

Humboldt County Planning Commission
Humboldt County Courthouse
Eureka, California 95501

Dear Commissioners:

Re: General Plan Review (March, 2007)

For over forty years, I have participated in hearing processes used to develop regulations of all kinds.

I have seen these processes evolve into an unproductive and often abusive exercise. Staff used to be an unbiased party that provided a picture of technical and site specific information which knowledgeable folks and experienced professionals massaged into something that was somewhat workable and productive. Now, I see involved staffs and regulatory bodies control input and hearing processes to support their biases, and the resulting regulations are a collection of political correctness and viewpoints provided by those with the most leverage over the processes. Site specific and historically proven facts and science, experienced and knowledgeable input, logic, and common sense go wanting.

I have found individual participation in regulatory hearing processes may make you feel good but is routinely ignore. To maybe do some good and maybe trigger something useful to happen, I now spend my time asking questions and exposing to hearing participants what is really happening.


With this in mind, I decided it might be worthwhile to ask the following questions:

1. The current review is called a review of a work plan? Is the public exchange limited to the three minute shots at this type of meeting? Will there be later direct give and take between public participants such as occurs in a workshop setting to resolve raised problems?
2. Is policy wording all that is being reviewed at this time? Once policy wording is in place, can final ordinances and mapping work deviate from specific policy wording? When will final ordinance wording and mapping decisions be open to later review and public give and take?
3. In order to have full disclosure, punishment and penalties for violation of General Plan requirements needs to be available for discussion. My research has found this information is not readily available to county folks or the general public (see copy of accompanying information that has been provided the County Board of Supervisors). Knowing this, I have to ask, how can regulations be developed without a full understanding of the consequences?

Now I could go on and on with more questions that are relevant to the ongoing very confusing General Plan review, but there is only so much that will be allowed at a meeting like this one.

In closing, to do your homework and make fully informed decisions, you folks and others need to seriously consider my input and a book titled "Rest In Peace Rural America".

Yours,


Charles L. Ciancio
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All Commissioners
should at least scan
highlighted information
before putting in file 13,
black hole.

Humboldt County Board of Supervisors
Humboldt County Courthouse
Eureka, California 95501

Dear Supervisors:

Re: Little speech on General Plan violation penalties

There is a problem with how you regulatory folks make rules and regulations.

Supervisor Geist and this board told me penalty information would accompany new General Plan information.

In listening to the Planning Commission meeting, a county goal to be sure the punishment fits the crime is absent in the General Plan.

Trips to the Planning Department and to the Clerk of the Board finds these folks can not tell what penalties apply.

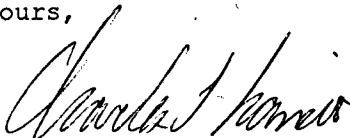
My own research and stumbling around in the Law Library finds violations are misdemeanor crimes which include jail time.

Determination of penalties to apply are a mixed bag, and while some folks involved can exercise peace officer discretion, it is not clear what sideboards apply to other regulators.

This all tells me you folks making General Plan regulations, including this Board, do not include consideration of punishment fitting the crime in making regulations.

While some folks may see letting regulators have unlimited power to set punishment and jail time as a useful tool, I don't. I see how this power can be, unintentionally and purposefully, abused and counter-productive. Monetary and fix-it solutions can give better results than putting someone in jail.

Yours,



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2/27/07

PS: You folks really need to read my book titled "Rest In Peace Rural America".

Humboldt County Board of Supervisors
Humboldt County Courthouse
Eureka, California 95501

Dear Supervisors:

Can you tell me what penalties apply to General Plan zoning ordinance violations?

I am writing to share my experiences in learning about punishment for zoning violations. I have done this research because this board told me punishment clauses would accompany ordinances being considered for adoption, and I plan to hold county agencies accountable for doing this.

The maximum penalty for a zoning violation is easy to read and can include application of all of the following items of punishment:

- Abatement action
- Administrative penalties including fine and lien action
- Injunctions, court action, hearing action, and associated costs
- Civil action
- \$1,000 fine
- 6 months in jail

While I may not fully understand all that can happen when punishments are applied, I do know there is a lot of potential for unjustified and excessive damage to those violating zoning laws.

Regulators and layman judges are given a lot of leeway and control over the amount and type of punishment to be applied. Over my forty years of professional life, I have seen very few regulators and layman judges that would be unreasonable and intentionally abuse their power; but, I have seen a couple, and for various reasons (overzealousness, pressures from public, politicians, and heavy handed supervisors, etc.), the pressures to be abusive are increasing every day. I believe if the option for excessive punishment exists in written law, some regulator or layman judge somewhere sometime is going to give it a try.

Can you tell me what appeal options are available to zoning violators and how these procedures work?

In general, appeal options are a one-sided crap shoot where the regulatory agencies hold the best hand by having more funding, resources, time, and control of the appeal processes. Appeal procedures can be very expensive involving legal counsel and various expert professionals; are open to uncertain determinations by regulators, hearing officers, juries, judges, various county folks, and other lay persons.

My travels have shown me those making and applying the laws routinely do not know what the punishment can be for zoning violations. The good folks at the Planning Department and the Clerk of the Board do not have ready access to written punishment information. After visits to these folks, I ended up working with a fella at the Law Library who helped me stumble into some wording. The Code Enforcement folks were very helpful and seemed to know their stuff.

The concept "the punishment should fit the crime" is being forgotten in the development of new zoning ordinances and laws. It was bothersome and sad to find those making and applying zoning laws do not understand the punishment for violating these laws, and my research forced me to conclude many laws are being made without due consideration of appropriate punishment or best ways to handle violation situations.

Having the option to lock up rural landowners buys little in the overall scheme of things. When human health and safety issues are not involved, such as in many environmental and zoning laws where correctable and minor in the scheme of physical things violations occur, the option for punishment should be smart and limited. Locking someone up may prevent correction work from getting done.

In the coming, wild game of carbon credits and greenhouse laws, it will be interesting to see how this all plays-out where the science is way behind the theorized and funny numbers being utilized. As in the spotted owl and Total Maximum Daily Load fiascos, I see a lot of unjustified misery and damage to economies and humans coming down the pike.

I hope you have learned something from my input and will do your homework such as read my book "Rest In Peace Rural America" in learning more; so, you can do a competent job in making new laws and regulations.

Yours,



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2/20/2007

Note: Copies of relevant regulatory sections accompany this letter.

TABLE OF CONTENTS

- CHAPTER 1: GENERAL PROVISIONS
- CHAPTER 2: ADMINISTRATION, PROCEDURES, AMENDMENTS AND ENFORCEMENT

HUMBOLDT COUNTY ZONING REGULATIONS

Section 312-51

51.5 VIOLATION OF THE COUNTY ZONING REGULATIONS

The following provisions shall apply to violations of the County Zoning Regulations. All of the remedies provided for in this section shall be cumulative and not exclusive. (Former Section INL#319-4; CZ#A317-1(C); Ord. 519, Sec. 804, 5/11/65; Amended by Ord. 2214, 6/6/00)

51.5.1 **Penalty** Any person, whether principal, agent, employee or otherwise, violating or causing or permitting the violation of any of the provisions of this Code shall be guilty of a misdemeanor and shall be subject to the penalties provided for in Section 112-5 of the County Code. (Former Section INL#319-2; CZ#A317-1(CX1); Ord. 519, Sec. 802, 5/11/65)

51.5.2 **Public Nuisance.** Any building or use operated or maintained contrary to the provisions of this Code shall be and the same hereby is declared to be a public nuisance and shall be subject to injunction and abatement as such. (Former Section INL#319-3; CZ#A317-1(CX2); Ord. 519, Sec. 803 5/11/65)

51.5.3 **Redway Q Zone** This Section does not include additional sanctions imposed under the Redway Q Zone Ordinance. (Added by Ord. 2214, 6/6/00)

HUMBOLDT COUNTY CODE

ZONING REGULATIONS

TITLE III
LAND USE AND DEVELOPMENT

DIVISION 1
PLANNING

- clerk of the board

Chapter 2

RULES OF CONSTRUCTION

112-1. PROVISIONS CONSIDERED AS CONTINUATIONS OF EXISTING ORDINANCES.

The provisions appearing in this Code, so far as they are the same as those of ordinances existing at the time of the effective date of this Code, shall be considered as continuations thereof and not as new enactments.

112-2. EFFECT OF REPEAL OF ORDINANCES.

The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect nor any suit, prosecution or proceeding pending at the time of the repeal, for any offense committed under the ordinance repealed.

112-3. SEVERABILITY OF PARTS OF CODE.

It is hereby declared to be the intention of the Board of Supervisors that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

112-4. CATCHLINES OF SECTIONS.

The catchlines of the several sections of this code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such section nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections including the catchlines are amended or re-enacted.

112-5. GENERAL PENALTY; CONTINUING VIOLATIONS.

Whenever in this Code or in any other ordinance of the County or in any rule or regulation promulgated pursuant thereto any act is prohibited or made or declared to be unlawful or an offense, or the doing of any act is required or the failure to do any act is declared to be unlawful or a misdemeanor, where no specific penalty is provided, the violation of any such provision of this code or any other ordinance, rule or regulation of the County shall be punished by a fine not exceeding One Thousand Dollars (\$1,000.00) and/or imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment. (Ord. 2331, § 1, 11/02/2004)

Found in Humboldt County Law Library

TITLE II - ADMINISTRATION

DIVISION 13

ADMINISTRATIVE PENALTIES

2131-1. PURPOSE AND INTENT.

(a) The purpose of this chapter relating to administrative penalties is to provide alternative remedies to address acts or omissions set forth in section 2131-2 below. Violations may be corrected, abated, or addressed in a number of ways. It is the intent of this chapter to provide the County with additional remedies to correct violations and, where necessary, to penalize violators for failure to comply with County codes and ordinances. (Ord. 2138a, § 1, 12/03/1996)

(b) The Humboldt County Board of Supervisors hereby finds and determines that enforcement of the County code, other ordinances adopted by the County, and conditions on entitlement in terms of County permits and agreements, are matters of local concern and serve important public purposes. Under the authority of and consistent with Government Code section 53069.4, the County of Humboldt adopts this administrative penalty provision in order to achieve the following goals: (Ord. 2138a, § 1, 12/03/1996)

(1) To protect the public health, safety and welfare of the communities and citizens in the County of Humboldt; (Ord. 2138a, § 1, 12/03/1996)

(2) To provide for an administrative process that has objective criteria for the imposition of penalties and provides for a process to appeal the imposition of administrative penalties; (Ord. 2138a, § 1, 12/03/1996)

(3) To provide a method to penalize responsible parties who fail or refuse to comply with provision of County Code, ordinances, or conditions on entitlement in the County of Humboldt; and (Ord. 2138a, § 1, 12/03/1996)

(4) To minimize the expense and delay where the alternative remedy is to pursue responsible parties in the civil or criminal justice system. (Ord. 2138a, § 1, 12/03/1996)

(c) The County Board of Supervisors hereby establishes an administrative penalty procedure provided in this chapter. All final administrative orders made pursuant to the procedures set forth in this chapter shall be subject to review only as provided in Government Code section 53069.4. (Ord. 2138a, § 1, 12/03/1996)

2131-2. IMPOSITION OF ADMINISTRATIVE PENALTIES.

(a) In addition to criminal prosecutions, civil actions, abatement proceedings before the Board of Supervisors or any other remedy set forth in Humboldt County Code, the County may make any act or omission in violation of County Code subject to an administrative fine or penalty. Administrative penalties shall be imposed, enforced, collected and reviewed in compliance with the provisions of this chapter by the Code Enforcement Unit of the County of Humboldt. Administrative penalties may be imposed for any of the following acts or omissions: (Ord. 2138a, § 1, 12/03/1996; Ord. No. 2272, 04/23/2002)

(1) All violations of Humboldt County Codes; (Ord. 2138a, § 1, 12/03/1996)

Only provided copies of front page 127.9. There are nine pages (127.9 through 127.17) that apply to this section. Copy of input to Commission is accompanied by copies of all these pages.