

## Title 1 GENERAL PROVISIONS

### Chapter 1.04 GENERAL PROVISIONS

#### **1.04.030 Interpretation--Legislative intent.**

The board recognizes and approves the preferred place given in our scheme of government to the democratic freedoms and liberties secured by the United States Constitution and the California Constitution, and that these liberties and freedoms have a sanctity and sanction not permitting dubious intrusions. The board has a zealous solicitude for rights falling within these constitutional guarantees. It is neither the express nor the implied intent of the board to permit or allow any officials to exercise any discretionary power granted to them by this code so as to directly or indirectly impose a censorship or previous restraint upon these liberties and freedoms. (Prior code § 1.04.012: Ord. 1532, 7/21/70)

#### **1.04.040 Interpretation--Property rights.**

It is not the intent of the board of supervisors by the enactment of the Santa Cruz County Code to take private property for public use without payment of just compensation, in violation of either the United States or California Constitutions. No provision of this code shall be construed as being broad enough to permit any direct or indirect taking of private property for public use in violation of the intent expressed herein. (Prior code § 1.04.014: Ord. 1828, 2/6/73)

#### **1.04.050 Interpretation--Administrative acts--Constitutional property rights.**

It is not the intent of the board of supervisors in its administrative capacity to condone or permit the violation of the constitutional rights of any person, nor to condone or permit the taking of private property for public use without payment of just compensation in violation of either the United States or California Constitutions. (Prior code § 1.04.015: Ord. 1828, 2/6/73)

#### **1.04.060 Interpretation--Severability.**

If any section, sentence, clause, phrase or portion of this code is for any reason held to be invalid or unconstitutional by the decision of any court, such decision shall not affect the validity of the remaining portions of the code. The board of supervisors would have

adopted this code and each section, sentence, clause or phrase and portion thereof, irrespective of the fact that any one or more sections, sentences, clauses, phrases or portions be invalid or unconstitutional. (Prior code § 1.04.013: Ord. 1532, 7/21/70)

#### **1.04.070 Interpretation--Declaratory of existing law.**

The board has found and declared that Sections 1.04.010 through 1.04.080 of the Santa Cruz County Code were intended to restate and clarify existing law in order to thereby facilitate and promote uniform administration of the county's business. The intent of the board in enacting said sections was only to restate, codify and clarify existing law. (Prior code § 1.04.017: Ord. 2316, 7/13/76)

#### **1.04.080 Particular applications--Intent--Validity--Time limitations.**

A. Applicability. The provisions of this chapter and this section apply to, but shall not be limited to, decisions and actions taken by the county pursuant to the Santa Cruz County Code; the California Coastal Act of 1976 (Sections 30000, et seq., Public Resources Code); the California Environmental Quality Act of 1970 (Sections 21000 et seq., Public Resources Code); State EIR Guidelines (Title 14, California Administrative Code, Sections 15000 et seq.); the Federal Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.); the State Planning and Zoning Law (Sections 65000 et seq., Government Code); the Subdivision Map Act (Sections 66410 et seq., Government Code); and any other mandated or permitted action taken which relates to planning, zoning approvals, permits, or other entitlements for use of property, or limitations or restrictions affecting the use of property pursuant to laws heretofore or hereafter enacted.

B. Definitions. For the purposes of this Chapter:

1. "Adjudicatory decision" does not include actions or proceedings by or through courts of competent jurisdiction.
2. "Decision," "determination," "action taken" and "action taken pursuant to this code" mean and shall include administrative, adjudicatory, legislative, discretionary, executive and ministerial decisions, determinations, proceedings or other actions taken or authorized by the county, or any commission, board, officer or agent thereof, or any of the proceedings, determinations or action taken, done or made prior to such decision or action.

C. Intent.

1. In the absence of a duly adopted resolution of necessity for eminent domain proceedings pursuant to the California Constitution and statutes implementing same, no intent to take or damage property for public use shall be implied by reason of any past or future action taken pursuant to this code.

2. It is not and never has been the intention of the board of supervisors to impose or authorize limitations or restrictions on the use of any property which would have the effect of either taking or damaging such property or which would otherwise entitle the owner thereof to damages or compensation under the United States Constitution, any statutes or judicial decisions.

3. If any action taken pursuant to this code is subsequently found by any court to entitle the owner of the affected property to damages or other compensation for such action, the board hereby declares that such action was taken, authorized, or permitted under a mistake of law and contrary to the intent expressed herein.

D. Void Actions. To the extent that any action taken pursuant to this code is found by final decision of a court of competent jurisdiction to have the effect of taking or damaging property affected by such action, or to otherwise entitle the owner thereof to compensation, the action shall be null and void and of no effect in accordance with the intention and policy stated in subsection C of this section.

E. Time Limitation for Commencement of Court Proceeding.

1. Except as otherwise provided in Section 1.04.170 hereof, Sections 65860 and 66499.37 of the Government Code, and Sections 21167 and 30801 of the Public Resources Code, any legally permitted court action or proceeding to attack, review, set aside, void, annul or seek damages or compensation for any county decision or action taken pursuant to this code, as defined in subsection B of this section, shall not be maintained by any person unless such action or proceeding is commenced and service of summons affected **within ninety days** after the date of such decision or action taken. Thereafter all persons are barred from commencing or prosecuting any such action or proceeding or asserting any defense of invalidity or unreasonableness of such decision, proceedings, determinations, or actions taken.

2. The provisions of this subsection shall not expand the scope of judicial review and shall prevail over any conflicting provision in any otherwise applicable law relating to the subject matter. (Prior code § 1.04.016: Ord. 2316, 7/13/76; Ord. 2362, 11/30/76)

#### **1.04.100 Reference to acts or omissions.**

County ordinances shall refer only to the omission or commission of acts within unincorporated areas of the county of Santa Cruz, and to such territory under the supervision and control of the board of supervisors of the county, by virtue of the Constitution or any law, or by reason of ownership or control of property. (Prior code § 1.04.030: Ord. 597, 11/26/59)

#### **1.04.110 Reference applies to amendments.**

Whenever a reference is made to any county ordinance or portion thereof, such reference applies to all amendments and additions thereto, now or hereafter. (Prior code § 1.04.070: Ord. 597, 11/26/59)

### **1.04.120 Acts by deputies.**

Whenever a power is granted to or a duty imposed upon a public officer or employee, the power may be exercised or the duty may be performed by a deputy of such officer or employee, or by a person otherwise duly authorized, pursuant to law or ordinance, unless the provisions of the applicable ordinance prescribe otherwise. (Prior code § 1.04.050: Ord. 597, 11/26/59)

### **1.04.130 Prohibited acts include causing, permitting or suffering.**

Whenever, by the terms of any county ordinance, any act or omission is made unlawful, it shall include causing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission. (Prior code § 1.04.040: Ord. 597, 11/26/59)

### **1.04.140 Definitions and interpretation of terms.**

- A. "Across" includes along, in or upon.
- B. "Board" means the board of supervisors of the county of Santa Cruz.
- C. "County" means the county of Santa Cruz.
- D. "Ex officio" means by virtue of office.
- E. Gender. The masculine gender includes the feminine and neuter.
- F. "Goods" means and includes wares and merchandise.
- G. "May" is permissive.
- H. "Oath" includes affirmation.
- I. "Operate" or "engage in" means and includes carry on, keep, conduct, maintain, or cause to be kept or maintained.
- J. "Owner," as applied to a building or land, means and includes any part owner, joint owner, tenant in common, or joint tenant of the whole or part of such building or land.
- K. "Person," unless it otherwise appears from the context as used, means and includes any person, firm, association, corporation, organization, partnership, business trust, company, public agency, school district, the state of California, and its political subdivisions or instrumentalities.
- L. "Sale" means and includes any sale, exchange, barter, or offer for sale.
- M. "Shall" is mandatory except where it is used to direct a county or other public officer or employee to perform certain acts, in which case it is directory only.
- N. Singular and Plural. The singular number includes the plural, and the plural the singular.
- O. "State" means the state of California.
- P. "Street" means and includes all streets, highways, public roads, county roads, avenues, lanes, alleys, courts, places, squares, curbs, sidewalks, parkways, or other

public ways in the county which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

Q. "Tenant" or "occupant," as applied to a building or land, means and shall include any person who occupies the whole or part of such building or land, whether alone or with others.

R. Tense. The present tense includes the past and future tense, and the future, the present.

S. Titles of Officers and Departments. The use of the title of any officer, employee, office, commission, department or board shall mean such officer, employee, office, commission, department or board of the county of Santa Cruz.

T. "Writing" means and includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required or authorized by any county ordinance, it shall be made in writing in the English language unless it is expressly provided otherwise. (Prior code §§ 1.04.060 and 1.04.100: Ord. 597, 11/26/59; Ord. 2483, 9/13/77; Ord. 2506, 11/22/77; Ord. 2685, 5/22/79)

#### **1.04.150 Service of notice.**

Whenever a notice is required to be given under the provisions of any county ordinance, unless different provisions therein are otherwise specifically made, such notice may be given either by personal delivery thereof to the person to be notified or by deposit in the United States Mail, in a sealed envelope, postage prepaid, addressed to each person to be notified, at his last known business or residence address as the same appears in the public records or other records pertaining to the matter to which such notice is directed. Service by mail shall be deemed to have been completed at the time of deposit in the United States post office, or a mail box sub-post office, substation or mail chute, or other collection facility regularly maintained by the Government of the United States. (Prior code § 1.04.080: Ord. 597, 11/26/59; Ord. 2139, 6/10/75)

#### **1.04.160 Proof of service of notice.**

Proof of giving any notice may be made by the certificate of any officer or employee of the county or by affidavit of any person over the age of eighteen years, which shows service in conformity with this chapter, or other provisions of law applicable to the subject matter concerned. (Prior code § 1.04.090: Ord. 597, 11/26/59)

#### **1.04.170 Time limitation for judicial review of county decision-- Writ of mandate.**

(CCP Sections 1094.5, 1094.6.)

A. The provisions of Code of Civil Procedure Section 1094.6 shall be applicable with regard to proceedings to obtain judicial review of county decisions by writ of mandate.

Judicial review of any decision of the county or of any commission, board, officer or agent thereof, may be had pursuant to Section 1094.5 of the Code of Civil Procedure only if the petition for writ of mandate pursuant to said section is filed within the limits specified in Section 1094.6 of the Code of Civil Procedure; provided, that if a state or federal law prescribes a shorter statute of limitations for the type of action, compliance shall be required with such shorter statute of limitation. Thereafter all persons are barred from commencing or prosecuting any such action or proceeding or asserting any defense of invalidity or unreasonableness of such decision, proceedings, determinations or actions taken.

B. The provisions of Section 1094.6 of the Code of Civil Procedure shall not expand the scope of judicial review, but shall prevail over any conflicting provision in any otherwise applicable law relating to the subject matter, unless the conflicting provision is a state or federal law which provides a shorter statute of limitations in which case the shorter statute of limitations shall apply. (Ord. 3519 § 1, 1984: prior code § 1.04.110: Ord. 2362, 11/30/76)

#### **1.04.180 Effect of repeal of repealing ordinance.**

A. Except as provided in subsection B of this section, no part of this code and no ordinance or part of any ordinance, repealed by another ordinance, is revived by the repeal of the repealing ordinance without express words reviving such repealed part of this code and ordinance or part of an ordinance.

B. If a later-enacted part of this code or an ordinance that deletes or extends the date of termination or repeal of a previously enacted law is approved before such date of termination or repeal, the terminated or repealed law is revived when the later-enacted part of this code or ordinance becomes operative. (Prior code § 1.04.120: Ord. 2660, 4/17/79)

#### **1.04.190 Savings clause--Termination or suspension of law creating criminal offense or infraction.**

A. The termination or suspension, by whatsoever means effected, of any ordinance or part of this code creating a criminal offense or infraction does not constitute a bar to the indictment, information, or prosecution and punishment of an act already committed in violation of the ordinance or part of this code so terminated or suspended, unless the intention to bar such indictment, information or prosecution and punishment is expressly declared by an applicable provision of law or ordinance.

B. It is the express legislative intent of the board to retain and exercise its constitutional authority to preserve criminal sanctions for acts committed prior to termination or

suspension of such laws and to so alter established common-law rules, if any, to the contrary. (Prior code § 1.04.130: Ord. 2660, 4/17/79)

## Chapter 1.05 CLAIMS AGAINST THE COUNTY

### **1.05.050 Time limitation.**

The claim for any cause of action specified in Section 1.05.030 shall be presented in the manner provided in Section 1.05.070 of this chapter as applicable and shall be presented and processed as provided by Chapters 1 and 2 of Part 3 of Division 3.6 of Title 1 of the Government Code insofar as said provisions are not in conflict with this chapter. A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented not later than six months after accrual of the cause of action. A claim relating to any other cause of action shall be presented not later than one year after the accrual of the cause of action. Each claim shall be verified by the person who claims to be entitled to be paid the money or damages or by his or her guardian, conservator, executor or administrator. (Ord. 4397 § 2, 1996: Ord. 3977 § 1 (part), 1989)

### **1.05.060 Late filing of claims.**

In accordance with Section 935 of the Government Code, the late filing of claims pursuant to this chapter is regulated by Sections 911.4 to 912.2, inclusive, of the Government Code. (Ord. 3977 § 1 (part), 1989)