not including open spaces.

- **Add Section 6.36.040(a)(11)**
On public property in residential R-1, R-L, R-M, R-H, R-S and renumber existing 12-13
- **Amend Section 6.36.040(b)(1)**

From:

No Daytime Encampments. For any public property owned by the City where camping has not been explicitly authorized, no person shall erect, configure, construct, and/or maintain an Outdoor Living Encampment between the hours of 8:00 AM until 8:00 PM (except during rainfall, sleet, snow, or when the a projected daily high temperature on the date the tent is present, as noted by the National Weather Service, of 50 degrees Fahrenheit or lower).

To:

No Daytime Encampments. For any public property owned by the City where camping has not been explicitly authorized, no person shall erect, configure, construct, and/or maintain an Outdoor Living Encampment between the hours of one hour before sunset to 7:00 a.m. (except during rainfall, sleet, snow, or when the a projected daily high temperature on the date the tent is present, as noted by the National Weather Service, of 50 degrees Fahrenheit or lower).

- **Amend Section 6.36.040(b)(2)**

From:

A person must take down, fold, deconstruct, and put away any Outdoor Living Encampment erected, configured, or constructed in any such City-owned public property between the hours of 8:00 AM until 8:00 PM (except during rainfall, sleet, snow, or when the a projected daily high temperature on the date the tent is present, as noted by the National Weather Service, of 50 degrees Fahrenheit or lower).

To:

A person must take down, fold, deconstruct, and put away any Outdoor Living Encampment erected, configured, or constructed in any such City-owned public property between the hours of 7:00 a.m. and one hour before sunset (except during rainfall, sleet, snow, or when the a projected daily high temperature on the date the tent is present, as noted by the National Weather Service, of 50 degrees Fahrenheit or lower).

- **Amend Section 6.36.040(b)(3) to include:**
Authorized storage programs shall be required to provide transportation assistance to individuals who request it.
- **Amend Section 6.36.040(b)(4)**

From:

The prohibitions above in Subsections 6.36.040 (b)(1) and (2) shall not be enforced against a person with a physical or mental disability that prevents that person from being able to, on a daily basis, construct, de-construct, and put away an Outdoor Living Encampment (“hereafter a “Qualifying Disability.

To:

The prohibitions above in Subsections 6.36.040 (b)(1) and (2) shall not be enforced against families with one or more children under the age of 18 years old, against a person with a physical or mental disability that prevents that person from being able to, on a daily basis, construct, de-construct, and put away an Outdoor Living Encampment (“hereafter a “Qualifying Disability”), or a single caregiver for a person with a Qualifying Disability if said caregiver lives with the individual with the Qualifying Disability as a means to assist said individual.

- **Add Section 6.36.040 (b)(4)(B):**
If members of a family unit including children under the age of 18 years old are not readily apparent to City staff, City staff may request reasonable documentation to support individuals’ familial claims and age.
- **Amend Section 6.36.040(b)(4)(C)**

From:

City staff may, but is not required to, establish standard procedures and/or forms to issue exemptions to the prohibition above in Subsection Subsections 6.36.040 (b)(1) and (2) to persons with one or more Qualifying Disabilities.

To:

City staff may, but is not required to, establish standard procedures and/or forms to issue exemptions to the prohibition above in Subsection Subsections 6.36.040 (b)(1) and (2) to persons with one or more Qualifying Disabilities or for families with one or more children under the age of 18 years old.

- **Amend Section 6.36.040(b)(4)(D)**

From:

In cases of Qualifying Disability, City staff shall work with the County, State and/or nonprofit partners to attempt to find the disabled person with temporary shelter or housing.

To:

In cases of Qualifying Disability or for families with one or more children under the age of 18 years old, City staff shall work with the County, State and/or nonprofit partners to attempt to find the disabled person with temporary shelter or housing.

- **Amend Section 6.36.040(b)(4)(E):**

From:

In cases of Qualifying Disability, if shelter cannot be found, a person with a Qualifying Disability may not occupy the same City-owned public space for a period exceeding 96-hours.

To:

In cases of Qualifying Disability or for families with one or more children under the age of 18 years old, if shelter cannot be found, a person with a Qualifying Disability may not occupy the same City-owned public space for a period exceeding 96-hours.

- **Amend Section 6.36.040(b)(5)**

From:

For the purposes of allowing unsheltered people to sleep at night during times when shelters are full, except in cases of critical need (including, but not limited to, increased fire risk; blocking access to a home, business, or a parking lot of a building; blocking access to both sides of the sidewalk on one street; or blocking the sidewalk in a way that that causes pedestrian use of the sidewalk to not be maintained for at least one side of the street), City staff shall not, on City sidewalks, outside of those areas specified in 6.36.040(a) where Outdoor Living Encampments are prohibited at all times, enforce SCMC section 15.32.010 against persons experiencing homelessness, between the hours of 8:01 PM - 7:59 AM.

To:

For the purposes of allowing unsheltered people to sleep at night during times when shelters are full, except in cases of critical need (including, but not limited to, increased fire risk; blocking access to a home, business, or a parking lot of a building; blocking access to both sides of the sidewalk on one street; or blocking the sidewalk in a way that that causes pedestrian use of the sidewalk to not be maintained for at least one side of the street), City staff shall not, on City sidewalks, outside of those areas specified in 6.36.040(a) where Outdoor Living Encampments are prohibited at all times,

enforce SCMC section 15.32.010 against persons experiencing homelessness, between the hours of one hour before sunset to 7:00 a.m.

- **Amend Section 6.36.040(e):**

From:

For purposes of cleaning, maintenance, and/or addressing health or safety concerns, the City Manager may designate additional areas where Outdoor Living Encampments are temporarily prohibited during all hours. However, prior to this occurring, an analysis of the remaining land available for 8:01 PM–7:59 AM Outdoor Living Encampments shall be conducted, and the prohibition shall not occur unless sufficient area can be identified to accommodate sleeping for unsheltered individuals in the City in a manner that is consistent with other provisions contained in this Chapter. Any prohibition lasting more than 30 days must be ratified by the City Council. Signage shall be posted implementing the temporary prohibition. Areas closed under Section 6.36.040(a)(3) need not receive City Council ratification for a closure of greater than 30 days.

To:

For purposes of cleaning; maintenance; limiting the incidence or frequency of the sale of unlawful drugs; limiting or controlling the incidence of crime; limiting the incidence or frequency of domestic violence or other violence; limiting the accumulation of debris, garbage, and syringe waste; limiting the amount, duration, and effect of urination and defecation on public and private property; limiting the duration of adverse effects on the surrounding area, neighborhoods, and businesses; and/or addressing health or safety concerns, the City Manager may designate additional areas where Outdoor Living Encampments are temporarily prohibited during all hours. However, prior to this occurring, an analysis of the remaining land available for one hour before sunset to 7:00 a.m. Outdoor Living Encampments shall be conducted, and the prohibition shall not occur unless the City Manager makes a determination that sufficient area can be identified to accommodate sleeping for unsheltered individuals in the City in a manner that is consistent with other provisions contained in this Chapter. Any prohibition lasting more than 30 days must be ratified by the City Council. Signage shall be posted implementing the temporary prohibition. Areas closed under Section 6.36.040(a)(3) need not receive City Council ratification for a closure of greater than 30 days.

- **Amend Section 6.36.040(f)**

From:

The City shall maintain a website that includes this ordinance as well as maps and other information that clearly illustrate all locations within the City where camping and Outdoor Living, between the hours of 8:01 PM - 7:59 AM, is prohibited. Such information shall also be available upon request at the City Clerk's office.

To:

The City shall maintain a website that includes this ordinance as well as maps and other information that clearly illustrate all locations within the City where camping and Outdoor Living, between the hours of 7:00 a.m. and one hour before sunset, is

prohibited. Such information shall also be available upon request at the City Clerk's office. All outreach materials should be created and disseminated to remove all foreseeable barriers to access including lack of access to technology and Spanish translation. All information that is provided via the City's website shall also be available in Spanish and via hard-copy pamphlet for law enforcement and outreach personnel. "All outreach materials should be created and disseminated to remove all foreseeable barriers to access including lack of access to technology and Spanish translation. All information that is provided via the City's website shall also be available in Spanish and via hard-copy pamphlet for law enforcement and outreach personnel.

- **Amend Section 6.36.050(c) to include:**
These may be authorized on any public or private properties, in any zoning district, and in areas that would otherwise prohibit such uses.
- **Add Section 6.36.050(d)**
in a part or all of a City-owned parking lot, closed portion of a public right-of-way, on private property, or in an alternative space or area designated by the City Manager for safe sleeping. The City Manager, or his or her designee, shall establish a program for overnight use of no fewer than 150 safe sleeping spaces in such areas, subject to all criteria set forth in Section 6.36.060 being provided, except that hours of operation could begin as late as 8:00 p.m., and end as early as 7:00 a.m., but no later than 8:00 a.m.
- **Amend Section 6.36.060(c)**
From:
Under no circumstances, may persons create unpermitted electrical taps.
To:
Under no circumstances, may persons create unpermitted electrical connections or "taps."
- **Amend Section 6.36.060(e)**
From:
No open fires are allowed. This subsection prohibits fires (such as bonfires, recreational fires, or portable outdoor fireplaces) that are lit in any public open space. It shall be unlawful to deliberately or through negligence set fire to or cause the burning of combustible material in such a manner as to endanger the safety of persons or property. A violation of subsection is a misdemeanor.
To:
No open fires are allowed. This subsection prohibits fires (such as camp fires, bonfires, recreational fires, burning of garbage, or portable outdoor fireplaces) that are lit in any public open space or park, except for a fire lawfully created wholly within a designated fire pit or other permanent receptacle provided by the City in a public park or beach for the purpose of allowing fires in said location. In addition, it shall be unlawful to deliberately or through negligence set fire to or cause the burning of combustible material in such a manner as to endanger the safety of persons or property. A violation of subsection is a misdemeanor.

- Amend Section 6.36.060(f)

From:

Outdoor Living Encampments shall be maintained in a reasonably tidy fashion, free from litter, and free from any improperly discarded hypodermic needles surrounding the Outdoor Living Encampment.

To:

Outdoor Living Encampments shall be maintained in a reasonably safe, tidy, and healthy fashion, free from litter, debris, waste, discarded food products, discarded property, and garbage unless contained within an enclosed container, bag, or the like, and free from any improperly discarded hypodermic needles surrounding the Outdoor Living Encampment. All refuse and recyclables shall be contained within a bag, box, or similar vessel and shall be removed from the encampment by the occupant(s) on a regular basis. The encampment shall be cleared of all personal belongings, camp paraphernalia, and refuse by the occupant(s) at the end of the stay.

- Amend Section 6.36.060(g)

From:

Outdoor Living Encampments shall not occupy an area greater than 12 feet by 12 feet per person who is occupying the location. In the case of multiple encampment occupants, where only a fraction of the occupants are determined to have a Qualifying Disability, the allowable encampment area during the hours of 8:00 a.m. to 8:00 p.m. is determined by the number of occupants with a Qualifying Disability who are occupying the location and not the total number of occupants.

To:

Outdoor Living Encampments shall not occupy an area greater than 12 feet by 12 feet per person who is occupying the location. In the case of multiple encampment occupants, where only a fraction of the occupants are determined to have a Qualifying Disability, the allowable encampment area during the hours of 7:00 a.m. to one hour before sunset is determined by the number of occupants with a Qualifying Disability who are occupying the location and not the total number of occupants. In other words, individuals with a Qualifying Disability may be able to maintain their Outdoor Living Facilities and Encampment within their 12-foot by 12-foot area during the hours of 8:00 a.m. to 8:00 p.m., consistent with all other provisions in this Chapter, while others who do not have Qualifying Disabilities would not qualify for occupancy of an additional 12-foot by 12-foot area simply due to the presence of another person with a Qualifying Disability. However, if a person with a Qualifying Disability has a caregiver residing with them, both one caregiver & the individual with the Qualifying Disability would qualify for occupying a 12-foot by 12-foot area each.

- Amend Section 6.36.060(i)

From:

Outdoor Living Encampments may be located in closed areas of open spaces that are not otherwise prohibited by Section 6.36.030(b) above or that are not otherwise

expressly closed to outdoor living, so long as other criteria contained in this chapter are met. Closed areas of open spaces shall remain closed to access except during the 8:00 p.m. to 8:00 a.m. hours when Outdoor Living Encampments may be allowed, consistent with all other provisions herein.

To:

Outdoor Living Encampments may be located in closed areas of open spaces that are not otherwise prohibited by Section 6.36.030(b) above or that are not otherwise expressly closed to outdoor living, so long as other criteria contained in this chapter are met. Closed areas of open spaces shall remain closed to access except during the hours of one hour before sunset to 7:00 a.m. when Outdoor Living Encampments may be allowed, consistent with all other provisions herein.

- **Amend Section 6.36.070(a):**

From:

If a person has violated or is in violation of this Chapter (for example, by erecting or maintaining an Outdoor Living Encampment in an area where or during a time of day which Outdoor Living Encampments are prohibited under this Chapter), City staff shall consider giving the person a verbal or written warning before an infraction citation is issued. The warning, if given, shall provide the person with information about legal indoor shelter and/or permissible nighttime sleeping options. The warning shall be given in all instances where the City staff member holds a reasonable belief that a warning, by itself, would be effective in causing the person to come into compliance with this Chapter. City staff also may, but shall not be required, to transport the person to the available shelter or permissible sleeping location.

To:

If a person has violated or is in violation of this Chapter (for example, by erecting or maintaining an Outdoor Living Encampment in an area where or during a time of day which Outdoor Living Encampments are prohibited under this Chapter), City staff shall give the person a verbal or written warning before an infraction citation is issued. City staff shall ensure that outreach precedes or occurs simultaneously to enforcement of prohibited outdoor living to the greatest extent possible, for instance, when public safety/life safety is not under immediate/urgent threat. Outreach could take the form of City, County, NGO or faith-based staff contact with identified individuals on a complaint basis or within a structured proactive program. The warning shall provide the person with information about legal indoor shelter and/or permissible nighttime sleeping options. The warning shall be given in all instances where the City staff member holds a reasonable belief that a warning, by itself, would be effective in causing the person to come into compliance with this Chapter. City staff also may, but shall not be required, to transport the person to the available shelter or permissible sleeping location.

- Direct staff to develop and launch a safe sleeping program within 60 days of ordinance passage, and no later than June 30, 2021. Site selection criteria for safe sleeping programs shall be developed in concert with CACH recommendations.

- Direct staff to explore how to partner with the County and expand social worker to support in connecting individuals with resources and identify what shelter capacity is available.
- Direct staff to return to Council in 9-months with data following the adoption of this ordinance. Provide additional sheltering and intervention resources to ensure a balanced approach to the City's homelessness response.
- Direct staff to evaluate the City's investment in the HOPES Team, Downtown Streets Team, and Downtown Outreach Worker programs to ensure City-centric outcomes for those requiring mental health interventions, particularly in the Downtown Business District. City funding for FY 2021/2022 should be tied to specific positive outcomes for the City of Santa Cruz and provide an enhanced level of behavioral health intervention for individuals requiring frequent contacts Downtown.
- Direct staff to pursue a navigation center program, in collaboration with the County of Santa Cruz, to ensure the highest level "housing first" model is available in North County, and return to Council with an update.
- Direct the City's 2X2 members to continue to work with County 2X2 members and staff to evaluate and implement a stepped sheltering/housing approach within the County's Continuum of Care to include:
 - a. Diversion first: access to Homeward Bound, behavioral health interventions, access to outreach and case management, job programming, etc.
 - b. Longer-term transitional shelter to ensure housing paths are created and wrap around service/case management programming is available to those not able to/disinterested in accessing traditional sheltering modalities.
- Request that staff report back to Council no later than April, 2021 with an update to Council on recommended approach and fiscal impact.
- 2X2 members shall report back to Council no later than May, 2021 with an update to Council on recommended approach and fiscal impact.