

## End the Santa Cruz Sleeping Ban

In this tourist town, there is a de facto strategy to push the visible homeless population out of town, or further underground. The business community is less cagey about their hatred of the homeless.

An open letter to the Santa Cruz City Council regarding the sleeping ban

by Wes Modes

Dear Mayor, Vice-Mayor, and Esteemed City Council Members:

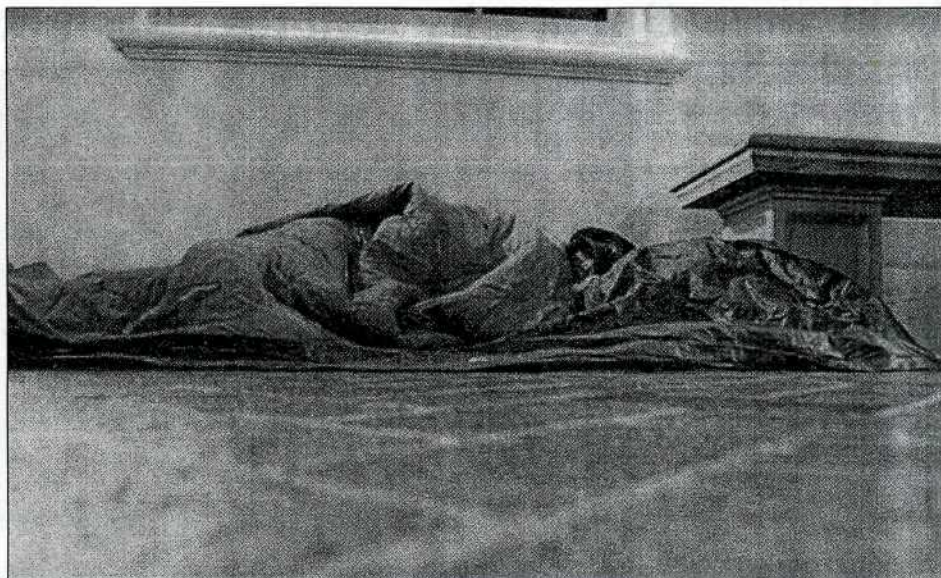
For the most part, I don't have any illusions that you will respond positively to either urgent pleas or well-reasoned arguments from mere citizens who are unconnected to business interests in this town. At best that's the impression I've received after a long string of fights in which city council has consistently sided with moneyed interests over grassroots efforts. Struggles that come to mind: police spying, downtown public plaza, hotel development, minimum-wage increase, boardwalk expansion, and of course, the downtown ordinances and the sleeping ban.

However, in my own Quixotic way, I keep trying to reach you. Perhaps, this request will resolve the open question of whether you indeed represent the people or only the institution of city government.

Please immediately end the sleeping ban.

The Jones v. City of Los Angeles decision in the Ninth Circuit Court of Appeals ruled that criminalization of homelessness amounted to cruel and unusual punishment. In the words of the judge writing the majority decision: "The Eighth Amendment prohibits the City from punishing involuntary sitting, lying, or sleeping on public sidewalks that is an unavoidable consequence of being human and homeless without shelter in the City of Los Angeles."

Clearly, in a town that can nightly house a mere fraction of the homeless population, the decision applies to Santa Cruz as well. Each night that the sleeping



A homeless man sleeps on a tarp at the sleep-out held at the Santa Cruz City Hall from August 12-18, 2007. The sleep-out was held to protest the sleeping ban which treats the human need to sleep as a criminal act.

Bradley photo

**Like something out of a dystopian sci-fi movie, the message is loud and clear: if you are not part of the system, you are a criminal. In this sleepy little liberal town, sleeping outside is a crime. And anyone who falls off of the treadmill of earn-and-spend (by accident or choice) might well find themselves in jail.**

ban remains, the city makes itself vulnerable to a class action lawsuit.

It seems obvious that in this tourist town that there is in place a de facto strategy to either push the visible homeless population out of town, or further underground. The business community is less cagey about their hatred of the homeless.

When it comes to national issues, the Santa Cruz City Council has always been impressively proactive and progressive. War, environment, corruption, whatever the debate, as long as it doesn't affect local business, the city council is on the humane and compassionate side of the issue. But when it comes to local issues, the city council has made downright regressive policy.

Like something out of a dystopian sci-fi movie, the message is loud and clear, if you are not part of the system, you are a criminal. In this sleepy little liberal town, sleeping outside is a crime. And anyone who falls off of the treadmill of earn-and-spend (by accident or choice) — anyone

who can't afford five, six, seven hundred dollar rents in Santa Cruz — might well find themselves in jail.

But the city government and your moneyed constituency are going to have to wake up to the economic realities of living in 21st century America. The gap between the richest and the poorest in this society continues to grow and the number of poor people continues to increase. Even here in Santa Cruz. Very soon, there will be nowhere left to push the undesirables and eventually they will begin to push back.

Beyond just an issue of boring old poverty (yes, we should do something about that, shouldn't we?), there is a fundamental issue at stake: the basic freedom to exist on this planet outside of the system.

Sincerely,  
Wes Modes

### Santa Cruz Sleeping Ban

The Santa Cruz sleeping ban, MC 6.36.010a, makes it illegal to sleep outside or in a vehicle between the hours of 11 p.m. and 8:30 a.m.

MC 6.36.010b, known as the blanket ban, makes it illegal to set up any bedding, even just having a blanket, between 11 p.m. and 8:30 a.m.

MC 6.36.010c, the camping ban, states that setting up any sleeping or cooking equipment with the intent to remain in that location overnight, is against the law.

People in violation of these laws face \$95 tickets. Although the tickets may be dismissed in court, rangers and police regularly destroy or confiscate items belonging to homeless people, wake them up while sleeping, harass them and drag them through a revolving-door court system.

## Santa Cruz Sleep-Out

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City's long-term purpose seems thinly disguised: to discourage homeless and poor people from being in Santa Cruz at all, and to allow deficiencies only to those willing to spend money. Meanwhile, the Jones decision says you can't arrest for sleeping or keeping warm with a blanket in a situation where inadequate shelter exists."

Shelter is often unavailable in Santa Cruz. The police had nowhere in the city to send folks camped at City Hall where they would be allowed to sleep legally. Some officers spoke frankly about this fact. Yet, city officials gave the orders to disband the homeless sleep-out, and the police carried out the orders.

Norse said he was phoned around 3:00 a.m. on August 18 and got down to City Hall by 3:30, when the first wave of police had come through, checking IDs, issuing warnings, and dispersing the less-committed homeless sleepers or those with jobs later that day.

"The officers did not disagree when

longtime homeless people told them the information they were giving was largely false and unhelpful," Norse said. "They also did not look terribly happy doing what they did."

Norse was quick to illustrate the contradiction between the peaceful, problem-solving gathering, and the suddenly faceless police officers doing their jobs.

Another camper told me that police threatened to confiscate and destroy property instead of holding it — which is required by laws both old and recent. This is also a constitutional issue; it was important to the founding fathers, after years living under the guns of King George and corporate mercenaries.

Attorneys David Beauvais and Kate Wells are preparing a lawsuit. Our community is still thousands of dollars short of the amount needed to pay court fees, expert testimony, depositions, and such, but people are beginning to awaken. Organizers hope the initial phase of a lawsuit can be filed in the next two months.

Homes for the Homeless and the sleep protest created a surge in this lawsuit's plaintiff list, from 28 people before

August 12, to over 40 by August 18.

Before the bust, everyone at the vigil helped each other. Crow, a Rainbow Family veteran, drummer and carpenter extraordinaire, provided his own vehicle and a makeshift toilet initially.

Then, on the following nights, Donna Deiss and Shane Maxfield opened their RV home's bathroom for nighttime use. Donna, a longtime tenant rights organizer, is now homeless herself after helping many people keep their homes; Shane is a great techie with a long history of helping poor people. The fact that they even needed to help organize toilets for this event becomes more poignant in light of the City's unwillingness to permit the nearby public bathroom to be open and supervised at night during the protests, despite the Human Rights Organization's advance efforts to arrange it.

Santa Cruz Mayor Emily Reilly and Vice Mayor Ryan Coonerty missed out on an opportunity to move local homeless politics into the 21st century. They did not offer emergency shelter for those homeless people who sought refuge at the City Hall sleep-out; nor did they call off the

police, who were told to issue \$97 sleeping ban tickets.

A more positive response on the part of city officials could have averted great amounts of hateful name-calling by ignorant individuals. Or perhaps the politicians could have done the simple, humane thing of allowing homeless folks for once to shelter themselves as best they can.

No one representing the City of Santa Cruz was willing to meet with protesters during the week they were gathered outside City Hall. Protesters devised their own group sanitation, which proved to be cost-effective and user-friendly, and organized their own community and sleeping arrangements. Is this why the August 2007 overnight demonstration, the first in years, had to go?

Homeless United for Friendship and Freedom (HUFF) meets Wednesdays from 9:30 a.m. to 11:30 a.m. in the breezeway between the County Building and the Courthouse, north corner, (831) 423-4833. To help overturn the City's sleeping ban in court, make checks out to CD Inc. Mail to: Housing Now! in Santa Cruz, PO Box 1735, Santa Cruz, CA 95061. [www.humanrightsorg.org](http://www.humanrightsorg.org)