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SANTA CRUZ COUNTY
Civil Grand Jury

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Code Compliance Division – Out of Compliance

It's not easy, but it shouldn't be impossible

Summary

The Code Compliance Division of the Santa Cruz County Planning Department is responsible for investigating homeowners and businesses including those operating short-term rentals who may not be following applicable county codes. In response to a citizen complaint about potential conflict of interest and overreach by the department, this investigation found that the Code Compliance Division, while earnest and well meaning in carrying out their mission, was extremely short staffed, had an enormous backlog of cases, and lacked basic professional organizational procedures, practices, and policies. Because of these issues the employees are unable to carry out their work in a timely and consistent manner and are less accountable for their work. This causes mistrust from the public, inconsistencies in their work, and an inability to analyze and identify areas for improvement. It is the position of the Grand Jury that the department should run transparently, productively and efficiently.

This report highlights the areas where the department is especially lacking: documentation, procedures and policies, employee training and education, and quality assurance. In addition, the report identifies problematic issues of the Planning Department as a whole that impact the Code Compliance Division's performance.

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Background

The Santa Cruz County Civil Grand Jury received a complaint from a citizen concerning a possible conflict of interest issue and overreach by a Code Compliance Investigator (CCI) from the Planning Department. In the course of investigating this complaint the Jury found a number of issues that were problematic.

The Code Compliance Division (CCD) is responsible for the investigation and enforcement of situations involving building, environmental, and zoning violations, including work without permits, as well as enforcing regulations of the vacation and hosted rental ordinances. In addition, the division offers staff and administrative support for Neglected Property and Dangerous Building/Site Abatement Programs. The division also works closely with the Cannabis Licensing Office where illegal cultivation or manufacturing includes violations of building or zoning regulations in addition to violations of the cannabis ordinance.^[1] The department currently is staffed by four Code Compliance Investigators (CCI) and one Technical Assistant (Tech), and is managed by a supervisor who currently oversees two divisions.^[2]

These departments generally operate in response to citizen complaints of alleged code violations or from referrals from other public agencies, but at times investigations are initiated by department staff for issues such as unpermitted construction underway, situations of life-safety hazards, or severe nuisance activities. Cases are investigated and if appropriate, administrative citations and warning and/or violation notices are issued. Double fees are sometimes assigned to permits resulting from "Stop Work" and code compliance cases. These actions may be followed by additional legal sanctions, such as recordation, fines, or civil penalties. The overall objective of the code enforcement process is to motivate the property owner to discontinue the illegal use or activity and/or to obtain the required permits.^[1]

In 2021, in an effort to improve customer service, streamline project management, and achieve county goals in attainable housing, reliable transportation, and sustainable environment, the Santa Cruz County Board of Supervisors (BOS) directed the the departments of Public Works and Planning to integrate into a single department named the Community Development and Infrastructure Department Management.^{[3] [4]} The Code Compliance Division of the Planning Department is housed within this new framework.

A perception that Code Compliance Investigators overstep their authority led this Grand Jury to conduct an investigation into the Code Enforcement Division.^[5] The objective of this investigation was to determine if the problems were pervasive, if there were systemic issues that might be exacerbating the perception, and if there were solutions that could mitigate the issues.^{[6] [7]}

Scope and Methodology

The Jury interviewed managers, supervisors, and staff from the County Planning Department Code Compliance Division, resident clients involved with the Planning Department, and land use consultants who assist resident clients and developers in their interactions with the Planning Department. In addition the Jury interviewed a member of the Santa Cruz County Board of Supervisors.

The Grand Jury sought answers to the following questions:

- What are the county policies on investigations, how they are conducted, when they are needed, and how they engage with residents?
- Does the department perform background research to understand an issue, review previous permits, and validate a complaint before they respond?
- Does the department have effective data management so they can locate previous approvals and complaints to inform their responses?
- How does the department track, monitor, and respond to complaints about inspections?
- Who provides quality control? What are the quality control standards?
- Do residents have an opportunity to question inspections and receive a timely response?
- How does the department handle potential conflicts of interest and monitor and enforce the policy?
- Are staff adequately trained on appropriate inspections and their jurisdiction?
- Does the staff acknowledge their errors and adjust their interactions with residents accordingly? What are the policies and procedures for identifying errors?
- What is the department's standardization of process? Are answers to clients' questions from staff consistent?
- What is the scope of public complaints against the Planning Department, and how are they tracked?
- Is there Board of Supervisors oversight of the Planning Department?

The Grand Jury investigation began with a review of a document entitled "Responses to Public Comments Received at Winter 2010/2011 Community Forums and Focus Groups."^[8] From November 2010 to February 2011, the Planning Department conducted several community forums and focus groups throughout the unincorporated area in order to provide an overview of the functions and services provided by the department; and to obtain public comments and input about any aspect of those services.

Additional Planning Department documents reviewed included:

- Policies and procedures regarding conflicts of interest.
- Policies and procedures regarding complaints and disputed decisions.
- Policies and procedures manual for the Code Compliance Division.
- Policies and procedures manual for the Planning Department.
- Code Compliance records of in-house training specific to job requirements and interactions with residents/clients.
- Organizational chart of the overall Planning Department.
- Records of complaints and resolutions for the past two years.
- "Applicants Bill of Rights."
- List of backlogged cases.
- Evaluation Performance Reviews.
- Personnel log of CCI education classes taken.

INVESTIGATION

Policies and Procedures

A properly written and maintained policies and procedures manual provides ease of access, cost effectiveness, responsiveness, and accountability.^[9] Policies and procedures are needed for a variety of purposes, including but not limited to, compliance with regulations, internal controls, operating requirements, risk management, and ongoing efficiencies.^[10] Effective policies and procedures are living documents that must grow and adapt with an organization. While the core elements may stay the same, the details should change according to industry standards, organizational needs, or legal requirements.^[11] This investigation found that the CCD and Planning Department do not have updated policies and procedures.

During review of policies and procedures manuals for the Planning Department and the CCD, the Jury found the documents to be largely undated, long out of date, or with no identifiable update history. In addition, there are policies in place that are not followed. Some examples of this include:

1. Phone calls and messages from the public are not returned within one business day.^{[12] [13] [14] [15]}
2. A county resident reported to the Jury that they were directed by a Code Compliance Investigator to contact the County Assessor's Office to report unpaid taxes on a hot tub, which is contrary to policy.^[16]
3. Names of cardiopulmonary resuscitation (CPR) qualified staff members from 1995 who are no longer employed in the Department are listed in the policies and procedures manual.^[17]
4. A vaguely worded policy regarding conflicts of interest did not address personal relationship conflicts.^{[18] [19]} Management and staff indicated that they were not aware of a policy regarding conflict of interest in the manuals, and stated, "the issue is handled with common sense".^{[20] [21]}
5. There are no written policies or procedures for managing complaints from the public concerning the conduct of CCIs.^[22]
6. The Planning Department policies and procedures manual states that the manual is to be revised semiannually on the first Tuesday after April 30 and October 30.^[23] This is not being done and documented.
7. While the CCD has a rough outline for conducting investigations and an established flow chart in the three ring binder that serves as their policies and procedures manual (see Figure 1), the outline was last updated in 2010, the flow chart is undated, and there are no timelines specified for completing the work.^{[24] [25]}

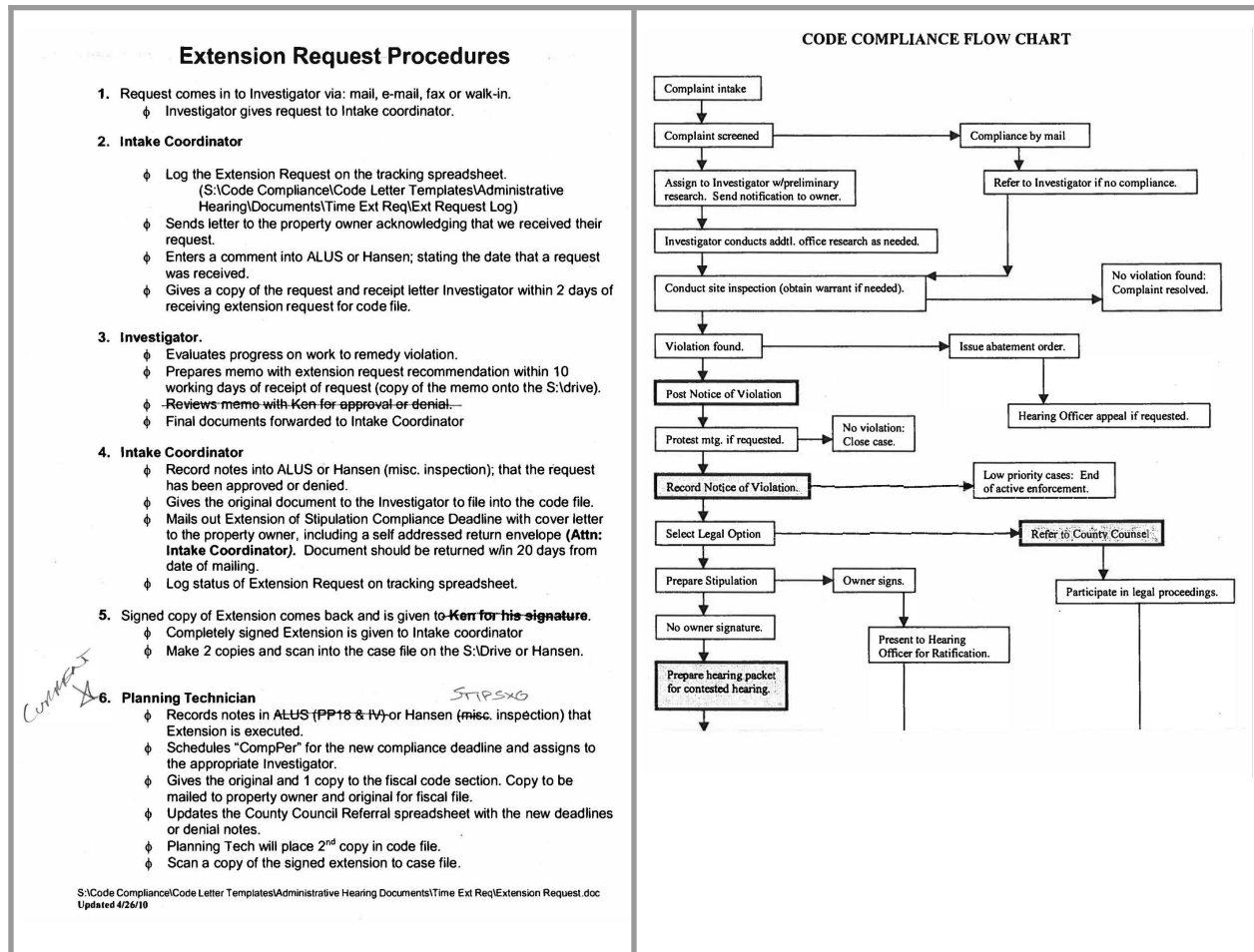


Figure 1. Pages 2 and 16 from the CCD Policy & Procedure Binder. [24] [25]

Record Keeping and Documentation

Multiple interviewees reported that it is unclear whether information shared with a resident at the desk is logged. Clients from the public can get different answers to their questions depending on which staff member they speak with. [26] [27] [28] In addition, residents and consultants report that unless they request something in writing, conversations with staff at the counter or on the phone have no value. [27] This leads to “answer shopping,” misunderstandings, time delays, and added cost. [26] [29] An example of this is that one resident reported that they were told by a Planning Department staff member at the front desk that they did not need a permit for a fence they planned to build. They were later cited and fined for failure to get a permit. However, there was no record of the conversation so neither side had any evidence of what the conversation actually contained. [29]

Within the CCD, this investigation discovered that there is no requirement for CCI’s to maintain a contact log for their interactions with the public. Each CCI maintains their own system of tracking calls and messages. [30]

Staffing Down, Caseload Up

Staffing levels are problematic throughout the Santa Cruz County Government agencies. Overall Santa Cruz County staffing is down approximately 20 to 30 percent, or 500 employees in the past 10 years.^[31] In the CCD, the staffing is down by 50 percent over the past 10 years.^[32] The population served by the CCD is approximately 130,000.^[33] Staff workload is impacted by the size of the population served. There are currently only four Code Compliance Investigators.

Interviewees reported that a lack of staffing is partly responsible for a backlog of unresolved cases.^[34] There is a backlog of over 1,500 unresolved red tags that date back to 1980.^{[35] [36]} The Grand Jury acknowledges that there are various and complex reasons for the backlog of cases, some of which are out of control of the CCIs. CCIs have an average of 75 to 80 active cases at this time. Phone calls from the public are often not returned within one business day, which is Planning Department policy.^{[37] [38]} This seems to be the result of staff not having sufficient time due to their heavy workload. Interviewees reported that with the inability to fully staff, each CCI is doing the work of two to three people.^[39]

Unfilled positions are also impacting the work of the CCD. For example, the department requires the support of a Tech. The former Tech has been promoted to a CCI position but cannot perform those duties until the Tech position is filled.^[40] In addition, the team is currently unofficially supervised by a fellow CCI.^[41] The department intends to officially promote him to supervisor pending a reclassification of the position, a long process.^[42]

The addition of proactive investigations of the Short-Term Rental Program to the CCD caseload was ordered by the BOS in 2022. This took CCI's away from their regular investigations for several months.^{[34] [43] [44]} Fortunately, the BOS authorized a new CCI position in March 2023 specifically for short term rental compliance which, once filled, should allow CCIs to focus on their regular investigations.^[45]

Insufficient staffing levels prevent CCI's from being able to close old cases^[46]. An unfilled fiscal staff position and the current CCD staffing matrix does not account for time needed to clear backlogged cases.^{[32] [47]} With over 1,500 open cases, it would take one to two extra staff to resolve this backlog in a two year time frame.^[48] These old open cases represent properties that are not compliant in some manner. They could represent fire danger, health hazards, environmental hazards, misuse of property, property that might be used in a higher and better manner, and of course, uncollected civil penalties.

Staff Training & Development

Staff development and training is not mandatory in the CCD. A state organization, California Association Of Code Enforcement Officers (CACEO), provides a certification program and an annual seminar for code compliance investigators. Currently, all CCI's are CACEO certified, but the CCD does not require certification to do the job. Interviewees reported that initial training is mostly on-the-job.^[49] In addition, there is no requirement for ongoing staff development of CCIs, and no documentation of employee staff development is maintained in staff files.^[50] Moreover, the CCD does not currently conduct regular staff meetings, which would be a useful means of training and information sharing among investigators.^[51]

Dearth of Performance Improvement & Quality Assurance

In 2023, the County adopted the Performance Measurement Initiative as part of the SCC Strategic Plan, which aims to guide county departments to be more accountable to the public through the use of data transparency, an important part of building trust with the community.^[52] And yet no apparent procedures or policies for quality assurance or performance improvement appear in the Planning Department and CCD policies and procedure manuals.^{[53] [54]} Interviewees were not aware of a published CCD customer service policy or philosophy, nor a documented procedure for handling complaints about the CCD. One interviewee reported that there is a customer service survey, but it has not been utilized for quite awhile.^[55] In spite of reports from interviewees of dissatisfaction with the CCI's, only one formal complaint about the department was documented regarding the CCD for 2022.^[22] When asked if there was an internal system for tracking complaints about the CCD, the Grand Jury was told that those complaints were referred to the department manager who handled each of them individually.^{[56] [57]}

Collection of data concerning training and residents feedback could provide management with information for performance improvement. Because the CCD caseload is large, the department could also benefit from improvements to time management for which there is no system of collecting data.^[53]

Before the Board of Supervisors required the Code Compliance team to proactively investigate short-term rentals, it wasn't being done.^[58] Upon completion of the mandated investigation the CCD found that 25 percent of the short-term rentals in operation were un-permitted.^[59] If the CCD had processes for evaluating their own caseloads for trends and rising issues, they would be able to proactively address new problems.

Culture

Culture may be defined as "the set of shared attitudes, values, goals, and practices that characterize an institution or organization." An organization's culture represents its public image and reputation. People make assumptions about an organization based on their interactions within and outside of the organization.^[60]

The CCD shares the organizational culture of the Planning Department. For years, the culture has been noted for the slowness of the permitting process, for inconsistent

interpretation of code, and for its limited accessibility to the public.^{[8] [28]} This investigation found that it is difficult to get access to planners even for consultants who have considerable history working with the Planning Department.^{[61] [62]} Interviewees report general discontent with inconsistent interpretations of code, increased fees, and poor customer service.^{[8] [63] [64]} Currently, the general information desk is only open to the public from 8 am to 12 pm, Monday through Thursday, and all appointments must be scheduled between 8 am and 11:30 am Monday through Thursday.^[65] A current state dashboard reveals that long timeframes for permit processing continue up to the present. This status was confirmed by interviewees and prior Grand Juries.^{[66] [67] [68]}

The Board of Supervisors directed the Planning Department to adopt an Applicants Rights Resolution (see Appendix A) in 1978 and revisited it in 2012. The resolution established policies to aggressively reform permit processing to make the process clearer and easier to understand. Although it was well intentioned, it has not had the desired result. In response to years of resident complaints about the “mountains of red tape,”^[69] the department in 2022 created the Unified Permit Center. The intended focus is on customer service, pre-application clearances, and real-time plan checking. Interviewees have not yet noticed improved access or consistent interpretation of codes.^{[3] [70]} The effect of these issues is continued reluctance of the public to go through the permitting process creating a greater caseload for the CCD.

Conclusion

By enforcing violations of building and environmental codes, the CCD bears an important role in the health and safety of our county. This investigation found that the CCD employees work hard to carry out their mission in a professional manner. Unfortunately, the division suffers from chronic understaffing, inadequate management, and a lack of basic organizational practices and procedures. This report highlights the areas where it is especially lacking—documentation, procedures and policies, employee training and education, and quality assurance. Because the division is resolving violations of planning and building codes, they work within the larger culture of the Planning Department that is noted for its slowness, inaccessibility to the public, and inconsistent implementation, which makes the CCD’s work even more challenging. As a result, the CCD has a huge backlog of unresolved violations, and public confidence in both the CCD and the Planning Department is low.

This Grand Jury recommends that the CCD division quickly increase staffing and improve processes to enable it to resolve the backlog of cases that represent potential community safety and environmental hazards, lost revenue, and county liability. In addition, the CCD needs to urgently overhaul its organizational procedures and practices to improve consistency and to increase transparency and accountability. Moreover, the Grand Jury recommends that the Planning Department increase its accessibility to the public and document all interactions with the public.

Findings

- F1.** Understaffing over a long period of time in the Code Compliance Department means that Code Compliance Investigators are unable to complete cases in a timely manner, causing a huge backlog of cases some of which are up to 40 years old.
- F2.** The Code Compliance Department and the Planning Department do not routinely revise and update their departmental procedures and policies, which leads to lack of accountability to the public and inconsistent implementation and interpretation of findings in investigations.
- F3.** The Code Compliance Department of the Planning Department does not have quality assurance systems in place to evaluate their own performance and effectiveness, which contributes to lack of accountability and lack of credibility and public confidence.
- F4.** At the present time the Planning Department has limited access for the public. It is frustrating to the public to be unable to readily communicate with the staff required to assist in dealings with building, planning, and code compliance matters.
- F5.** There is a persistent public perception of inconsistent interpretation of code. The building and other various codes are complex and difficult to understand. When misinformation is communicated and portions of projects must be redone, it leads to time and money loss as well as frustration.
- F6.** The Conflict of Interest policy does not include conflicts regarding family, friends, or prior relationships of a personal nature. This omission, and the optics in some situations, lead to misunderstanding and mistrust between the public and the Code Compliance Department as well as increasing the risk of liability to the County.
- F7.** The Planning Department is by its nature supposed to be a customer-focused department, yet it operates in ways that discourage communications, undermining the public's trust in the department.

Recommendations

- R1.** The Planning Department should fill vacant code compliance positions by the end of the calendar year 2023. (F1)
- R2.** The Personnel Department should reclassify the job description and requirements for the Code Compliance Supervisor to allow the de-facto supervisor to become the department supervisor by the end of this calendar year 2023. (F1)
- R3.** The Planning Department should, by the end of 2023, determine what steps and staff are needed to close out the backlog of code compliance cases within a two year time frame. (Consider including the County Auditing Department to assist with this process.) (F1)

- R4.** The policies and procedures manuals for the Planning Department and Code Compliance Department should be completely reviewed, updated as prescribed in the policy and procedures manual, and digitized. Each section should be dated, and all future revisions should include date markings for any changes. This process should be completed by the end of 2023. (F2)
- R5.** The Code Compliance Department should create a log system that ensures that all Planning Department and Code Compliance desk interactions, phone calls, emails, text messages, complaints, and any other interactions with the public are entered into a searchable database by the end of 2023. (F3)
- R6.** Data regarding public complaints about Code Compliance Investigators actions should be discussed at staff meetings. Data collected by the log system should be reviewed by Code Compliance Department management no less than quarterly. This should be instituted by October 1, 2023. (F3)
- R7.** The Code Compliance Department should institute monthly staff meetings by October 1, 2023. Meetings should include relevant educational materials, data regarding monthly activity, new challenges such as policy changes, and resolution of or issues regarding active complaints about the department. (F2)
- R8.** The Code Compliance Department should formalize training and staff development requirements of Code Compliance Investigators through CACEO, use staff meetings to encourage cross training and continuing education, document staff development in employee files, and formalize it in the employee evaluation protocol by October 1, 2023. (F2)
- R9.** The Planning Department should increase the hours that are open to the public and enforce their 24 hour policy of returning phone calls from the public by the end of 2023 (F4)
- R10.** The Code Compliance Department should add recommended time frames for the Flow Chart described in the policy and procedure manual by the end of 2023. (F4)
- R11.** Conflict of Interest policy should be rewritten to include relationships of a personal nature by the end of 2023. Use the counties of Mendocino and San Bernardino policies as a reference. (F6)
- R12.** The Board of Supervisors and Community Development and Infrastructure Department Management should focus on the organizational culture within the planning department and refocus the culture in a way that fosters public trust. (F7)

Required Responses

<i>Respondent</i>	<i>Findings</i>	<i>Recommendations</i>	<i>Respond Within/ Respond By</i>
Santa Cruz County Board of Supervisors	F1 – F7	R1 – R12	90 Days September 21, 2023

Invited Responses

<i>Respondent</i>	<i>Findings</i>	<i>Recommendations</i>	<i>Respond Within/ Respond By</i>
Santa Cruz County Principal Planner	F1 – F7	R1 – R12	90 Days September 21, 2023
Santa Cruz County Director of Community Development and Infrastructure	F1 – F7	R1 – R12	90 Days September 21, 2023
Santa Cruz County Assistant Planning Director, Policy, Housing & Code Compliance	F1 – F7	R1 – R12	90 Days September 21, 2023
Santa Cruz County Code Compliance Investigator IV	F1 – F7	R1 – R12	90 Days September 21, 2023

Definitions

- BOS: Board of Supervisors
- CC: Code Compliance
- CACEO: California Association Of Code Enforcement Officers
- CCD: Code Compliance Division
- CCI: Code Compliance Investigator
- P&P: Policy and Procedure

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Appendix A – Applicant’s Rights^[71]



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

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Applicant’s Rights

Resolution Establishing County Policies for Permit Processing

WHEREAS, the people of the County of Santa Cruz Adopted by vote in 1978, a comprehensive growth management and environmental protection system; and

WHEREAS, the Board of Supervisors has implemented such a growth management system through a variety of ordinances, regulations, and policies; and

WHEREAS, the concepts of growth management and environmental protection continue to be critically important for and broadly supported by our community; and

WHEREAS, it is equally important that the permit processing system which, in part, implements growth management and environmental protection policies, be as broadly supported as the policies themselves; and

WHEREAS, the Board of Supervisors has undertaken an aggressive program of reforming the permit processing system of the Santa Cruz County Planning Department; and

WHEREAS, the permit processing reform effort has resulted in measurable improvements in the system; and

WHEREAS, more progress needs to be made concerning permit processing reform, and the Board of Supervisors is taking actions to achieve such progress; and

WHEREAS, an essential element of a meaningful permit processing reform effort is for the County to provide clear and helpful information to applicants for permits; and

WHEREAS, it is in the best interests of the people of the County of Santa Cruz to now set forth policies for the processing of permit applications by the County of Santa Cruz in a manner which will have the effect of upholding all of the policies of growth management and environmental protection, while, at the same time establishing a reliable set of permit processing guidelines;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Santa Cruz that the following policies are hereby adopted for the processing of permit applications by the County of Santa Cruz:

C:\Users\ISD261\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\2W2BRJ07\Applicant's Rights 11-01-12.docx

1. An applicant is to be provided with complete information concerning the process which will be followed regarding the application, including specific steps in the process and estimated time frames for each step;
2. An applicant is to receive at the earliest possible time all of the elements required by the County of Santa Cruz which would constitute a complete application;
3. An applicant is to be provided with clear and specific criteria which will be used by the County of Santa Cruz in making decisions pertaining to the application;
4. An applicant is to be provided with information concerning any and all appeals processes available concerning decisions made by the County of Santa Cruz which relate to the application;
5. An applicant is to be entitled to request and be provided with a "single point of contact" for processing the application;
6. An applicant is to be provided, at the earliest possible time, with notice regarding any delays in processing the application beyond the time frames established by the County of Santa Cruz for processing the permit.

Permit Streamlining Act

The Permit Streamlining Act (PSA) is a state law that the legislature enacted in 1977. To review the PSA click here: (Gov Code Sec. 65920 et seq.)
http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml

For more details, you may search the "California Home" page for information on government permit processes at:
http://www.ceres.ca.gov/planning/pub_notice/part2.html

Activity/Accessibility Announcement

The County of Santa Cruz Planning Department does not discriminate on the basis of a disability, and no person shall, by reason of a disability, be denied the benefits of its services, programs or activities. The Planning Department is located in an accessible facility. If you wish to participate in any Planning program or activity, or wish to receive any Planning service, and you require special assistance, please contact us at least 72 hours in advance in order to make arrangements: **Phone # 831-454-3137 (TTY phone # 831-454-2123 or 831-763-8123 from Watsonville).**

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