

ORDINANCE NO. 2024-15

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ ADDING CHAPTER 9.91, THE PROHIBITION OF GOVERNMENT-SPONSORED UNSANCTIONED TRANSPORT OF HOMELESS PERSONS ORDINANCE, TO THE SANTA CRUZ MUNICIPAL CODE

WHEREAS, the City's Homelessness Response Strategic Plan prioritizes affordable housing, outreach, engagement, offers for shelter, and connecting individuals with essential services.

WHEREAS, these priorities do not come without significant investment, but, so far, the results of these investments have been dramatic. The 2023 annual Point-In-Time (PIT) count reflected a 29% decline in the number of people experiencing homelessness in the City. The 2024 PIT count reflected another 36% decrease in homelessness in the City. There is much more work to do, but the progress thus far is encouraging.

WHEREAS, an incident occurred in late June of 2024 that, if allowed to be repeated, puts the City's continued progress in this area at significant risk. On June 27th, 2024, two City of Hanford police officers transported and dropped-off a disabled unhoused person, with a truck full of the person's possessions, from the City of Hanford to the Armory homeless shelter's parking lot, without receiving any authorization to do so from the City of Santa Cruz or the shelter's then-operator, the Salvation Army.

WHEREAS, there is reason to believe that the City of Hanford and other jurisdictions may engage in this type of conduct again. Governor Gavin Newsom's recent Executive Order N-1-24 directed removal of homeless encampments on state properties, and encouraged cities and counties to do the same, without at the same time requiring offers for shelter or housing. Similarly, the US Supreme Court, in *City of Grants Pass v. Johnson*, recently held that the enforcement of generally applicable laws regulating camping on public property does not constitute "cruel and unusual punishment" prohibited by the Eighth Amendment, even in the absence of an offer of shelter.

WHEREAS, the City's Homelessness Response Strategic Plan directs the City to provide shelter and services for homeless people in the City. However, the City does not have the resources available to provide shelter and services to any homeless person who happens to be dropped off in the City by employees of another jurisdiction. Incidents like the one discussed above prevent all cities and counties from responsibly addressing homelessness. If cities and counties can simply drop a homeless person off in another jurisdiction, no jurisdiction will be incentivized to provide shelter, deeply affordable housing, and the outreach services that are critical to actually solving homelessness.

WHEREAS, the Council finds it to be flagrantly inappropriate that the Hanford Police Department transported a homeless individual to the City of Santa Cruz without a confirmed safety plan or support system. But for the compassionate response of the Armory Shelter staff, Hanford

PD would have cruelly left a disabled homeless person to fend for themselves in a community they were completely unfamiliar with.

WHEREAS, the Council finds that it is of the utmost importance that law be enacted to squarely address this issue and prevent similar events from occurring again in the City of Santa Cruz.

WHEREAS, this Ordinance is intended to: (1) help preserve the City’s limited homelessness-related resources (including shelter and outreach) for the benefit of individuals residing in the City of Santa Cruz, (2) encourage the appropriate government agencies to provide shelter, care, outreach, and other homelessness-related resources to the persons experiencing homelessness within their jurisdictions, rather than simply just transporting these individuals to the City of Santa Cruz, and (3) prevent government agencies from engaging, in the City of Santa Cruz, in cruel and inhumane treatment of unhoused individuals.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Santa Cruz as follows:

SECTION 1. Chapter 9.91 of the Santa Cruz Municipal Code is added as follows:

**“Chapter 9.91
Prohibition of Government-Sponsored Unsanctioned Transport
of Homeless Persons Ordinance**

9.91.010 – Purpose and Intent of Chapter

This chapter shall be known as the Prohibition of Government-Sponsored Unsanctioned Transport of Homeless Persons Ordinance. The purposes of this chapter are to: (1) help preserve the City’s limited homelessness-related resources (including shelter and outreach) for the benefit of individuals residing in the City of Santa Cruz, (2) encourage the appropriate government agencies to provide shelter, care, outreach, and other homelessness-related resources to the persons experiencing homelessness within their jurisdictions, rather than simply just transporting these individuals to the City of Santa Cruz, and (3) prevent government agencies from engaging, in the City of Santa Cruz, in cruel and inhumane treatment of unhoused individuals.

9.91.020 - Prohibition of Government-Sponsored Unsanctioned Transport of Homeless Persons

- (a) No law enforcement officer, agent, or employee of a county, of another city, or of any other governmental entity, when acting in their official capacity, shall transport and drop-off an individual on public property, or private property that is accessible to the public, within the City of Santa Cruz, when the person being transported and dropped-off lacks a fixed, regular, and adequate nighttime residence.
- (b) A person “lacks a fixed, regular, and adequate nighttime residence” within the meaning of subdivision (a) above when that person:

- (1) Has a primary nighttime residence that is a public or private place not meant for habitation; or
 - (2) Lives in a publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, and local government programs); or
 - (3) Is exiting an institution where they have resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.
- (c) The prohibition contained in subdivision (a) above shall not be interpreted to prohibit the following authorized activities:
- (1) Transporting a person to be booked into a County Jail or admitted to a County-designated custody alternative facility (e.g., a County-designated sobering center); or
 - (2) Transporting a person to be treated at a hospital or other medical facility; or
 - (3) Transporting a person to reside at a shelter, temporary housing, or permanent housing, when the officer, agent, or employee has independently verified that the individual being transported has already been accepted to reside at the facility; or
 - (4) Transporting a person to attend a verified appointment with a governmental or non-profit social service provider; or
 - (5) Transporting a person to attend a verified hearing at the Santa Cruz County Superior Court; or
 - (6) Any transportation or drop-off activities undertaken by the City of Santa Cruz within the City of Santa Cruz; or
 - (7) The operations of a governmental provider of public transportation, such as the Santa Cruz Metropolitan Transit District.”

9.91.030 – Penalty

A violation of Section 9.91.020(a) is a misdemeanor.”

SECTION 2. CEQA Determination. The Council finds that this ordinance is not a “project” under CEQA. “Project” is defined by CEQA as:

“an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following:

- (a) An activity directly undertaken by any public agency.
- (b) An activity undertaken by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.
- (c) An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.”(Pub. Resources Code, § 21065.)

This ordinance is not a “project” under CEQA because no direct or indirect physical change to the environment is anticipated by way of this ordinance, nor does the ordinance represent the type of activity described in subdivisions (a) through (c) above.

Furthermore, even assuming for the sake of argument that this ordinance was interpreted to be a “project” under CEQA, the Class 21 categorical exemption would be applicable. The exemption applies to “[l]aw enforcement activities by peace officers acting under any law that provides a criminal sanction.” (14 CCR § 15321(b).) Here, this ordinance creates a misdemeanor offense. Therefore, the enforcement of the ordinances falls under the Class 21 categorical exemption for enforcement actions by regulatory agencies.

Additionally, this ordinance is exempt under the “commonsense” exemption to CEQA. (14 CCR § 15061(b)(3).) The commonsense exemption applies “[w]here it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” (14 CCR § 15061(b)(3).) No significant physical change to the environment is anticipated by way of this ordinance.

SECTION 3. Health in All Policies (HiAP): HiAP is a collaborative approach to improving the health of all people by incorporating health considerations into decision-making across sectors and policy areas. HiAP is based on 3 pillars: equity, public health, and sustainability. The goal of HiAP is to ensure that all decision-makers are informed about the health, equity, and sustainability impacts of various policy options during the policy development process. This ordinance supports public health and equity principles by protecting the health and welfare of people experiencing homelessness, by prohibiting governmental entities from dropping homeless individuals off in the City of Santa Cruz without a confirmed safety plan or support system, and by prohibiting government agencies from engaging in cruel and inhumane treatment of unhoused individuals.

SECTION 4. This ordinance shall take effect and be in force thirty (30) days after final adoption.

ORDINANCE NO. 2024-15

PASSED FOR PUBLICATION this 10th day of September, 2024, by the following vote:

AYES: Councilmembers Newsome, Brown, Watkins, Brunner, Kalantari-Johnson;
Vice Mayor Golder; Mayor Keeley.

NOES: None.

ABSENT: None.

DISQUALIFIED: None.

APPROVED: _____
Fred Keeley, Mayor

ATTEST: _____
Bonnie Bush, City Clerk Administrator

PASSED FOR FINAL ADOPTION this 24th day of September 2024, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Fred Keeley, Mayor

ATTEST: _____
Bonnie Bush, City Clerk Administrator

This is to certify that the above and foregoing document is the original of Ordinance No. 2024-15 and that it has been published or posted in accordance with the Charter of the City of Santa Cruz.

Bonnie Bush, City Clerk Administrator