

# Code Compliance Enforcement

## Does it pass inspection?

This Grand Jury set out to discover why it takes so long to resolve code compliance complaints. We sought to gain a basic understanding of the mechanism for resolving code violations and the limitations on enforcement.

A code compliance staff of dedicated professionals copes with 750 incoming complaints each year, but despite its best efforts resolves only 80 percent of them. We noted that the goal of the enforcement program is to handle violations fairly and without litigation if at all possible. The process, however, allows violators many options for legal action and delay.

Except in rare instances, code violations are only reported via citizen complaints. County personnel are not required, or even encouraged, to report violations unless they observe very significant health or safety issues. In addition, some obvious violations of code are not enforced. For example, County Code specifies that hedges and fences surrounding properties are to be limited in height to ensure there is available light and adequate visibility; these height limitations are rarely enforced.

The Planning Department has developed a unique solution for the unrelenting workload, a novel compliance-by-mail process for commonly encountered low-priority violations, such as a recreational vehicle illegally used as a living unit.

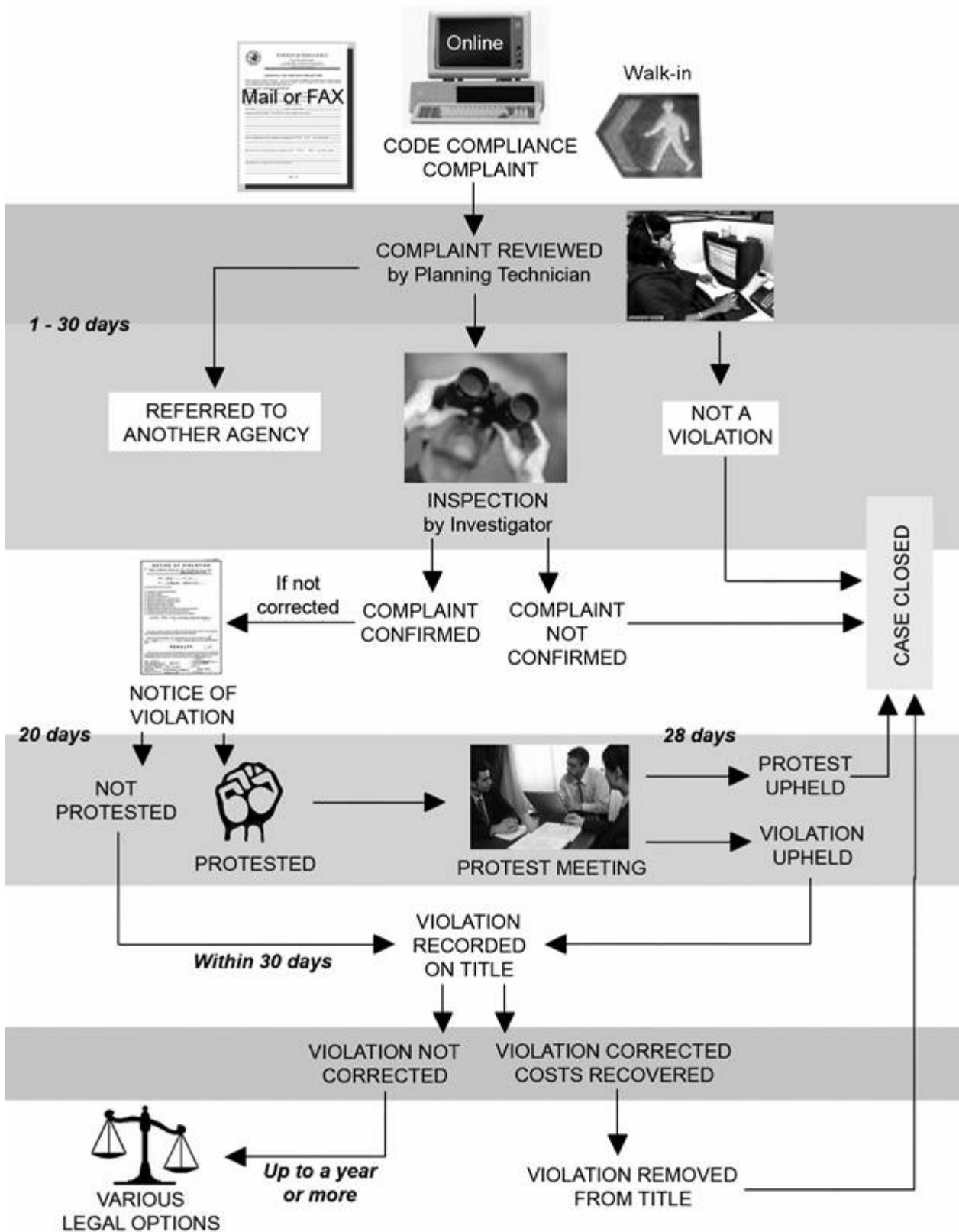
Despite the steady growth in the number of unresolved complaints, the code compliance group is struggling to convert complaint data from its 1990s mainframe application to a 2000-vintage server-based system. Porting of old-system records to the new system awaits the completion of data management reports by the County's Information Systems Department. The reports rely on accurate data entry; however, we found many errors. Although mistakes are understandable given the heavy workload, the accuracy of future resource planning is dependent upon precise complaint data.

Given county government's ongoing efforts to fund its budget, it is not surprising to find the Planning Department has an unfilled code compliance investigator position, which will likely lose its funding for fiscal year 2008 - 2009. This jury recommends increasing staff with volunteers, reducing workload, or utilizing existing staff presently assigned to other areas.

A high volume of complaints combined with understaffing and savvy violators, results in non-enforcement of violations at some times, ponderous enforcement at others, but smooth complaint resolution much of the time. The following chart illustrates the code compliance complaint resolution process.

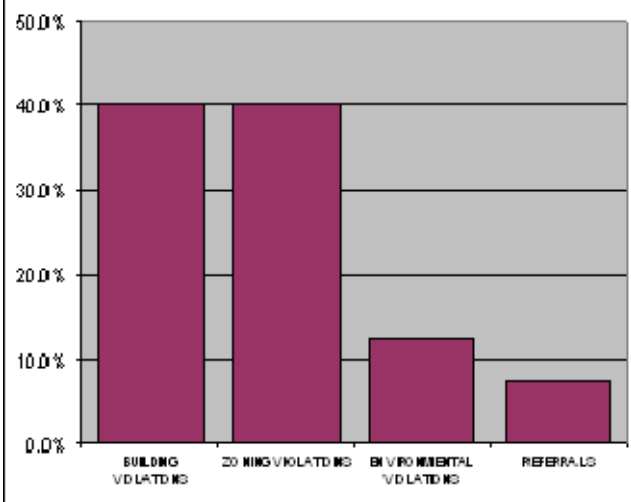
## **THE ROAD TO COMPLIANCE**

**PLEASE NOTE THIS FLOW CHART  
DOES NOT INCLUDE ANY INFORMATION  
REGARDING AN INDEPENDENT  
HOUSING OR LOCAL APPEALS  
BOARD REQUIRED BY STATE LAW**



Click on image for a text description of the chart

## INCOMING COMPLAINTS (by type)



### Findings

1. The Planning Department currently uses two parallel data systems:
  - ALUS (Automated Land Use System), an older system, is used by the entire Planning Department and also the Assessor's Office
  - The Hansen Information Technologies Permit Tracking System (HANSEN®), a newer system, has been in development since its purchase by the county more than five years ago and currently used only by the code compliance group. All new code violation complaints have been entered into the HANSEN® system since the middle of 2007.
2. **County code violations do not always result in enforcement action.**
  - **The Planning Department documents some violations but does not enforce them, for example, violations of residential property fence height limits.**
  - Some enforcement decisions are based upon Board of Supervisors' policy, such as the 2002 board policy specifying that structures built pre-1980 without permit will not be subject to enforcement.
  - "No enforcement" is one complaint classification category in HANSEN®. Between March 29, 2007, and February 7, 2008, 11 percent of "no enforcement" decisions were based on policy adopted by the board; the remaining 89 percent were decided within the Planning Department without clear policy guidelines.
3. There is no formal policy requiring county building inspectors or code compliance investigators to report code violations they might chance upon.
  - The City of Watsonville requires home maintenance compliance, and its inspectors report violations they happen to see.
  - The City of Santa Cruz expects its staff to report obvious violations it encounters as a matter of policy.
4. After a party files a complaint and receives an initial acknowledgement letter, the complainant is responsible for future contact with the Planning Department to determine the status of the violation.
5. It appears to be technically feasible to access the public information contained in the code violation database and there is a plan to implement public online access before the end of 2009. Currently, members of the public wishing to learn the status of a code violation must telephone or visit the Planning Department.
6. The code compliance staff fields roughly 750 incoming complaints annually. About 300 of the complaints require continuing extensive investigation and action.

These represent approximately 40 percent of the total; the other 60 percent are either found to be invalid or are referred to another agency for appropriate action.

7. Each of the four full-time and one half-time code compliance investigators averages 66 new complaint investigations per year (not including those classified as "no violation," "no enforcement action," or "referred to other agency"), or fewer than two each week.
8. The code compliance group has positions for one typist/clerk, one planning technician, five code compliance investigators, and a principal planner. Additional assistance may also be provided by county financial and legal staff.
9. Earlier this year one investigator worked half time assisting the Planning Department's understaffed fiscal section.
10. One additional investigator position has been funded but will not be filled during 2008; funding for this position for 2009 is not guaranteed.
11. Staff responsible for data entry works part time performing Planning Department receptionist duties.
12. To help reduce the overall workload, follow-up with complainants is generally limited to a single written acknowledgment that the complaint has been received. Also the Planning Department does not take any enforcement action against some low-priority violations or investigate anonymous complaints.
13. Compliance-by-mail form letters are sent to violators asking for voluntary cooperation in correcting some low-priority violations. Violators comply by returning a signed *Declaration and Affidavit of Correction*. Investigators may subsequently perform an inspection to confirm compliance. Violations currently handled this way include illegally inhabited mobile homes or campers, or people keeping too many cats or dogs. Compliance-by-mail was used in two percent of the complaints reviewed by the Grand Jury.
14. Despite two requests, the Grand Jury was not provided with precise data describing the size of the backlog of unresolved code compliance complaints or the rate at which this backlog is growing. One estimate provided was that for every 100 complaints entering the system 80 were being resolved, leaving 20 to accrue to the existing backlog. Based on this estimate and the annual number of complaints, the backlog of unresolved complaints would grow by about 150 a year.
15. There are many rules built into the current code violation resolution system that allow violators to delay complying with code requirements. Examples:
  - It may take six weeks or more to get on the calendar for a protest hearing.
  - Once the hearing is scheduled, the violator has the right to delay the hearing once.
  - During the hearing, a violator may request a continuance, which the judge will usually grant.
16. In 2003, the Planning Department committed to the Board of Supervisors to develop written procedures for using the HANSEN® system. The code compliance group has established process mileposts and created a detailed flow chart, but there is no employee procedures manual for handling complaints.
17. Except for a single summary report, the HANSEN® system was not generating data management reports as of March 1, 2008.

18. The Planning Department has requested at least 12 data management reports. As of April 11, 2008, only six of the reports originally requested the previous December were completed.

19. The Planning Department has not asked for a routinely-generated report listing unresolved cases chronologically, with the oldest first.

20. The Grand Jury reviewed 100 consecutively numbered complaints (spanning entry dates between August 10 and September 27, 2007) and found the following:

- Almost 30 percent of them were incorrectly coded.
- Nearly 18 percent of the complaints had activity dates earlier than the entry date. These differences mean that work was performed on the complaints before their entry into the HANSEN® system. The largest discrepancy between entry date and the activity date was more than two months.
- The Planning Department received more code violations than it resolved. After six months, unresolved complaints outnumbered resolved complaints by 50 percent.

21. In April and May of 2008, the Planning Department presented several code change proposals to the Board of Supervisors. Some were approved and others were tabled for further study and discussion. While major focus of the changes was on rules for building second units, among the approved changes were several that are intended to reduce the burden on code enforcement by eliminating requirements judged unnecessary. For example, the County now intends to

- exclude most demolition from requiring Coastal Commission approval.
- allow installation of solar energy systems in the coastal zone without a discretionary permit.

## ***Conclusions***

1. A growing backlog of unresolved code compliance complaints can cause county residents to lose confidence in the effectiveness of the resolution process.
2. Some of the delay in complaint resolution is unavoidable because it is built into the system.
3. Without accurate data management reports, future department budget and staff planning decisions cannot be as informed as they should be.
4. Data management reports will not provide useful information if the underlying violation data entry is delayed, inaccurate or miscoded.

## ***Recommendations***

1. The Planning Department should
  - remove responsibilities other than code enforcement from existing code compliance staff.
  - recruit and train volunteers to assist the code compliance group.
  - consider expanding the compliance-by-mail program to include additional low-priority violations.
  - create a list of code violations not currently being enforced and determine if any of the most commonly received complaints represent violations that can be added to the list.

2. The Planning Department should
  - enter data into the HANSEN® system daily, no longer than two days after receipt.
  - ensure that a code compliance supervisor reviews service requests (HANSEN®'s terminology for complaints) for accurate data entry on a regular basis. If errors are encountered, additional staff training should be provided.
  - generate monthly reports that detail the total number of code complaints, the number deemed valid, how many were resolved, and the size of unresolved complaint backlog. These reports should be available for review at any time by the Planning Director and the Board of Supervisors.
  - create a monthly report listing all unresolved complaints in reverse order by date. These reports should be reviewed by code compliance staff monthly and by the Planning Director quarterly.
  - make every effort to promptly finalize complaints to avoid building an unmanageable backlog.
3. To create consistency among code compliance staff, Planning Department management should provide a detailed, written procedures manual, including targets for the amount of time allowed for each step in the complaint resolution process.

### **Responses Required**

<b>Respondent</b>	<b>Findings</b>	<b>Recommendations</b>	<b>Respond Within / Respond By</b>
County of Santa Cruz Board of Supervisors	2, 3, 5, 12, 14, 16	1 - 3	60 days September 1, 2008
County of Santa Cruz Planning Department	2, 3, 5, 12, 14, 16, 18, 19	1 - 3	90 days October 1, 2008

### **Sources**

City of Santa Cruz, Department of Planning and Community Development Staff.  
 City of Scotts Valley Staff.  
 City of Watsonville, Community Development Department Staff.  
 County of Santa Cruz, Planning Department Management and Staff.  
 County of Santa Cruz, Title 13 Planning and Zoning Regulations, Chapter 13.10.525; *Regulations for fences and retaining walls*.  
 County of Santa Cruz, code violation complaint data from HANSEN® Information Technologies Permit Tracking System.  
 County of Santa Cruz code compliance website:  
[http://www.sccoplanning.com/html/codecomp/index\\_codecomp.htm](http://www.sccoplanning.com/html/codecomp/index_codecomp.htm)

County of Santa Cruz Planning Department form letters: *Alleged Zoning Code Violation*, re: Chapter 13.10.322(b) and Chapter 13.10.683.

County of Santa Cruz Planning Department form letter: *Alleged Building, Zoning or Environmental Code Violation*.

Letter from Planning Director, Alvin D. James, and County Administrative Officer, Susan A. Mauriello, to the County of Santa Cruz Board of Supervisors, *Re: Response to Recommendations Concerning Structural Changes to Permit Processing in Santa Cruz County*, November 27, 2002.

Letter from Planning Director, Tom Burns, and County Administrative Officer, Susan A. Mauriello, to the County of Santa Cruz Board of Supervisors, *Report on HANSEN® Information Technologies Permit Tracking System software implementation to replace the Automated Land Use System (ALUS)*, November 24, 2003.

Proceedings of the County of Santa Cruz Board of Supervisors, Volume 2002, Number 19, 72.1, June 25, 2002.