

**ORDINANCE NO. \_\_\_\_\_**

**ORDINANCE REPEALING CHAPTER 2.100 AND SECTION 12.12.080; AND AMENDING SECTIONS 7.92.108.1, 12.10.150; SUBDIVISION (b) OF SECTION 12.10.215; 12.10.435; 12.12.010; 12.12.020; AND 12.12.050 OF THE SANTA CRUZ COUNTY CODE RELATING TO THE HEARING OF BUILDING, ACCESSIBILITY, AND FIRE CODE APPEALS**

The Board of Supervisors of the County of Santa Cruz ordains as follows:

**SECTION I**

Chapter 2.100 of the Santa Cruz County Code entitled "Building and Fire Code Appeals Board" is hereby repealed.

**SECTION II**

Section 12.12.080 of the Santa Cruz County Code is hereby repealed.

**SECTION III**

Section 7.92.108.1 of the Santa Cruz County Code is hereby amended to read as follows:

**7.92.108.1 Section 108.1 amended--Board of appeals established.**

Section 108.1 of Chapter 1 of the Fire Code of Santa Cruz County is amended to read as follows:

**108.1 - Board of Appeals Established.** In order to hear and decide appeals of orders, decisions or determinations made by the fire code official relative to the application and interpretation of this code, there shall be and is hereby created a Board of Appeals. The Board of Appeals shall be the Board of Supervisors. The fire code official shall be an ex-officio member of said board but shall have no vote on any matter before the board. The board may adopt additional rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the fire code official.

(Ord. 4893 § 2 (part), 11/6/07; Ord. \_\_\_\_\_, \_\_/\_\_/\_\_)

**SECTION IV**

Section 12.10.150 of the Santa Cruz County Code is hereby amended to read as follows:

**12.10.150 Definitions.**

**General.** Whenever in any of the Codes adopted hereby the following names or terms are used, such name or term shall have the meaning ascribed to it by this section. If the same term is defined in Chapter 2 of the 2007 California Building Code, then the definition in this Chapter shall prevail. For any terms defined expressly for a particular chapter or section of the Building Standard Codes adopted hereby, such terms shall have the meanings ascribed to them as in those chapters.

**Building Official.** “Building Official,” “Chief Building Inspector,” “Chief Electrical Inspector,” “Chief Mechanical Inspector,” “Chief Plumbing Inspector,” “Administrative Authority,” and all other terms and designations indicating the person authorized and directed to carry out, enforce, and exercise government rights, privileges, and duties shall, unless expressly indicated otherwise, mean the Building Official and his or her duly authorized deputies, assistants and inspectors. The “Building Official” is the Planning Director or his or her appointed designee.

**Building Department.** The Office of the Planning Director.

**The Building, Accessibility, and Fire Code Appeals Board.** The Board of Supervisors of the County of Santa Cruz.

**Building and/or Property Service Equipment** refers to the plumbing, mechanical, electrical and elevator equipment including piping, wiring, fixtures and other accessories which provide sanitation, lighting, heating, ventilation, cooling, refrigeration, fire-fighting and transportation facilities essential to the occupancy of the building or structure for its designated use.

**City.** The County of Santa Cruz when referring to a political entity or an incorporated area of said County when referring to area.

**City Clerk.** County Clerk; Ex Officio Clerk of the Board of Supervisors.

**City Council.** The Board of Supervisors of the County of Santa Cruz.

**Commencement of Work.** Shall be the completion of the first permanent work (not including wells, septic tanks, grading or temporary power poles). Said permanent work shall include footing and foundation materials such as poles, cussions, etc., signed off by the building inspector with the concrete to be poured within five (5) days.

**Fire Chief.** The Chief Officer of the fire department serving the jurisdiction, or a duly authorized agent.

**Structure.** That which is built or structured, as edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

**Valuation or Value**, as applied to a building and its building service equipment, shall be as noted in the County of Santa Cruz Planning Department's adopted Fee Schedule. For purposes of calculating square footage refer to the definition of Area, Building in section 502.1 of the 2007 California Building Code. (Ord. 4894 § 2 (part), 11/20/07; Ord. \_\_\_\_\_, \_\_\_/\_\_\_/\_\_\_)

## SECTION V

Subdivision (b) of Section 12.10.215 of the Santa Cruz County Code is hereby amended to read as follows:

(b) Administrative amendment -- Appeals Board. Section 108.8 of the 2007 California Building Code, Section 108.8 of the 2007 California Plumbing Code, Section 89.108.8 of the 2007 California Electrical Code, and Section 108.8 of the 2007 California Mechanical Code, all relating to the "Appeals Board," are deleted. The Board of Supervisors shall serve as the local appeals board required by Health and Safety Code Section 17920.5. (Ord. 5024, 11/25/08; Ord. \_\_\_\_\_, \_\_\_/\_\_\_/\_\_\_)

## SECTION VI

Section 12.10.435 of the Santa Cruz County Code is hereby amended to read as follows:

**12.10.435 Appeals.** All appeals of actions taken pursuant to the provisions of this chapter shall be made in conformance with the procedures set forth in Chapter 12.12. The Board shall have no authority relative to interpretation of the administrative provisions of this code nor shall the Board be empowered to waive requirements of this code. (Ord. 4894 § 2 (part), 11/20/07; (Ord. \_\_\_\_\_, \_\_\_/\_\_\_/\_\_\_)

## SECTION VII

Section 12.12.010 of the Santa Cruz County Code is hereby amended to read as follows:

### **12.12.010 Appeals.**

Any property owner or other person aggrieved, or any person whose interests are adversely affected by any of the following acts or determinations of the Building Official or of any other employee charged with the administration and enforcement of the provisions of Chapter 12.10 may appeal the decision, order or determination as hereunder provided:

(a) Determinations of the suitability of alternate building materials and methods of construction for use in this County.

(b) Interpretations of the provisions of the Uniform Codes adopted by Chapter 12.10 of the Santa Cruz County Code.

(c) Actions taken in the enforcement of the requirements of Sections 19955, et seq., of the Health and Safety Code relating to access to public accommodations by persons with disabilities, including the ratification of hardship exceptions granted pursuant to Section 19957.

(d) Decisions, orders or determinations made by the fire code official relative to the application and interpretation of Chapter 7.92 of this Code.

The appeals board shall have no authority to amend, waive, or otherwise modify the requirements of this title, the Uniform Codes adopted under this title, or Chapter 7.92 of this Code. (Ord. 4389A, 4/2/96; Ord. 2281, 4/20/76; Ord. 2368, 12/7/76; 4202, 6/2/92; 4353, 2/14/95; Ord. \_\_\_\_\_, \_\_/\_\_/\_\_)

### SECTION VIII

Section 12.12.020 of the Santa Cruz County Code is hereby amended to read as follows:

#### 12.12.020 Notice of Appeal.

(a) Appeals shall be taken by filing a written Notice of Appeal with the Planning Department within fourteen calendar days after service of such decision, order, or determination appealed from was made.

(b) The filing fee established by Resolution of the Board of Supervisors shall accompany the Notice of Appeal. (Ord. 2281, 4/20/76; Ord. 2551, 4/18/78; 4500-C, 8/4/98; (Ord. \_\_\_\_\_, \_\_/\_\_/\_\_)

### SECTION IX

Section 12.12.050 of the Santa Cruz County Code is hereby amended to read as follows:

#### 12.12.050 Setting for hearing.

Upon receipt of the Notice of Appeal, the matter shall be set for hearing not later than 30 days following the date on which the Notice was filed or no later than the first regularly scheduled meeting of the Board of Supervisors following the end of the 30 day period if the setting period ends during a time that the Board of Supervisors is not in regular session. Written notice of the time and place set for hearing the appeal shall be given to the appellant, and the officer whose decision, order, or determination is appealed from, at least ten days prior to the hearing. Further notice shall be given in the same manner as required for the original action appealed from. The department or officer involved in the appeal shall transmit to the Board all records related to the appeal and shall, upon request, furnish such additional information relative to the proceedings as may be requested by the Board (Ord. 2281, 4/20/76; Ord. \_\_\_\_\_, \_\_/\_\_/\_\_)

**SECTION X**

This ordinance shall take effect and be operative on the 31<sup>st</sup> day after the date of final passage.

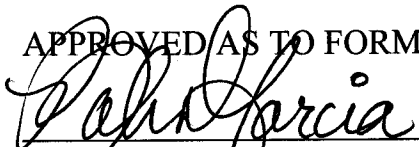
PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES: SUPERVISORS  
NOES: SUPERVISORS  
ABSENT: SUPERVISORS  
ABSTAIN: SUPERVISORS

\_\_\_\_\_  
Chairperson, Board of Supervisors

Attest: \_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:

  
\_\_\_\_\_  
County Counsel

## CBD BOSMAIL

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**From:** CBD BOSMAIL  
**Sent:** Sunday, June 07, 2009 3:15 PM  
**To:** CBD BOSMAIL  
**Subject:** Agenda Comments

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**Meeting Date :** 6/9/2009

**Item Number :** 12

**Name :** Erik Zinn

**Email :** enzinn@cruzio.com

**Address :** 2231 40th Avenue  
Santa Cruz, CA 95062

**Phone :** 8314642467

### **Comments :**

1. You are amending the 2007 California Building Code by deleting section 108.8. You may only do so by following proper finding and filing procedures, which you have not done to date. Even if you correctly followed the procedure, it would be a stretch to argue that deleting and ignoring the intent of section 108.8 can be done based upon "climatic, topographical or geological conditions" (section 101.8.1.1 of the 2007 CBC), as required by the 2007 California Building Code.
2. None of the supervisors appears to be qualified to hear appeals regarding building standards as governed by the California Building Code. You must be "specifically knowledgeable in the California Building Standards Codes and applicable local ordinances" (section 108.8.1 of the 2007 California Building Code).
3. It appears that an attempt will be made to make the "fire code official" an ex-officio member of your proposed rendition of the Board of Appeals. On one hand, this is encouraging, since I presume that move is predicated on the concept that none of the supervisors actually are proficient at applying the building and fire codes to important appeals decisions. On the other hand, this move is probably illegal, because you are placing the very person whose actions and decisions the appellant is appealing on the Board of Appeals. An analogy to this proposed action would be to appoint the defendant as the judge or jury in a courtroom trial. Sounds kind of silly, doesn't it?

Overall, this action appears to be ill-advised and will likely be ill-fated in the long run. As a resident of this County, I am stunned by these actions, since it appears that there is a concerted effort on the part of County Counsel, the County Administrative Officer, the Planning Department and the Board of Supervisors to overtly ignore the rules and regulations presented very clearly in the 2007 California Building Code. In addition to these actions being illegal, they will likely generate substantial litigation fees in the future if the appellants are denied their due process rights and right to appeal as outlined in the 2007 California Building Code.

Please don't do this.