

ORDINANCE NO. 2021-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ AMENDING CHAPTER 6.36, CURRENTLY ENTITLED “CAMPING” AND HEREAFTER ENTITLED “REGULATIONS FOR TEMPORARY OUTDOOR LIVING” OF THE SANTA CRUZ MUNICIPAL CODE

WHEREAS, the City of Santa Cruz is currently experiencing a large number of encampments in public spaces. With a sheltered population of only about 65,000 and an unsheltered population likely exceeding 1,200, Santa Cruz has one of the highest per-capita populations of homeless individuals in the State of California and the United States.

WHEREAS, the City’s experience is that large, unsanctioned encampments are almost always associated with a host of major health and safety impacts, including: open and obvious drug use and related crimes, serious fire safety concerns, major impacts related to human and animal waste and accumulation of trash, vandalism, and related nuisance conditions. When longer term encampments within the City are vacated, it is common for City staff to observe extreme environmental degradation, and the City typically removes hypodermic needles, human and animal waste, and substantial amounts of trash and debris.

WHEREAS, when encampments remain for long periods, the costs of supporting hygiene services, refuse management, hypodermic needle disposal, increased calls for service, and property repair are substantial. Moreover, the environmental degradation caused by long term encampments is often substantial, and sometimes is irreparable.

WHEREAS, longer term encampments have the effect of essentially privatizing property that is intended for public use, as the greater community is no longer able to use public spaces that are used for round-the-clock encampments.

WHEREAS, during the COVID-19 pandemic, shelter capacity has significantly expanded within City limits. The City and County have partnered together to add shelter capacity within the City at the Veterans’ Hall, the Golflands, the Pavilion, and four motels within the City. Despite this expanded shelter capacity, hundreds of individuals remain unsheltered within the City limits.

WHEREAS, unlike some larger cities within the state, the City of Santa Cruz generally does not receive significant funding from the state or federal government to provide housing, health, or other services to persons experiencing homelessness. Instead, the County of Santa Cruz serves as the conduit for various funds, some of which are allocated through the countywide Homeless Action Partnership. The City collaboratively partners with the County to address homelessness both through and outside of the Homeless Action Partnership, the County’s Continuum of Care.

The City is aware of the County’s position that funding received by the County is insufficient to address all homeless needs in the County.

Attachment 1: Ordinance for adoption consideration at March 9, 2021 Council meeting.

WHEREAS, California Welf. & Inst. Code § 17000 provides that *counties* “shall relieve and support all incompetent, poor, indigent persons, and those incapacitated by age, disease, or accident, lawfully resident therein, when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions.”

WHEREAS, on top of the City’s general lack of funding for homeless services, due to the COVID-19 pandemic, for the 2020-2021 fiscal year, the City had a substantial budget shortfall that was addressed with several cost-cutting measures. The measures included layoffs, furloughing staff for the entire fiscal year, eliminating or freezing vacant positions, using reserves, and delaying several capital projects. The City also anticipates another significant deficit next fiscal year.

WHEREAS, the City has recently approved affordable and supportive housing projects which, if built, would add approximately 400 affordable units, approximately 180 of which will be supportive housing units, to the City’s inventory, and some affordable units are currently under construction. However, these types of projects take years of work before they are occupied by residents, and even after the units are constructed, they will not add adequate housing capacity to shelter even the current number of unsheltered individuals in the City.

WHEREAS, at this time, the City has neither the funds, the real estate, the legal mandate, nor the substance abuse/psychiatric expertise necessary to house the City’s unsheltered population, let alone all of the individuals who could reasonably be expected to move to Santa Cruz, if the City were to provide those services.

WHEREAS, the City must appropriately consider competing interests and formulate policy to best protect public health, safety, welfare, property, and the environment, with limited resources.

WHEREAS, the City Council acknowledges the lack of nightly shelter beds currently available regionally and recognizes the systemic lack of state and federal investment in shelter and public health services for those experiencing homelessness.

WHEREAS, the City Council acknowledges that it is currently unavoidable that some people will live in outdoor conditions until they are able to access affordable or free shelter or housing.

WHEREAS, it is the purpose and intent of the City Council to provide standards for outdoor living which are intended to be as compatible as possible with the protection and preservation of health, safety, and welfare of the inhabitants of the City of Santa Cruz.

WHEREAS, it is the purpose and intent of the City Council to provide standards for outdoor living which will address issues such as fire risk, unsanitary conditions, public safety hazards, environmental degradation, and round-the-clock privatization of public property that have been associated with longer-term encampments in the City.

WHEREAS, the City Council has evaluated the environmental effects of this ordinance and finds the adoption of the ordinance to be exempt under Sections 15307 and 15308 of the

Guidelines for the Implementation of the California Environmental Quality Act and under Section 15061(b)(3) of the California Code of Regulations.

WHEREAS, the City Council calls on the County, the State, and the Federal Government to expand shelter-capacity and very low income long-term housing options regionally, statewide, and nationally, and also to provide street outreach, case management, diversion, housing problem-solving, mental health support, and drug rehabilitation services to adequately address and solve homelessness.

WHEREAS, the City Council believes that outdoor living should be done in a way that is temporary, respectful of neighbors and the environment, and not conducted in a way that creates a sustained privatization of public spaces.

BE IT ORDAINED By the City of Santa Cruz as follows:

Section 1. Chapter 6.36 “CAMPING” of the Santa Cruz Municipal Code is hereby amended to read as follows:

**“Chapter 6.36
REGULATIONS FOR TEMPORARY OUTDOOR LIVING**

6.36.010 PURPOSE AND INTENT.

The purpose and intent of this Chapter is to provide standards for outdoor living which: (i) are intended to be as compatible as possible with the protection and preservation of health, safety, and welfare of the inhabitants of the City of Santa Cruz, including homeless individuals; and (ii) will address issues such as fire risk, unsanitary conditions, public safety hazards, environmental degradation, and round-the-clock privatization of public property that have been associated with longer-term encampments in the City.

6.36.020 DEFINITIONS.

When used in this chapter, the following words and phrases have the following meanings:

“Camping” or “Outdoor Living” means to place, pitch or occupy camp facilities; to live temporarily in a camp facility or outdoors; to use camp paraphernalia.

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

“Outdoor Living Paraphernalia” includes, but is not limited to, bedrolls, tarpaulins, cots, beds, sleeping bags, hammocks or cooking facilities and similar equipment.

“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.

“Personal Effects” means personal property consisting of the following items.

1. ID/Social Security cards
2. Medications, medical devices, eyeglasses
3. Photos/Photo Albums
4. Tax/medical records
5. Reasonably usable, not overly soiled, non-verminous items that are reasonably believed to have value to persons experiencing homelessness, including tents, sleeping bags, and functional bicycles (although bicycle parts shall not be considered Personal Effects).

6.36.030 PRIVATE PROPERTY.

(a) Private property. It is unlawful for any person to, on private property, erect, configure, construct, maintain, or store an Outdoor Living Encampment, or to use a vehicle for Outdoor Living, except as expressly authorized below:

- (1) In the yard of a residence with the consent of the owner or occupant of the residence, where the camping is in the rear yard, or in an area of a side yard or front yard that is separated from view from the street by a fence, hedge or other obstruction; or
- (2) Inside of a licensed and registered motor vehicle in the parking lot on the site of a religious institution with the written consent of such institution, where the driver/occupant of such vehicle is in possession of a valid driver’s license, provided that no more than six vehicles shall be permitted at any one location; or
- (3) Inside of a licensed and registered motor vehicle in the parking lot on the site of a business institution in a non-residential district with the written consent of both the business institution and property owner, where the driver/occupant of such vehicle is in possession of a valid driver’s license, provided that no more than three vehicles shall be permitted at any one location;
- (4) Inside a licensed and registered vehicle in a residential off-street driveway with the written consent of the owner and occupant of the residence, where the driver/occupant of such vehicle is in possession of a valid driver’s license, provided that no more than one vehicle shall be permitted at any one location. No particular location shall be used for Camping under this provision for more than three days during any one calendar month.

(b) 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.

6.36.040 AT RISK AREAS AND DAYTIME ENCAMPMENTS

(a) At risk areas. It is unlawful and a public nuisance for any person to place erect, configure, construct, maintain, or store an Outdoor Living Encampment, as follows:

(1) On those portions of a right-of-way that are required by local, state, or federal law to be free of obstruction for first responders, including but not limited to members of law-enforcement, fire agencies, or emergency-medical-services agencies.

(2) In a manner that blocks or impedes access to City-owned or leased equipment or buildings, or impedes City staff from performance of inspection, maintenance, or repairs of City-owned property.

(3) In any area or configuration that constitutes a reasonably foreseeable danger to occupants, first responders, or to one or more identified special-status species. This includes in any wildland or wildland-urban interface area identified as needing to be vacated during periods of elevated fire risk, as determined by the Fire Chief or Fire Marshall, in areas identified as needing to be vacated during periods of elevated flood risk, as determined by the Public Works Director, and areas identified as needing to prohibit camping for the protection of special-status species.

(4) In those areas that are on the interior portion of the San Lorenzo River, on the inward, river side of any bike or pedestrian path.

(5) Within the boundaries of areas identified on the Water Department Director's Source Water Protection Zone map, which shall be approved by Council resolution and be publicized on the City's website.

(6) In any location that is currently deemed closed by the city, including but not limited to areas closed due to prior nuisance conditions resulting in abatement, as set out in subsection 6.36.040(e) below.

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

(8) Within all City-owned beaches, and within all City-owned areas in the OF-R Ocean Front Recreational Zoning District, City-owned areas in the C-B Beach Commercial Zoning District, and in the Beach Street public right of way.

(9) Within 75 linear feet from either side of a designated trail in open spaces as identified in the Parks Master Plan, except no outdoor living is allowed in Neary Lagoon, Jessie Street Marsh, or Arroyo Seco Canyon.

(10) Within the Downtown Area, which for purposes of this Chapter, is the area contained in the following perimeter: all properties within the boundary of the City's Downtown Plan, as amended, except that areas east of the western San Lorenzo River levee are not included; the block bounded by Center, Church, Chestnut, and Locust Streets is included; and the Civic Auditorium property is included.

(11) On public property in residential R-1, R-L, R-M, R-H, R-S zoning districts.

(12) Unless explicitly authorized by the City by way of a sanctioned "safe sleeping," "managed encampment" or similar program, within any City-owned or operated parking lot, including planter areas within City-owned or operated parking lots.

(b)

(1) 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).

(2) 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).

(3) The City shall sponsor or arrange for the sponsorship of an unsheltered persons' storage program within the City of Santa Cruz, which shall provide unsheltered persons with a reasonable quantity of daytime storage for Personal Effects and/or survival items, such as tents, sleeping bags, tarps, and blankets. Authorized storage programs shall be required to provide transportation assistance to individuals who request it. The prohibitions above in Subsections 6.36.040 (b)(1) and (2) shall not be enforced unless and until the above-described unsheltered persons storage program is operational and reasonably available to unsheltered persons in the City of Santa Cruz. The City Manager is hereby authorized to administratively establish and to administratively authorize operation of such storage facility or facilities within any zoning district within the City.

(4) 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.

- A. A persons with a Qualifying Disability that is not apparent to City staff may be asked to present a physician’s verification of the Qualifying Disability.
 - 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.
 - C. 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.
 - D. 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.
 - E. 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.
- (5) 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..
- (c) The City shall not enforce the prohibitions Subsection 6.36.040 (b)(1) and/or 6.36.040(a)(8) in San Lorenzo Park and/or the Benchlands unless and until the injunction has been lifted in the matter of *Santa Cruz Homeless Union et at v. City of Santa Cruz et al*, Case 5:20-cv-09425-SVK.
- (d) The City shall not enforce the prohibition above in Subsection 6.36.040 (b)(1) unless and until unsheltered persons in the City of Santa Cruz have reasonably available access to a free COVID-19 vaccine.
- (e) 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.

(f) 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.

6.36.050 CAMPING / OUTDOOR LIVING PERMITTED.

Camping / Outdoor Living is permitted in the City of Santa Cruz under the following circumstances:

(a) in public areas that the City has specifically set aside, allowed by this Chapter, or clearly marked for public camping purposes, if conducted in a manner consistent with other provisions of this Chapter;

(b) at events authorized and permitted by the Santa Cruz City Parks and Recreation Department. Generally, under this subsection, no person or group may camp in a city park under authority of this subsection for more than three nights in any twelve months. However, where the camping activity is taking place in conjunction with an authorized and permitted restoration or conservation project being performed by campers at or near the campsite, the Director of Parks and recreation may permit an individual or group to camp in one of the afore-referenced city parks for a period of time in excess of that prescribed above. Additionally, no permit shall be required for security guards who camp in city parks incident to a lawful event. For fair and consistent application of this section, the director of Parks and Recreation may promulgate guidelines defining the criteria for permit issuance contained in this section.

Under this subsection, the Director of Parks and Recreation may issue a permit authorizing persons or groups to Camp in the improved areas of Harvey West Park, the improved area known as lower De Laveaga Park adjacent to Branciforte Drive, and San Lorenzo Park benchlands upon finding that the applicant has met the city's requirements for:

Attachment 1: Ordinance for adoption consideration at March 9, 2021 Council meeting.

- (1) Parking and traffic control;
- (2) Toilet and other sanitary facilities;
- (3) Security;
- (4) Liability insurance;
- (5) Garbage collection and cleanup;
- (6) Security and cleanup deposits;
- (7) Such other public health, safety and general welfare matters as may be raised by the camping application; and
- (8) Environmental compliance according to the California Environmental Quality Act (CEQA) and the city's CEQA Guidelines.

(c) at events or in a manner that is authorized by the City Council or City Manager, such as temporary safe sleeping sites and/or temporary encampments, which may be managed by the City, the County, or by an approved non-profit. These may be authorized on any public or private properties, in any zoning district, and in areas that would otherwise prohibit such uses.

(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 no fewer than 150 spaces in such areas, subject to all criteria set forth in Section 6.36.060 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.

6.36.060 ADDITIONAL CRITERIA FOR OUTDOOR LIVING ENCAMPMENTS ON PUBLIC AND PRIVATE PROPERTY

Outdoor Living Encampments in areas not otherwise prohibited by this Chapter must meet the following criteria:

(a) Outdoor living encampments shall not impede emergency ingress/egress routes on public sidewalks or rights-of-way, such as driveways providing access to emergency vehicles.

(b) Under no circumstances, may persons dump gray water (i.e., waste water from baths, sinks, washing machines, and other kitchen appliances) or black water (i.e., sewage water) onto sidewalks, streets, parks, open spaces, storm drains, or any other facilities not intended for gray water or black water disposal. In addition to any other penalties or fines available to address this conduct, gray water and black water dumping shall also be considered infraction under this chapter.

(c) Under no circumstances, may persons create unpermitted electrical connections or "taps."

(d) Public property shall not be used as storage for extra car tires, an inordinate number of bike parts, gasoline, generators, household furniture, extra propane tanks, or unreasonable combustible materials, including an unreasonable amount of combustible waste.

(e) 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.

(f) 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.

(g) 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 7:00 a.m. and one hour before sunset, 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 and the individual with the Qualifying Disability would qualify for occupying a 12-foot by 12-foot area each.”

(h) Outdoor Living Encampments shall not cause direct damage to the environment through activities such as excavating or terracing soil, harming trees, cutting vegetation, or disturbing wildlife dens, burrow, or nests.

(i) 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.

6.36.070 PENALTIES FOR VIOLATION.

(a) 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.

(b) Unless a different penalty is explicitly noted elsewhere in this Chapter, if a person violates this Chapter, then that person is guilty of an infraction. The City's fine for the infraction shall not exceed \$20. If acceptable to the court, in lieu of a fine, the City encourages the court to allow infractions under this Chapter to be satisfied with a reasonable amount of community service.

(c) Unless a different penalty is explicitly noted elsewhere in this Chapter, if, after receiving an infraction citation, a person who is in violation of this Chapter fails or refuses to come into reasonably prompt compliance with this Chapter (for example by failing to take reasonably prompt action to remove an Outdoor Living Encampment that is not permitted under this Chapter), then that person is guilty of a misdemeanor.

(d) Additionally, any person who violates any section in this Chapter and receives an infraction citation for such violation, and who, between 1-30 days from receiving such infraction citation, again violates this Chapter or is still violating this Chapter, is guilty of a misdemeanor.

(e) If a misdemeanor arrest is permitted under this Chapter, the arresting officer shall be permitted to seize and store items within an Outdoor Living Encampment if necessary to prevent items from being stolen and/or if deemed necessary to prevent the immediate re-establishment of an Outdoor Living Encampment that is violative of this Chapter. Unless the property is contraband or evidence of a Penal Code crime, persons who have been arrested and have had property seized pursuant this subsection may recover their property at the Santa Cruz Police Department, anytime within 90 days after that property is seized.

6.36.080 PROPERTY REMOVAL AND STORAGE.

(a) The establishment of an Outdoor Living Encampment that is contrary to this chapter is declared to be a public nuisance, and appropriate City staff is authorized and empowered to remove any such outdoor Living Encampment after providing reasonable notice.

(b) What length of time is reasonable will depend on the size of the Outdoor Living Encampment, the presence of any urgent circumstances (including, but not limited to, increased fire risk, obstructing or interfering with the flow of pedestrian or vehicular traffic, and blocking access to a

parking lot of a building), whether individual(s) are present to receive notification, and the abilities of the person who maintains the outdoor living encampment, if known to the City. Unless a seizure of property and arrest occur related to a misdemeanor violation (as described in subsection 6.36.070(e) above), or unless urgent circumstances exist, at least 24-hours written notice shall be given before the City removes property found to be in violation of this Chapter.

(c) Personal property that poses an imminent threat to public health or safety, is contraband, is evidence of a Penal Code crime, is obstructing or interfering with the flow of pedestrian or vehicular traffic, is removed pursuant to Section 6.36.070(e), and/or is blocking access to a parking lot or a building shall not be subject to the above described notice requirements and may be promptly removed by appropriate City staff and stored or destroyed, in accordance with the law and generally accepted law enforcement procedures. In other circumstances, unless this Chapter provides otherwise, City staff shall make a good faith attempt to identify and remove Personal Effects, and if Personal Effects are identified, City staff shall cause a Notice of the Personal Effects to be posted, as provided in subsection (f) below. Personal Effects shall be stored, as provided below.

(d) When urgent circumstances or circumstances described in Section 6.36.070(e) do not exist, prior to removing an Outdoor Living Encampment found to be in violation of this Chapter, a written notice with the following content shall be provided:

1. The date and time of written notice,
2. The location of the notice,
3. A direction that:

“PERSONS IN THIS AREA MUST VACATE AND REMOVE ALL BELONGINGS ON OR BEFORE: [insert reasonable date and time to vacate]

THE CITY WILL CLEAN THIS SITE ON OR AFTER THE TIME AND DATE SPECIFIED ABOVE.

UNACCOMPANIED ITEMS ARE SUBJECT TO REMOVAL AND MAY BE DISCARDED OR DESTROYED.

4. A phone number and a physical address for property related inquiries.
5. A phone number for other questions or concerns.

(e) If items remain at an Outdoor Living Encampment site after the relevant notice period has expired, prior to discarding items, appropriate City staff shall make a good faith attempt to identify and remove Personal Effects from the outdoor living encampment. Any Personal Effects identified by City personnel shall not be discarded.

(f) At the time of removal of any Personal Effects from an Outdoor Living Encampment, City personnel shall conspicuously post a dated notice (either at the exact location from which the Personal Effects were removed or at another nearby location) with the following information.

1. A statement that Personal Effects were removed;
2. A telephone number for information on retrieving Personal Effects;
3. An address where the Personal Effects are temporarily stored;

4. That Personal Effects will be stored for 90 days.

The posting of notice required under this section shall not apply if removal property is conducted pursuant to Section 6.36.070(e) and the arresting officer has reasonable reason to believe that all items belong to the individual(s) being arrested. In such cases, the individual(s) being arrested shall be provided with written notification of the where their items are being stored and how to retrieve them at a later date.

(g) Following removal of any Personal Effects, City personnel shall place the removed Personal Effects in containers labeled in a manner facilitating identification by City personnel and owner and which reasonably protect such property from damage or theft.

(h) Personal Effects stored by the City which are claimed within ninety (90) days from removal shall be released to the person claiming ownership providing they identify the property and the approximate location where the property was left.

(i) Personal Effects that remain unclaimed after 90 days may be discarded, recycled, dedicated for public use, or given to a nonprofit agency for charitable use.

(j) In situations where the City provides for more than one week written notice to vacate at an Outdoor Living Encampment reasonably believed to be inhabited, the City shall have no obligation to attempt to identify, remove, and/or store Personal Effects. If unattended items remain at an Outdoor Living Encampment site after a notice period of one week or greater, the City may simply discard, recycle, or donate items that remain, as they are most likely abandoned.

(k) In situations where the City has reasonable, good faith reason to believe that an Outdoor Living Encampment has been abandoned and is not occupied, the City may promptly remove any items that reasonably appear to be trash/garbage. For items that do not reasonably appear to be trash or garbage, the City may post a written "Notice of Apparently Abandoned Property" which notifies potentially interested parties that the City believes the site to be abandoned and will discard unclaimed items in no fewer than 72 hours. Under this scenario, the City shall have no obligation to attempt to identify, remove, and/or store Personal Effects. If unattended items remain at an apparently abandoned site after a notice period of 72 hours or greater, the City may simply discard, recycle, or donate items that remain, as they are most likely abandoned.

(l) Regardless of the city's authority to remove an Encampment pursuant to this section, every owner, occupant, or lessee of private property, and every holder of any interest in private property, is required to maintain the property in compliance with local, state, and federal law; and is liable for violations thereof.

(m) The cost of Outdoor Living Encampment removal on property not owned by the City, including all administrative costs of any action taken hereunder, may be assessed against the subject premises as a lien, made a personal obligation of the owner, or both, in accordance with procedures in Title 4 of the Santa Cruz Municipal Code.

(n) It shall be a misdemeanor to willfully prevent, delay, resist, obstruct, or otherwise interfere with a city official, employee, contractor, or volunteer in their execution of property and/or Outdoor Living Encampment removal pursuant to this section.

6.36.090 INTERPRETATION OF CHAPTER.

(a) If any subsection, sentence, clause, or phrase of this chapter is for any reason held to be 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 adopted this section, and each and every subsection, sentence, clause, and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

(b) Nothing in this ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

(c) In enacting and implementing this ordinance, the City is assuming an undertaking to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

Section 2. This ordinance shall take effect and be in force thirty (30) days after final adoption.

PASSED FOR PUBLICATION this 23rd day of February, 2021, by the following vote:

AYES: Councilmembers Watkins, Kalantari-Johnson, Golder; Vice Mayor Brunner; Mayor Meyers

NOES: Councilmembers Brown, Cummings.

ABSENT: None.

DISQUALIFIED: None.

APPROVED: _____
Donna Meyers, Mayor

ATTEST: _____
Bonnie Bush, City Clerk Administrator

Attachment 1: Ordinance for adoption consideration at March 9, 2021 Council meeting.

PASSED FOR FINAL ADOPTION this ___ day of _____, 2021 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Donna Meyers, Mayor

ATTEST: _____
Bonnie Bush, City Clerk Administrator

This is to certify that the above
and foregoing document is the
original of Ordinance No. 2021-_____
and that it has been published or
posted in accordance with the
Charter of the City of Santa Cruz.

City Clerk Administrator