CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS
Sitting/Acting as (not applicable)

Study Session Worksheet

Presentation Date: May 20, 2014 **Approx Start Time:** 2:00 pm **Approx Length:** 1 hour

Presentation Title: Code Enforcement update and presentation of Performance Review report

Department: Transportation & Development, Code Enforcement Section

Presenters: Scott Caufield, Building Codes Administrator and Peter Moy, Principal, FCS Group consultants

Other Invitees: Dan Chandler, Barbara Cartmill

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Seeking direction and input from the Board of Commissioners regarding the recently completed Code Enforcement Performance Review.

EXECUTIVE SUMMARY:

In July 2013, the Clackamas County Department of Transportation initiated a contract with FCS Group Consultants to conduct a performance review of the code enforcement (CE) section. The purpose of the review was to evaluate the County's current CE policies and procedures, identify best practices, establish performance measures, and provide recommendations for improvement. The final report and recommendations were recently received and a copy is presented here for your review and consideration.

The report provides a detailed overview of the County's current CE program including practices, procedures, and administrative hierarchy. It additionally provides a work load review, presents stakeholder comments gathered as a result of extensive citizen interviews, and most importantly, makes a number of recommendations aimed at improving the performance of the CE program.

A strong code enforcement program is a vital part of administering County codes and other regulations such as state building codes to ensure safe, healthy communities. Clear policies and procedures are necessary to ensure fair, swift, and predictable outcomes for all citizens in code enforcement cases. Additionally, effective CE policies demonstrate good governance and thus build trust amongst citizens. As such, a strong, just, and effective CE program will assist the Board in achieving Goals 3 & 5 of the Clackamas County draft Strategic Plan.

Given the length of time that has elapsed since we last addressed CE policy-related issues with the Board (June 2013) and also to provide some context in which to consider the findings and recommendations contained within the report, attached is summary of policy and procedural changes implemented to date along with a brief time line of events.

FINANCIAL IMPLICATIONS (*current year and ongoing*):

None at this time. Certain recommendations of the BCC and the CE Performance Review – if implemented – will potentially have cost implications. These will be identified in the final set of recommendations.

LEGAL/POLICY REQUIREMENTS:

Certain recommendations of the BCC and the CE Performance Review – if implemented – will require changes to County Code. These will be identified in the final set of recommendations.

PUBLIC/GOVERNMENTAL PARTICIPATION:

Stakeholders were interviewed extensively and their comments were included in the report. The final CE Performance Review will be distributed to CPO groups and other stakeholders for review and comment. The report will be published on the County's website and we will seek public comment from interested persons.

OPTIONS:

This study session is an opportunity for the Board of Commissioners to revisit the Code Enforcement policy issues and to evaluate and provide direction on the CE Performance Review.

RECOMMENDATION:

Return to the BCC with a comprehensive list of recommendations after public comment.

ATTACHMENTS:

Code Enforcement Performance Review report; summary of CE policy and procedure changes to date

SUBMITTED BY:
Division Director/Head Approval _____
Department Director/Head Approval M. B. Carfmill 5-14-14
County Administrator Approval _____

For information on this issue or copies of attachments, please contact Scott Caufield @ 503-742-4747

Summary of Code Enforcement Changes to Date

November 2011 – Prior Board of County Commissioners directs staff to implement the following CE policy and procedural changes effective January, 2012:

- Hearing Officer rules updated and approved
- Name changed from Code Compliance to Code Enforcement
- New philosophy statement created
- All building code Violations priority 1-7 enforced inside the Urban Growth Boundary (UGB)
- All solid waste of violations priority 1-7 enforced inside UGB
- Solid waste violations priority 1-4 only enforced outside the UGB
- Sign code violations priority 1-7 enforced inside the UGB
- No sign code violations pursued outside the UGB
- Three low priority violations on a single property elevated to Priority 1 and enforced to abatement
- Violations case files only closed after abatement, not when low priority status reached
- Building code violations are not closed until permit is final
- Priority list still used but no longer published online
- Public relations campaign included new video, FAQs, updated webpage, Facebook, and Twitter
- Online complaint form added to Code Enforcement webpage
- Authorized to report unlicensed contractors to the CCB
- Alleged letter updated and revised
- Mandatory notice revised
- Code Enforcement staff will address all violations discovered on property

January through April 2013 – BCC work session and subsequent study sessions. Current BCC directs staff to implement the following changes effective immediately:

- No longer accepts anonymous complaints
- No longer ask if the complainant would like to remain confidential; citizen must request
- Confidential complaints not processed unless two complaints are received from different citizen addresses
- If complaint is not confidential, only one is needed to start the process
- If a complaint involves *imminent danger* as determined by the division manager, a single confidential complaint will be processed
- Role of the BCC to remain the same as prior boards
- Proceed with CE performance /review

January through April 2013 – Current BCC authorizes these changes but directs staff to not implement pending outcome of CE performance audit:

- Modify Clackamas County Code Title 2.07 to provide administrative warrant authority in egregious cases where access to properties is otherwise not possible
- Modify Clackamas County Code Title 2.07 to provide mechanisms for the collection of moneys owed to Clackamas County including garnishment, seizing state tax refunds etc. as a means of last resort
- Using the measures outlined above, take steps to collect the approximately $1,000,000 owed to the County in the form of property liens and accrued interest
- Clean up Title 2.07 as needed for consistency, ease of administration etc.

Staff implemented changes (January through April 2013)

- Updated complaint form
- New citation form
- Template for communication regarding cases with BCC created and approved
- Building code violations over 10 years old to be reviewed by code enforcement staff with director of appropriate division before enforcement action taken
- Non-enforcement to be determined by director approval after review with Code Enforcement staff, County Counsel, and manager of appropriate department

June 2013 – File administration fee of $75.00 per month authorized by current BCC effective September 4, 2013

July 2013 – Contracted with FCS Group for performance /audit

September 4, 2013 – Monthly file administration fee becomes effective; CE staff begins notifying affected property owners of fee

September 30, 2013 – New Accela Automation permitting software implemented; CE begins move toward paperless CE files; improved tracking; online access

April 23, 2014 – CE Performance Audit completed

Clackamas County, Oregon

CLACKAMAS COUNTY

Code Enforcement Performance Review

April 2014

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April 23, 2014

Scott Caufield, CBO
Building Codes Administrator
Clackamas County Building Codes Division
150 Beavercreek Road
Oregon City Oregon, 97045

Subject: Clackamas County Code Enforcement Performance Review

Dear Mr. Caufield:

Attached is our final report on the results of our Code Enforcement Performance Review. We want to thank you and all the Code Enforcement staff for their assistance and participation in helping us gather information and in documenting the code enforcement processes. If you have any questions, please feel free to contact me at (425) 867-1802 extension 228.

Sincerely,

Peter Moy

Peter Moy
Principal

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APPENDIX A: CODE ENFORCEMENT PROCESSES

CHAPTER I: INTRODUCTION

The Code Enforcement Section (CES) started a planning and assessment process in 2011 to engage Clackamas County citizens and their communities and to address code enforcement issues. The CES staff met with citizen groups such as the Citizen Planning Organization leaders, met with both internal and external stakeholders as well as its own customers, conducted research and an extensive countywide survey, and held an internal workshop over a seven month period. Based on these meetings and observations, several changes were made as described in a subsequent section in this chapter.

To help Clackamas County continue its assessment of how its code enforcement program is operating, the County initiated a performance review of the Code Enforcement Section in the Department of Transportation and Development's Building Codes Division. The County engaged FCS GROUP to conduct this review and provide the following about the code enforcement program.

- Identify the current workload for each code enforcement specialist and support staff,
- Provide a description of the current processes and procedures,
- Identify the perceptions that different internal and external stakeholders have about the CES program,
- Identify areas that are efficient and effective,
- Suggest changes or other practices that would improve the quality and efficiency of the process where problems are noted,
- Evaluate whether program processes and procedures are fair and just,
- Determine whether the current complaint driven model is the best methodology for handling violation complaints, and
- Identify performance measures that the County can use to measure future performance of the CES.

In conducting the review, FCS GROUP interviewed the CES staff and 22 other County staff and citizens, conducted two process mapping sessions with CES staff, reviewed a small sample of case files, accompanied code enforcement specialists on site visits, reviewed CES documents, and analyzed CES reports and data. The CES staff actively participated in the process mapping and assisted us with data collection. FCS GROUP thanks and acknowledges all the staff and citizens that spent time providing us with data and their perspectives about the County's code enforcement program.

THE CODE ENFORCEMENT SECTION

The Code Enforcement Section is responsible for responding to complaints about potential violations involving the codes administered by a variety of workgroups in the Department of Transportation and Development (DTD). In addition, it responds to certain complaints involving the codes administered by the Water Environment Services Department (WES). The CES receives complaints by phone, through the County's website, and in person. The current program is complaint driven, which means

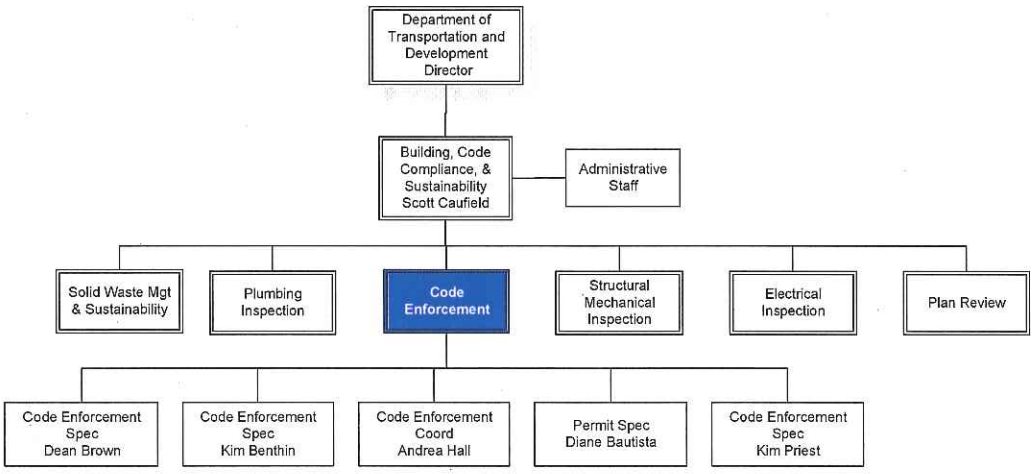
that the County only takes enforcement action on cases where a complaint has been received. According to the County, the CES staff does not actively seek violations in the absence of a complaint because of available resources and the County's large geographic area. Additionally, a priority matrix is used to determine whether or not to pursue violations. Violation priority levels vary based on the type of violation and also whether the violation occurs in the urban or rural areas.

Since the 2011 planning and assessment process, the CES has slightly modified its philosophy on code enforcement. The current philosophy is to consistently promote a safe and healthy community that will protect the property values, livability, and natural resources of the County by equitable and professional education and enforcement of County codes and ordinances. The prior philosophy was the following:

"... first take the approach of voluntary compliance and use an enforcement approach only as a last resort... The approach is to develop solutions based on individual situations and provide broad based public education... and our contacts with affected citizens will be to take an understanding and helpful approach to resolving potential enforcement issues."

The Code Enforcement Section is part of DTD's Building, Code Compliance, and Sustainability Division. Exhibit 1 shows where the CES is organizationally located. Except for the CES, each section has a designated supervisory position.

Exhibit 1
DTD's Code Enforcement Organizational Structure



Funding for code enforcement is provided through direct billings to its internal customers. For fiscal year 2012-13, billings for services provided are expected to cover approximately 80% of the CES program's cost. The remaining shortfall of approximately $120,000 has historically been absorbed by the Solid Waste Fund. Exhibit 2 shows the past actual and estimated revenues and expenditures and the number of full time positions funded.

Exhibit 2
Code Enforcement Revenues and Expenditures

Budget Category	FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Actual	FY 11-12 Actual	FY 12-13 Estimated	FY 13-14 Adopted
Revenues						
Fund Balance*	$1,610,733	$1,301,796	-	-	-	-
Revenues	446,893	402,439	$646,369	$493,905	$624,500	$818,800
Total Revenues	$2,057,626	$1,704,235	$646,369	$493,905	$624,500	$818,800
Expenditures						
Personnel Services	$665,250	$583,846	$475,706	$497,053	$509,826	$519,706
Materials Services	211,996	145,361	202,770	201,887	198,406	199,239
Allocated Costs	103,534	90,660	78,518	$62,882	63,802	110,659
Total Expenditures	$980,781	$819,867	$756,994	$761,822	$772,034	$829,604
FTEs	4	4	5	5	5	5

* Was previously part of the Solid Waste Fund

The CES work typically involves unpermitted construction work and other building code violations, land use violations, and the accumulation of garbage and other solid waste. The CES also addresses environmental violations. During the past five years, new cases average almost 1,000 cases each year, and about 82% of the cases have involved building, solid waste, and zoning. These cases represent the CES' three DTD internal customers: the solid waste, planning and zoning, and building code divisions. Each of these customers including WES pays for the CES' services. Exhibit 3 shows the number of cases opened for the past five years.

Exhibit 3
Number of Cases Opened from 2008 to 2013

Description	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	Total Cases	% of Total
Building	220	200	188	232	193	1,033	21%
Dangerous building	35	27	42	31	34	169	3%
Electrical	23	31	33	23	28	138	3%
Grading	1	33	41	35	36	146	3%
Graffiti urban	61	12	24	14	32	143	3%
Graffiti rural	5	1	1	3	0	10	0%
Illegal dump	23	24	20	3	4	74	1%
Mechanical	9	10	7	5	9	40	1%
Manufactured home	6	3	6	6	7	28	1%
Plumbing	12	26	24	23	22	107	2%
Road	8	1	15	4	2	30	1%
Septic	3	1	3	6	0	13	0%
Solid waste	254	204	223	205	203	1,089	22%
Zoning	385	410	371	394	376	1,936	39%
Total Cases Opened	**1,045**	**983**	**998**	**984**	**946**	**4,956**	**100%**

Source: Code Enforcement Section

RECENT CODE ENFORCEMENT CHANGES

As previously mentioned the CES conducted a planning and assessment process in 2011. Beginning in January 2011 and over a seven month period, the CES staff met with citizen groups such as the leaders of the County's citizen planning organizations, met with both internal and external stakeholders as well as its own customers, conducted research and an extensive countywide survey, and held an internal workshop. According the CES staff, the message consistently received through these meetings and the survey was that citizens wanted more firm and effective code enforcement, faster response, and a more predictable enforcement process. Additionally, citizens said that the County should use whatever means necessary to collect fines and other revenues to defray the cost of enforcement. Based on the results of the process, Exhibit 4 shows what CES changes were made in response to the findings from the planning and assessment process.

Exhibit 4
Recent Code Enforcement Updates and Changes

2011/2012	2013
◆ Hearing Officer rules updated and approved ◆ Name change from Code Compliance to Code Enforcement ◆ New philosophy statement ◆ Building Code Violations priority 1-7 enforced inside the Urban Growth Boundary (UGB) ◆ Solid waste of violations priority 1 through 7 enforced inside the UGB. ◆ Solid waste violations priority 1 through 4 enforced outside the UGB. ◆ Sign code violations priority 1 through 7 enforced inside that you UGB ◆ No sign code violations pursued outside the UGB. ◆ Three low priority violations on a property enforced to abatement ◆ Violations only closed after abatement not when low priority status reached ◆ Building code violations are not closed until permit is final ◆ Priority list no longer published ◆ Public relations campaign including new video, FAQs, updated webpage, Facebook, and Twitter ◆ Online complaint form added to code enforcement website ◆ Authorized to report unlicensed contractors to the CCB ◆ Alleged letter update ◆ Mandatory notice revised ◆ Code enforcement staff will address all violations discovered on property	◆ No longer accepts anonymous complaints* ◆ No longer ask if the complainant would like to remain confidential* ◆ Confidential complaints not processed unless two complaints are received from different citizen addresses* ◆ If complaint is not confidential, only one is needed to start the process* ◆ If a complaint involves an imminent danger as determined by the division manager, a single confidential complaint will be processed* ◆ Updated complaint form ◆ New citation form ◆ Template for communication regarding cases with BCC created and approved ◆ Building code violations over 10 years old to be reviewed by code enforcement staff with director of appropriate division before enforcement ◆ Non-enforcement to be determined by director approval after review with code enforcement staff County Counsel and manager of appropriate department ◆ Role of the BCC to remain the same ◆ $75 file administration fee authorized

*Directed by the Board of Commissioners

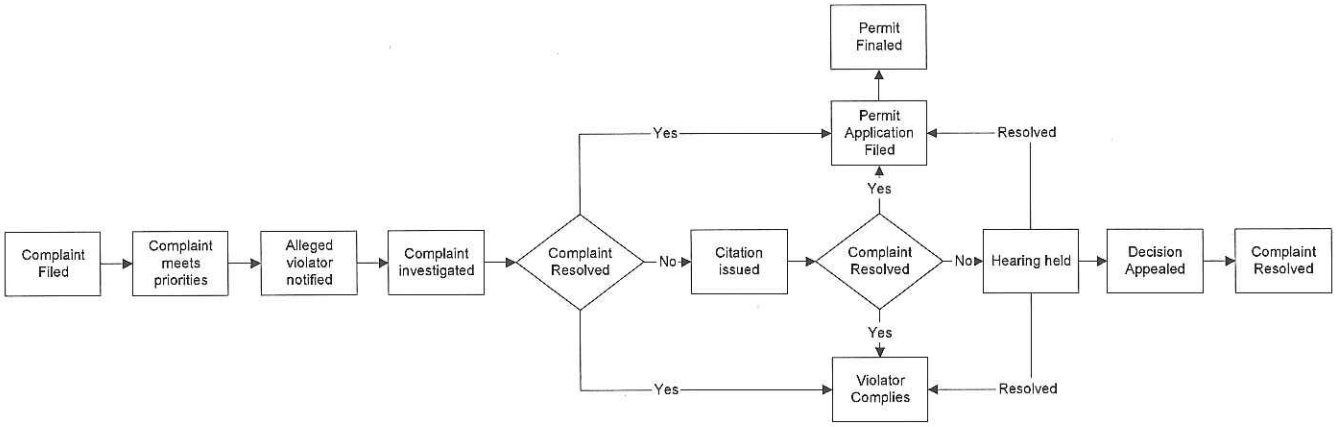
Other planned changes for 2013 and 2014 include adopting changes to Clackamas County Code 2.07, authority to administer administrative inspection warrant, authority to use garnishment and/or a collection agency, and remove the voluntary compliance agreement from the Code.

Because the changes made by the Code Enforcement Section have only recently been implemented and/or partially adopted formally, the impacts of the changes are difficult to measure or identify at this time. Chapters II through IV describe the code enforcement program's existing conditions, while Chapter V discusses our observations, recommendations, and opportunities for improvement.

CHAPTER II: CURRENT CODE ENFORCEMENT PROCESSES

To identify the processes used to receive, investigate, and resolve code enforcement complaints, the Code Enforcement staff participated in two sessions to document the activities and steps used to handle complaints. The following exhibit shows an overview of the steps. Detailed diagrams can be found in Appendix A.

Exhibit 5
Summary of the Code Enforcement Process



A summary of the process steps shown in Appendix A are the following, and at any time an alleged violator can take corrective action and stop the process:

- A complaint is filed either in person, via the Code Enforcement Section web site, or by telephone. The complaint can be handled by the permit specialist or a code enforcement specialist (CES specialist). The complaint is reviewed to see if it meets the priorities and is then passed on to the coordinator to give the complaint a priority and to assign to a code enforcement specialist. Some desk research is performed by both the permit specialist and the coordinator. The permit specialist then creates both an electronic file and a paper file.
- An allege letter is sent to the alleged violator who is given 10 days to contact the CES staff. Once a week the permit specialist informs the responsible code enforcement specialist what responses are due and distributes appropriate files to the staff. After 10 days the responsible code enforcement specialist will meet or talk with the alleged violator, perform additional desk research, and determine whether a probable violation exists or not. If after talking with the alleged violator and if the code enforcement specialist believes there is a probable violation, the violator might agree to take corrective action or might still dispute the complaint.

- If the CES specialist believes that there is a probable violation, the CES specialist will also check to see if an applicable permit application has been submitted to the County, and if a permit application has been submitted, the permit specialist monitors the permit process. If a permit application has not been submitted or the violation does not require one, the code enforcement specialist will further investigate the complaint, which might include making a site visit.
- If after investigating the complaint further and the CES specialist still has not resolved the complaint with the alleged violator, a violation letter is sent to the violator with a date for taking the necessary corrective actions. The CES specialist investigates to determine if any actions have been taken by the deadline, and if not, the first citation is issued. The violator is given 15 days to respond and can request a hearing. If there is still no response, a second citation will be issued and if there is still no further response, the CES specialist will request a hearing.
- If there is a hearing, the CES specialist prepares the necessary documentation for the hearing. Once a hearing is held and the violation is upheld, the CES specialist monitors compliance with the Hearing Officer's decision and collects any fees that were assessed.
- If the violation still continues after the Hearing Officer's decision, the coordinator prepares the case for circuit court with the approval of the paying department and DTD.

CHAPTER III: CODE ENFORCEMENT WORKLOADS AND PERFORMANCE

One of the key tasks in the scope of work was to identify the current workload for each CES specialist. The CES does not keep statistics or have reports that summarize the total number of complaints including those not meeting the priority requirements, the current case workload, or the status of the cases. Consequently, FCS GROUP worked with the CES staff to produce reports that would help provide the data necessary to perform the workload and performance analysis. The CES staff provided detailed, case level data from its system on all cases opened during the past five years. Due to the time and effort needed to convert the printed data into an electronic format, only three years of data was actually used in the individual staff workload and performance analysis. Staff also provided aggregated data on cases opened and closed since fiscal year 2008-09 and provided additional reports from the CES' Accela system.

For fiscal years 2010-11, 2011-12, and 2012-13, the following details were available for each case:

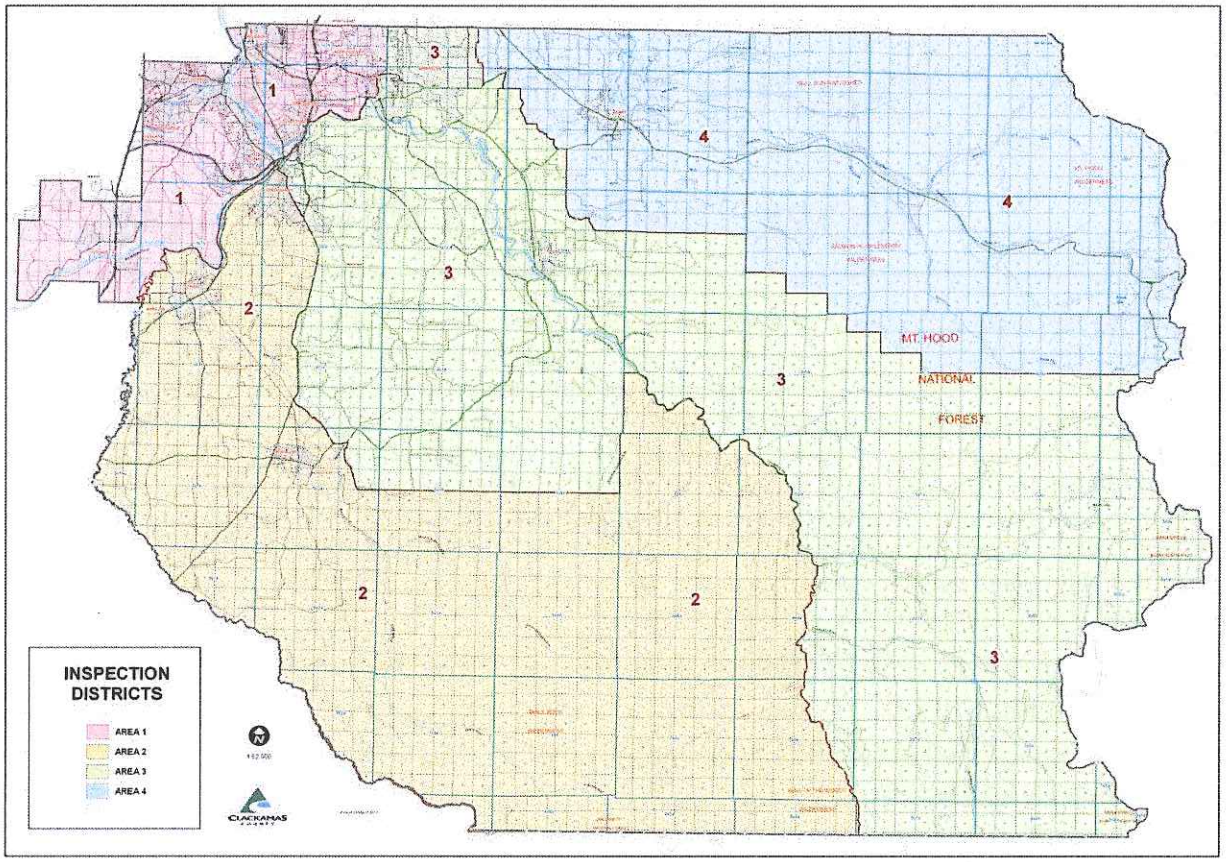
- Date opened
- Assigned district and Code Enforcement Specialist
- Property address
- Type of violation
- Date closed (if case has been closed)
- Date of court order (if applicable)

The analysis of the workload and the CES's performance shows the following:

- There is a growing number of outstanding cases because more cases are opened than are being closed in any one year.
- There are significant differences in the case workload among the CES specialists.
- Despite the differences in cases assigned, the overall average closure rates among the CES specialists and the CES coordinator are about the same.
- For all cases during the past three fiscal years, it took about four months to investigate and resolve a complaint. The quickest times involved graffiti complaints which were completed in just over 60 days, while septic, building, and manufactured home complaints had the longest times at 163, 149, and 148 days, respectively.
- There are also some major differences among the CES specialists and the CES coordinator concerning how quickly cases are being closed for the different types of violations.

Each CES specialist and the CES coordinator are responsible for an enforcement area. Exhibit 6 shows the different areas.

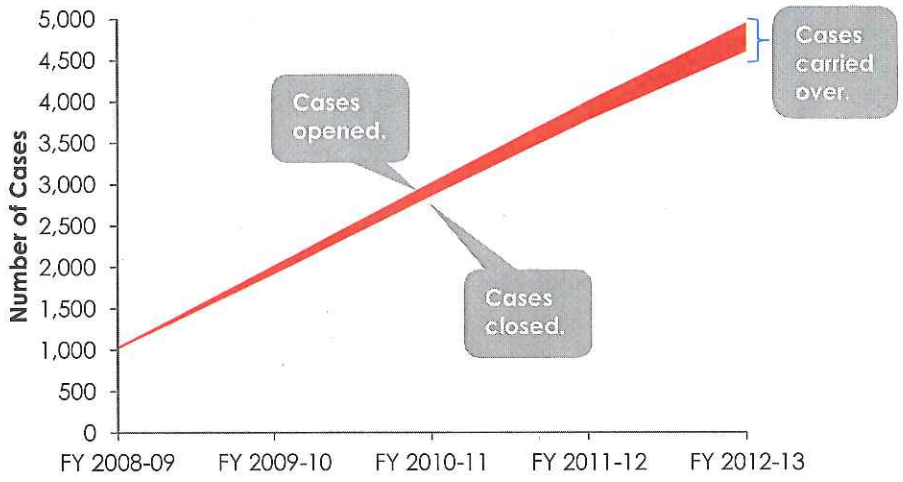
Exhibit 6
Code Enforcement Assignment Zones



The CES Case Workload

As previously mentioned in Chapter I, the CES opens about 1,000 cases per year. Over the past five fiscal years, the CES opened 4,956 cases and closed 4,605 cases. As a result, the number of cases in process has grown at an average rate of 70 cases per year. As of August 3, 2013, the CES had 800 open cases in process. This growing backlog is shown as the red area in Exhibit 7.

Exhibit 7
Cumulative Case Flow



Cases Opened by CES Staff Member

Based on the past three fiscal years of data, the Code Enforcement Section has opened 2,923 cases. Among the three CES specialists and their corresponding districts, there is a significant difference in the workloads. One staff member has significantly more cases than the other two staff members and received about 53% of total new cases. In contrast, another staff member received only 16% of the total workload. Within the different enforcement areas, the majority of the cases represent zoning, solid waste and building complaints. There are, however, some slight differences in the mix of cases within the areas. One staff member has a slightly lower percentage of zoning and building cases, but has a much higher proportion of solid waste cases. Exhibit 8 shows the distribution of these newly opened cases by type and staff member.

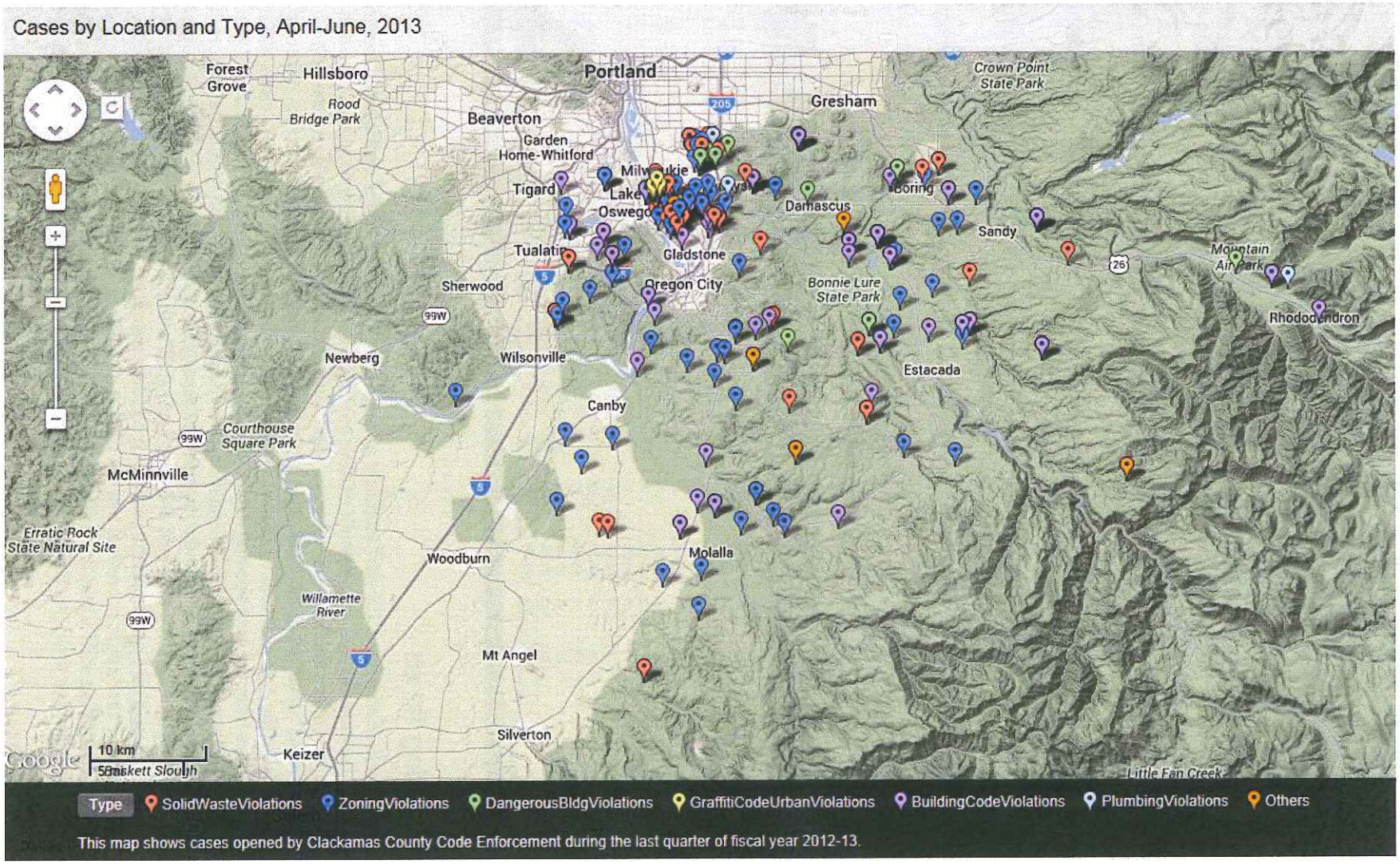
Exhibit 8
Opened Cases by Staff Member
Fiscal Years 2010-11 through 2012-13

		Staff #1			Staff #2			Staff #3			Staff #4		
Violation	Total Cases	Cases	% of District	% of Type	Cases	% of District	% of Type	Cases	% of District	% of Type	Cases	% of District	% of Type
Zoning	1,141	170	40.67%	14.90%	349	43.73%	30.59%	158	40.31%	13.85%	464	35.29%	40.67%
Solid waste	631	66	15.79%	10.46%	126	15.79%	19.97%	65	16.58%	10.30%	374	28.44%	59.27%
Building	612	93	22.25%	15.20%	195	24.44%	31.86%	87	22.19%	14.22%	237	18.02%	38.73%
Grading	112	15	3.59%	13.39%	42	5.26%	37.50%	20	5.10%	17.86%	35	2.66%	31.25%
Dangerous building	107	13	3.11%	12.15%	25	3.13%	23.36%	14	3.57%	13.08%	55	4.18%	51.40%
Electrical	83	20	4.78%	24.10%	18	2.26%	21.69%	12	3.06%	14.46%	33	2.51%	39.76%
Graffiti Urban	70	3	0.72%	4.29%	0	0.00%	0.00%	0	0.00%	0.00%	67	5.10%	95.71%
Plumbing	69	13	3.11%	18.84%	16	2.01%	23.19%	17	4.34%	24.64%	23	1.75%	33.33%
Illegal Dump	27	10	2.39%	37.04%	3	0.38%	11.11%	4	1.02%	14.81%	10	0.76%	37.04%
Road Use	21	3	0.72%	14.29%	5	0.63%	23.81%	6	1.53%	28.57%	7	0.53%	33.33%
Mechanical	20	5	1.20%	25.00%	7	0.88%	35.00%	4	1.02%	20.00%	4	0.30%	20.00%
Manf. Home	17	4	0.96%	23.53%	8	1.00%	47.06%	2	0.51%	11.76%	3	0.23%	17.65%
Septic	9	3	0.72%	33.33%	4	0.50%	44.44%	1	0.26%	11.11%	1	0.08%	11.11%
Graffiti Rural	4	0	0.00%	0.00%	0	0.00%	0.00%	2	0.51%	50.00%	2	0.15%	50.00%
	2,923	418	100.00%	14.30%	798	100.00%	27.30%	392	100.00%	13.41%	1,315	100.00%	44.99%
Caseload on 08/03/2013	800	113		14.13%	280		35.00%	142		17.75%	265		33.13%

Source: Code Enforcement Section, FCS GROUP

As an example of the geographic distribution of cases, Exhibit 9 shows the cases opened during the last quarter of fiscal year 2012-13.

Exhibit 8
Geographic Distribution of Cases Opened in the Fourth Quarter of FY 2012-13



Case Closure Rates by CES Staff Member

Of the 2,923 cases opened during the last three fiscal years, 2,228 cases were closed by July 30, 2013 for an overall 76% closure rate. As shown in a previous section, the number of cases in the backlog has continued to grow over the past five years. Despite the different number of cases opened among the three primary CES specialists and coordinator, the overall closure rate is about the same for all of them. Exhibit 9 shows the case closure distribution by type and staff member. Some of the differences among the CES staff include the following:

- The violation types that have the highest closure rates are grading (80%), rural graffiti (100%), illegal dump (85%), and road use (86%).
- The violation types that have the lowest closure rates are urban graffiti (47%), manufactured home (71%), and septic (67%).
- Two staff members generally have higher closure rates than the other two staff for building, dangerous building, grading, and illegal dump violations.
- One staff member has a very high closure rate (96%) for plumbing compared to the average of for plumbing cases at 80%.

Exhibit 9
Case Closure Rates by CES Staff member

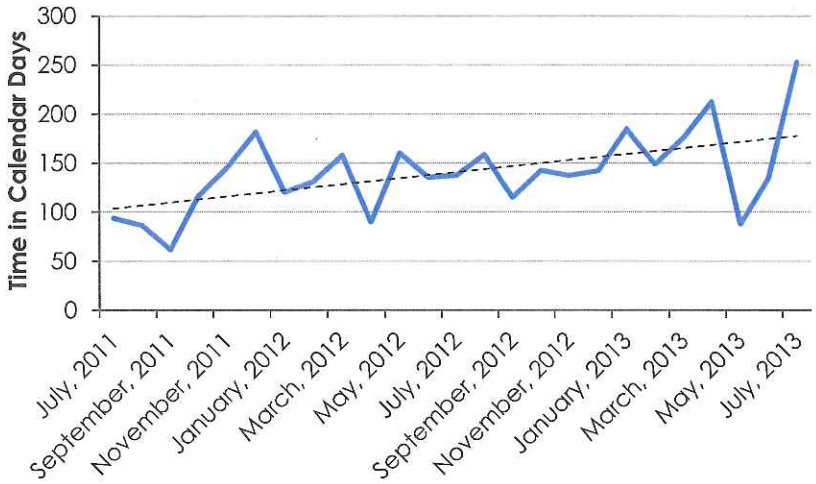
	Staff #1			Staff #2			Staff #3			Staff #4			Summary		
Violation	Cases Opened	Cases Closed	% Closed	Cases Opened	Cases Closed	% Closed	Cases Opened	Cases Closed	% Closed	Cases Opened	Cases Closed	% Closed	Cases Opened	Cases Closed	% Closed
Building	93	68	73.1%	195	119	61.0%	87	60	69.0%	237	177	74.7%	612	424	69.3%
Dangerous building	13	12	92.3%	25	13	52.0%	14	8	57.1%	55	46	83.6%	107	79	73.8%
Electrical	20	16	80.0%	18	13	72.2%	12	10	83.3%	33	26	78.8%	83	65	78.3%
Grading	15	14	93.3%	42	30	71.4%	20	16	80.0%	35	30	85.7%	112	90	80.4%
Graffiti Rural	0	0	-	0	0	-	2	2	100.0%	2	2	100.0%	4	4	100.0%
Graffiti Urban	3	0	0.0%	0	0	-	0	0	-	67	33	49.3%	70	33	47.1%
Illegal Dump	10	10	100.0%	3	2	66.7%	4	3	75.0%	10	8	80.0%	27	23	85.2%
Mechanical	5	3	60.0%	7	5	71.4%	4	4	100.0%	4	3	75.0%	20	15	75.0%
Manf. Home	4	2	50.0%	8	6	75.0%	2	2	100.0%	3	2	66.7%	17	12	70.6%
Plumbing	13	10	76.9%	16	12	75.0%	17	11	64.7%	23	22	95.7%	69	55	79.7%
Road Use	3	3	100.0%	5	4	80.0%	6	5	83.3%	7	6	85.7%	21	18	85.7%
Septic	3	2	66.7%	4	2	50.0%	1	1	100.0%	1	1	100.0%	9	6	66.7%
Solid waste	66	45	68.2%	126	90	71.4%	65	50	76.9%	374	307	82.1%	631	492	78.0%
Zoning	170	141	82.9%	349	256	73.4%	158	129	81.6%	464	386	83.2%	1141	912	79.9%
	418	326	78.0%	798	552	69.2%	392	301	76.8%	1,315	1,049	79.8%	2,923	2,228	76.2%
Caseload on 08/03/2013	113			280			142			265					

Source: Code Enforcement Section, FCS GROUP

Processing Times

As shown in Exhibit 9, the CES staff members average a 76% closure rate for their cases. One factor that is affecting the closure rate is the amount of time needed to close a case. The amount of time that it takes to complete the entire complaint process is an important measure of performance and the staff's effectiveness. As identified in the CES' 2011 planning and assessment process, citizens wanted a faster response. Using the data provided by the CES staff, the time for an individual case to close was measured in calendar days from the case opening date to the close date. Overall, the 2,228 cases closed during the past three fiscal years averaged 127 calendar days to complete the complaint resolution process. While the average processing time is 127 calendar days for the three-year period, a rising trend can be observed if each month's closed cases are averaged and then compared with the previous months. One of the CES policies is to close a case after a permit, such as a building permit, is finalized. Consequently, the length of time to close a case might not reflect just the CES staff's efforts and time, but it can also reflect the Planning and Building staff's time and effort to process required permits for compliance as well as the resident's construction time. As Exhibit 10 shows, the average processing time is currently above 150 calendar days:

Exhibit 10
Processing Time by Month of Closure



However, as shown in Exhibit 11, considerable variation exists between the different CES specialists and the different violation types.

- Septic violations have the longest overall average time for complaint resolution (163 days), while urban graffiti has the lowest overall average time (61 days). Building and manufactured home violations follow septic violations as taking the longest time to resolve, averaging overall 149 and 148 days, respectively.
- For the three main types of violations, building averages 149 days; solid waste averages 114 days; and zoning averages 131 days to close a case.
- Dangerous building violations average 125 days to resolve or about four months.

Exhibit 11
Processing Time by Staff Member Fiscal Years 2010-11 through 2012-13
Number of Calendar Days

Violation	Overall	Staff #1	Staff #2	Staff #3	Staff #4
Building	149	185	167	184	112
Dangerous building	125	63	197	236	101
Electrical	121	114	148	235	67
Grading	116	114	113	182	86
Graffiti Rural	63	-	-	98	28
Graffiti Urban	61	-	-	-	61
Illegal Dump	77	106	66	44	56
Mechanical	103	51	180	99	33
Manf. Home	148	126	196	39	132
Plumbing	95	97	125	155	49
Road Use	96	95	110	51	125
Septic	163	169	236	53	113
Solid waste	114	105	152	94	108
Zoning	131	150	170	126	101
Overall	**127**	**140**	**162**	**139**	**101**

Source: Code Enforcement Section, FCS GROUP

Exhibit 11 also shows that some staff members can complete the complaint resolution process more quickly than the average and compared to the other code enforcement specialists. Analysis of the average times for each CES staff member shows the following:

- One staff member can resolve dangerous building complaints in an average of 63 days compared to the overall average of 125 days,
- Another staff member can complete electrical complaints in an average of 67 days compared to the overall average of 121 days.
- For illegal dumping one staff member can resolve the complaints in 44 days compared to the average of 77 days.
- For mechanical one staff member has been able to complete the process within 51 days compared to the average of 103 days.
- For manufactured homes one staff member can complete complaints within 39 days compared to the average of 148 days.
- For plumbing one staff member has been able to complete the process in 49 days compared to the average of 95 days.
- For road use, one staff member has been able to close cases within an average of 51 days compared to the average of 96 days. This same staff member has also been able to process septic complaints within an average of 53 days compared to the average of 163 days.
- One staff member has significantly longer closure times for a number of different violations types even though the staff member has had considerably fewer cases over the past three years compared to other CES specialists.
  - For electrical 235 days compared to the overall average of 121 days,
  - For dangerous buildings 236 days compared to 125 days,
  - For septic 236 days compared to 163 average days,
  - For grading 182 days compared to 116 average days, and

- For rural graffiti 98 days compared to only 28 days for the only other staff member that had rural graffiti complaints.

In addition to the total processing times, there are also certain key points in the process. Although data for measuring segments of the complaint resolution process are limited, the CES' Accela system was able to generate reports showing the days between certain key dates in the process. The CES staff did not know that such reports existed. Exhibit 12 shows that the first action (i.e. sending out the allege letter) takes place within three to 12 days after a complaint is received, and if the case can be resolved before a citation is necessary, the average time needed to resolve a case is reduced by a low of 16 days for illegal dump violations to a high of over 200 days for grading. Once a citation is issued, it can take a significant amount of additional time to close a case for several different types of violations. For these types of cases, issuing citations does not appear to reduce the time to close a case.

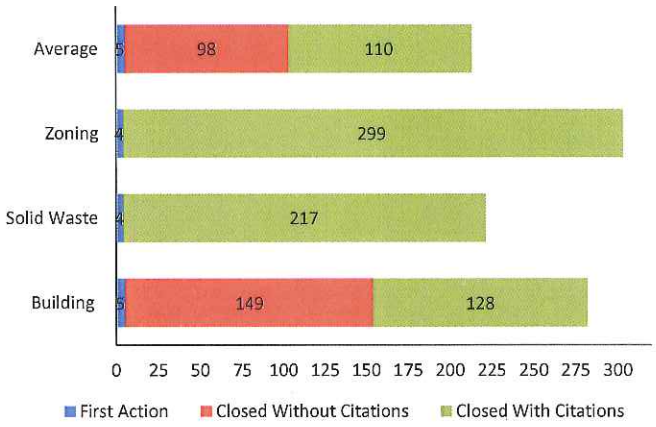
Exhibit 12
Average Processing and Closing Times Fiscal Years 2010-11 through 2012-13

Violation	Days to First Action, All Cases	Days to Close with Citations	Days to Close without Citations	Days Added by Citations
Building	5	282	154	128
Dangerous building	6	165	110	55
Electrical	6	213	121	92
Grading	6	308	108	200
Graffiti Rural	12		47	
Graffiti Urban	6	126	55	71
Illegal Dump		87	71	16
Mechanical	9	197	104	93
Manf. Home	3		175	
Plumbing	8	216	100	116
Road Use	0	183	83	100
Septic	1	248		
Solid waste	4	221		
Zoning	4	303		

Source: Code Enforcement Section, FCS GROUP

Exhibit 13 graphically shows the overall average times for each action and the average times for the three major violation categories.

Exhibit 13
Average Processing Times by First Action, Without Citations, and With Citations



No data was available to determine the number of cases or the additional time added by cases involving the Hearing Officer. There was data on Hearing Officer orders, and as a result, the number of cases with orders could be counted. Based on the sample of cases, about 10% of the sample cases involved orders. There is a considerable range among the CES specialists and coordinator in the percentage of cases resulting in court orders. One CES specialist had a high of 15% of cases with more of the cases going to the Hearing Officer on building and zoning cases compared to other CES staff. At the other end of the range, one CES specialist only had about 2% of the cases with orders. The other two CES staff averaged about 7% and 11% of their cases with orders. As previously mentioned, case closure rates for all staff were about the same and processing times do not appear to be related to the percentage of hearing cases. Exhibit 14 shows the percentages for each CES staff member.

Exhibit 14
Percentage of Hearing Officer Cases Fiscal Years 2010-11 through 2012-13

		Staff #1			Staff #2			Staff #3			Staff #4		
Violation	Overall %	Total Cases	HO Cases	% HO Cases	Total Cases	HO Cases	% HO Cases	Total Cases	HO Cases	% HO Cases	Total Cases	HO Cases	% HO Cases
Building	13.92%	68	9	13.24%	119	24	20.17%	60	3	5.00%	177	23	12.99%
Dangerous building	6.33%	12		0.00%	13	2	15.38%	8		0.00%	46	3	6.52%
Electrical	6.15%	16		0.00%	13	2	15.38%	10		0.00%	26	2	7.69%
Grading	4.44%	14		0.00%	30	2	6.67%	16		0.00%	30	2	6.67%
Graffiti Rural	0.00%	0		0.00%	0		0.00%	2		0.00%	2		0.00%
Graffiti Urban	0.00%	0		0.00%	0		0.00%	0		0.00%	33		0.00%
Illegal Dump	0.00%	10		0.00%	2		0.00%	3		0.00%	8		0.00%
Mechanical	0.00%	3		0.00%	5		0.00%	4		0.00%	3		0.00%
Manf. Home	8.33%	2		0.00%	6	1	16.67%	2		0.00%	2		0.00%
Plumbing	5.45%	10		0.00%	12	3	25.00%	11		0.00%	22		0.00%
Road Use	0.00%	3		0.00%	4		0.00%	5		0.00%	6		0.00%
Septic	0.00%	2		0.00%	2		0.00%	1		0.00%	1		0.00%
Solid waste	12.40%	45	2	4.44%	90	12	13.33%	50	1	2.00%	307	46	14.98%
Zoning	10.09%	141	12	8.51%	256	39	15.23%	129	1	0.78%	386	40	10.36%
	10.28%	**326**	**23**	**7.06%**	**552**	**85**	**15.40%**	**301**	**5**	**1.66%**	**1,049**	**116**	**11.06%**

Source: Code Enforcement Section, FCS GROUP

It should be noted that the review did not include evaluating the individual capabilities and qualifications of the CES staff members.

CHAPTER IV: STAKEHOLDER PERSPECTIVES

To provide additional perspectives about the code enforcement program, 22 interviews were conducted with County department staff, representatives from community planning organizations, citizens, and complainants and alleged violators. The CES selected all the interview participants except for one person who was referred to us by one of the persons interviewed. There were both positive and negative comments from all persons interviewed. A broader sample was not within the scope of the project, but as part of the 2011 planning and assessment process, the CES did, however, conduct a citizen survey, which contributed to the recent changes made to the code enforcement program.

Within County government, most of the positive comments focused on the staff's knowledge, professionalism, and commitment, while citizens who were associated with community planning organizations or were complainants also had praise for the CES staff. Except for one alleged violator, those citizens who were investigated by the CES staff had mostly negative comments about their experience and the fairness of the process. Although there were positive comments about the staff, there were also some negative comments about their approach, customer service, and fairness. One of the main identified barriers was staffing and funding. In addition, a number of improvement opportunities were also identified by County staff and the citizens. The following summarizes the comments made about the CES program and its staff.

COUNTY STAKEHOLDER COMMENTS

Most County department staff that work with the CES staff and program generally believe that the CES staff are knowledgeable and professional. Examples of such comments include the following:

- Done a great job and have a great working relationship,
- Very high quality work, very professional, and creative within the context of the rules,
- Professional and very qualified, but overworked,
- Professional and reliable to work with,
- Very well informed and well trained,
- Very knowledgeable,
- Very good technically, know codes,
- Dedicated and knowledgeable,
- Broad understanding of rules, breadth of knowledge unique to CES staff, and experienced staff, and
- Working knowledge about who to contact in the County.

In addition, some County staff also commented about the staff's commitment and attitude concerning code enforcement.

- Very committed to code enforcement and its principles,
- Dedication to community at large,
- Passion for getting it right, making community a better place to live,

- Want to make the county a better place to live,
- Believe in what they do, and
- Cared a lot about what they are doing.

In terms of the Code Enforcement Section's performance, several County department staff made the following comments:

- Have seen things get better over time,
- Have been effective the last couple of years,
- Overall happy with the program the way it is,
- Do a great job,
- Very well run program,
- Extremely friendly, professional,
- Overall very good,
- Work is fair, balanced, and well recorded, and
- Preparation was adequate.

Despite the positive comments, there were also negative comments that are counter to the positive ones discussed above. The following are examples of the more general negative comments as well as those related to customer service from County staff.

- Should make it more cut and dried,
- Don't look at areas of grey,
- Can be overly aggressive,
- Willing to change only if they get their way and resists change if they disagree,
- No sensitivity to the people,
- Have more of prosecutorial mindset due to their experiences,
- Burden of proof on violator without evidence,
- Have had complaints about CES being unfair, unbalanced, and harassing,
- Lack of understanding about people's rights and property ownership,
- Have seen a lack of and over enforcement,
- General impression that CES doesn't want to change,
- Not enough follow-up for either complainant or violator,
- Don't get back or return calls to either complainant or violator,
- Data collection pretty poor,
- Having rules that are not enforced is hard to explain, comes up time and time again,
- Can't do the level of investigation in timely manner,
- Would like to see stricter enforcement and shorter enforcement times, and
- Need to make it more people friendly.

CITIZEN COMMENTS

From the citizens and those that have been involved with the complaint processes, most of the citizens also had similar positive comments about the CES. Examples include the following:

- Impact is life changing,

- Very satisfied with code enforcement, keep doing what they are doing,
- Can't say enough positive,
- More than happy with service,
- Great customer service,
- Very professional,
- Staff is great, transparent, forthcoming,
- Open minded and worked together,
- Overall great group of people, and
- If they don't know the answer, they can get to the right people.

With regard to customer service improvements, the citizens mentioned the following:

- Takes forever to get through to CES,
- No one contact point,
- Frustrated about getting a hold of somebody in the CES, should be able to get a live voice,
- Should scrap and start over,
- Need more support,
- Staff not empowered to act,
- Slow to respond,
- Streamline process, now dragged out,
- Be more respectful to rural citizens,

With regard to fairness, there were different opinions depending on whether the citizen was a complainant or an alleged violator. Several citizens said they were treated fairly and objectively, and one alleged violator also felt the same way. However, there were also criticisms of the complaint process and the staff.

- Two sets of standards between urban and rural,
- Don't get a fair shake in rural areas,
- Selective enforcement, disparate treatment,
- Lack of due process, unfettered staff discretion is subject to abuse,
- Due process rights abused,
- Permitted to enforce power with impunity, and
- Think they don't have to follow the rules.

In addition, citizens were asked if they had noticed any changes in the CES's performance since it made several changes during the past two years. Most of the citizens have not noticed any differences or changes in performance.

BARRIERS AND IMPROVEMENT OPPORTUNITIES

During the interviews, the County staff and citizens also identified barriers that the CES faced and identified opportunities for improving the CES program. Barriers identified by both groups include the following:

- Lack of staffing and funding,
- Weak environmental quality rules at the state level,

- Challenge between balancing time, compliance, and funding,
- Getting played by violators,
- Political nature of code enforcement and private property issues,
- BCC involvement,
- Lack of confidentiality, and
- Codes are watered down and ever shifting.

County staff also identified areas where opportunities exist for improving coordination and communication within the County and with citizens and addressing specific issues. Issues and suggestions included the following:

- Need more robust and independent support,
- Clean-up process, have centralized log,
- Improve interdepartmental coordination,
- Meet regularly with WES, improve training on septic and what CES needs to build a case,
- The District Attorney's staff would like to see more planning about exploring opportunities and more partnering,
- Improve use of technology, update of files,
- Discuss complaints related to transportation,
- Conduct a Countywide campaign,
- Find better ways to engage the Sheriff's Office,
- Send more cases to mediation,
- Communicate better with BCC,
- Do more outreach, show what services they can do,
- Improve consistency in process,
- Correct cases that go on for 3-4 years because of board involvement, and
- Review temporary care permit problems.

From the citizens, the following improvement opportunities and suggestions were mentioned:

- Would propose appeal to Board of County Commissioners after Hearing Officer decision instead of LUBA,
- Don't wait for a complaint if a violation is seen,
- Have CES staff attend more community meetings,
- Community planning organizations looking for strong code enforcement,
- Create effective level of fines,
- Be more respectful to rural people, and
- Restore confidentiality.

PERFORMANCE MEASURES

To assess how the CES is performing, the following reflects both County staff and citizen comments about desired performance measures. The length of time that the process takes was mentioned by several citizens.

- Closed files,
- Timeliness,
- Relationships with other staff and community,
- Percent of cases brought into compliance,
- Voluntary closures,
- Number of violations,
- Active versus closed cases, and
- Number of complaints.

CHAPTER V: OBSERVATIONS AND RECOMMENDATIONS

The prior chapters describe the existing conditions and stakeholder assessments of the Code Enforcement Section. Although many of the County and citizen stakeholders identified positive qualities about the program and staff, there are also areas where the different stakeholders expressed concerns about the scope, responsiveness, and performance of the services provided. For some issues, such as no longer maintaining a complainant's confidentiality and accepting anonymous complaints, the Board of County Commissioners has recently made this policy decision, and it is not addressed in this review. However, analyses of the complaint resolution process, the case workload and performance data, and the stakeholder comments indicate that there are opportunities for addressing stakeholder concerns and improving the County's Code Enforcement Program. It should be noted that the CES has made efforts to improve the program and respond to citizen needs as part of its planning assessment process in 2011. As a result of the process, the CES proposed and made a number of changes to the program and its procedures as shown in Chapter I's Exhibit 4. Our observations and recommendations are focused on the business processes, the management of the CES and its staff, performance measures, and miscellaneous items identified during our review. We did not review whether any particular individuals were being targeted by the CES or its staff. The analyses and recommendations focus on system issues and management, and the recommendations are designed to provide improved oversight of the program and its staff, which can help prevent any targeting.

OBSERVATIONS AND RECOMMENDATIONS

Observation 1: *After documenting and reviewing the business processes used to resolve a complaint, there are a few process changes that can improve the process. However, the ability to resolve complaints in a timely manner primarily depends on the code enforcement specialists' knowledge of the codes and their investigative, negotiating, and mediation skills as well as the willingness and cooperation of the alleged violator.*

Once a complaint is accepted based on its priority, preliminary research is conducted by both the permit specialist and the code enforcement coordinator before it is assigned to a code enforcement specialist who then also performs additional research before determining whether a violation exists. In addition, before the code enforcement specialist has seen the file, the allege letter has already been sent and the first time that the specialist sees the file is when the alleged violator responds to the letter by calling or visiting in person. To eliminate any duplicate research, free up time of the permit specialist and coordinator, and increase the CES specialist's knowledge of the case before talking to alleged violator, the CES specialist should perform the initial research rather than two people who won't be working on the case.

When allege letters or violation letters are sent with response dates, the permit specialist sets up a tickler file to notify the code enforcement specialists when a response is due. Currently, the permit specialist only batches these due responses on a weekly basis. Consequently, it might be a week later before a specialist is aware that an alleged violator should have responded a week ago if the date was just after the batch was prepared. If there was no response, it might also take additional time for the code enforcement

specialist to contact the person. To provide more prompt notification, the permit specialist should notify the code enforcement specialists on a daily basis on what responses are due.

The step that occurs many times in the process is retrieving the case file. The case files are kept centrally and are not stored electronically until the case is closed. Whenever a file is used, the permit specialist must retrieve or re-file the documents. According to the staff, the paper files are kept because all staff need access to the files if the assigned code enforcement specialist is not available when someone inquires or responds about a case. Basic dates such as the date when the allege letter is sent are kept in the CES' Accela system. When a case is closed, all the documents in the case file are scanned into one electronic file.

During the study the County was in the process of procuring an upgrade to the Accela system which will allow it to store and provide access to the investigation documents in the system instead of a manual central filing system. This should help free some of the permit specialist's time. Clackamas County implemented the new permitting software (Accela Automation) on September 30, 2013 to enable staff to have online access to Building Department, Code Enforcement, and other functions through a web-based permitting platform. Citizens have real-time access to permit and code enforcement files online, inspection results, scheduling and code enforcement file status amongst other things. Coinciding with the implementation of the new permit software, the CES now creates electronic files rather than paper files when creating new violation files or tracking a file and is virtually paperless as a result. Paper files created prior to this change in practice will remain in paper form until resolved to closure. Procedurally, the permit specialist no longer physically distributes files that have been tickled. CES staff now use the Task Module in Accela Automation to work on electronic files. Paper files are kept at the inspectors desk, filed in alphabetical order for ease of access and to limit handling, refiling etc.

A file administration fee of $75.00 per month on all verified violation files was authorized by the Clackamas County Board of Commissioners effective September 4, 2013. Clackamas County now sends statements and bills for the accrued administrative fee to the property owner involved in the verified violation.

When a complaint is made and is classified as low priority or is not covered by the CES, no file is created for that complaint. Because no file or record is kept of the complaint, it is difficult to determine how many complaints are actually processed and how many are given a low priority and not investigated. Consequently, the actual workload for taking complaints by the permit specialist or the code enforcement specialists cannot be determined.

Recommendation 1.1: Instead of the permit specialist and the coordinator performing desk research and other preliminary research, these steps should be eliminated. The assigned code enforcement specialist should conduct the initial research and notify the permit specialist whether to send an allege letter. This eliminates two steps in the process, reduces the potential duplication of effort and provides the code enforcement specialist with the knowledge about the case before the person calls or shows up in person after the allege letter. When a complaint comes in, the permit specialist or the code enforcement specialist should complete the complaint form and then give the complaint to the coordinator to determine its priority and assignment.

Recommendation 1.2: Instead of batching the tickled files on a weekly basis, the permit specialist should identify all the responses that are due each day to eliminate any delays in following-up on non-responsive violators. Since the draft report was issued and the new system started, the CES began implementing this practice.

Recommendation 1.3: We encourage the CES to continue with its planned system upgrade and utilize its system to include electronic files so the need for manual central files will no longer be necessary.

Observation 2: *Although the code enforcement staff is processing, investigating, and resolving complaints throughout the year, the program needs to improve its formal management and supervisory infrastructure to provide more accountability and consistency in the quality of the investigations,*

workload management, and performance management. Generally, there is little direct supervision of the staff and program, no quality assurance system, no regular management and workload reporting, and no specific performance measures or goals. Each staff member generally operates on their own using their own interpretation of the existing guidelines.

As previously mentioned in Chapter I, the CES staff reports directly to the Building Codes Administrator, and it is the only unit out of the five sections in the division without a direct supervisor or manager. According to the Administrator, he meets weekly with the CES staff to discuss the workload and any issues, but has little involvement in day to day management of the work. He primarily gets involved when needed on specific cases and on the broader policy issues such as the program's 2011 planning and assessment effort and the proposed changes that are currently being considered. During the past three years the Building Codes Administrator's span of control has increased significantly. In FY 2011-2012, he only had three managers and supervisors reporting directly to him in addition to the Code Enforcement staff. In FY 2012-2013 he had two supervisors directly reporting to him as well as four building and administrative staff plus the five Code Enforcement staff. For FY 2013-2014 four supervisors plus the Code Enforcement staff report to him. The sustainability program was added to his group, and the four building and administrative staff he previously supervised were assigned to another unit with a supervisor within his division. However, because that supervisor is an inspector who is often out of the office, the Building Codes Administrator must deal with any issues occurring in the office when the supervisor is gone. Although the CES has a code compliance coordinator, the position only differs from the code enforcement specialists in that she determines the priority of complaints and assigns new cases to the code enforcement specialists as well as to herself. She does not have supervisory responsibility for the Code Enforcement Section and staff.

In addition to the limited time available for the Section's day to day management and activities, there are other management processes that do not formally exist, such as some supervisory or quality assurance process, a workload and case management reporting system, and a performance management system. For the most part, the only planned time when a case file is reviewed is when the coordinator assigns the case and after the case is closed. The only other times that a case might be reviewed is when the Building Codes Administrator gets involved on a case, when another code enforcement specialist is assigned to the case, and when the case is being prepared for the Hearing Officer. Thus, at key points in the process such as when actual violation letters are sent or citations and fines are issued, there has usually been no supervisory or independent review of the case as a quality assurance step. As mentioned in the comments from some of the alleged code violators, there was some concern about the autonomy and fairness in the process.

In Chapter III, Exhibit 7 shows the disparity in the case workloads among the three code enforcement specialists. Over the past three years, one staff member worked on half the number of cases of one staff member and about one-third of the number of cases compared to the staff member with the highest number of cases. Despite the higher number of cases, the two staff members have been able to achieve about the same closure rate as the person with the least amount of cases. Our scope did not include a review of the individual qualifications and capabilities of the CES specialists. As a result, it is assumed that all staff members are qualified and productive.

In conjunction with the case load, a number of the stakeholders commented on the amount of time that it takes to resolve a complaint. Since there are no regular status reports on the amount of time that has passed since a case has been opened, there currently isn't a system in place that alerts the Administrator that a case might be taking longer than it should be. As shown in Chapter III Exhibit 10 there are staff members that have average times greater than everyone else or the average time for a particular violation. While there may be specific reasons for a case to take longer to resolve, cases longer than the average might be flagged to determine why the case is requiring more time and how the case can be resolved more quickly. Because the building, planning, and solid waste divisions are paying for the time spent on their cases, the more time spent on building, zoning, and solid waste cases means that costs will increase for their code enforcement.

Because the CES system does not provide a report and the staff do not prepare their own reports that show the average processing times and closure rates, it is difficult to determine how well the Section and the staff are actually processing complaints. In addition, some data is not recorded. For example non-priority complaints are not logged or counted because they do not get entered into the system, and as a result the Section does not know how many complaints it actually receives which affects the workload of the permit specialist and others who are taking in complaints. Also, there are no categories for how a complaint was closed. For example, it is not possible to determine how many complaints were closed because there was no violation. Seventeen randomly selected case files were reviewed, and we found that two were closed because there was no violation. Also, a number were closed because the address was wrong and a new file was opened. In addition, we found that there is no date category when a permit application is filed with Building or Planning, which is a successful outcome if the violator follows through with the permit. If the case is not closed until the permit and work is completed, it will appear that the CES took longer to close the case than it actually did. These are reporting and data issues. Performance measures are discussed separately in another observation.

Recommendation 2.1: To improve supervision and management of the program, a new code enforcement supervisor position should be created, and the code enforcement coordinator position should be eliminated. The position would include all the responsibilities that the coordinator currently performs, but will also have supervisory and management responsibility for the program. The position would also have a caseload, but it is not expected that the caseload would be as high as the current coordinator's caseload if the enforcement areas are changed to balance the workload among the CES specialists. The County and the Building Codes Administrator will need to determine how the new position will be filled. This new position is a critical element in assuring quality control, fairness, and operational oversight and management.

Recommendation 2.2: Because there is a large discrepancy in the number of cases each staff member is assigned, the enforcement areas should be revised to balance the workload among the code enforcement specialists. This redistribution can also be used to reduce the caseload for the proposed supervisor position.

Recommendation 2.3: To assure that the technical analysis and any proposed solutions have been thoroughly researched and are objective, especially for the more lengthy and contentious cases, the code enforcement supervisor should review and discuss all cases before violation letters are sent, the first citation is issued, and a case is presented before the Hearing Officer.

Recommendation 2.4: To improve the monitoring of the Section's caseload and timeliness, the CES should establish interim average target times for resolving the different types of cases (e.g. the number of days allowed to resolve a case before a citation is issued or a hearing is scheduled). A monthly report should be created to identify the cases that are exceeding the target times. This will allow the supervisor and the code enforcement specialists to discuss what actions need to be taken to resolve cases in a timely manner.

Recommendation 2.5: Because different staff members have significantly lower average processing times for different types of cases, the Building Codes Administrator should consider working with those staff members to identify potential best practices that they use to resolve cases. This effort can involve the Building Codes Administrator, the new code enforcement supervisor, or an outside facilitator that interviews the staff members separately and discusses these practices as a group.

Observation 3: *The Code Enforcement Section currently does not have performance measures, and consequently, it is difficult to tell how well the Section and the staff are performing. The County recognizes that it needs to improve in this key area, and as part of the scope of work, the County wanted to identify performance measures for the Section.*

Performance measures are part of a broader concept of measuring not just the work accomplished, but also measuring the outcomes related to the goals and objectives of the code enforcement program. When discussing performance management, a framework has been established by the National Performance

Management Advisory Commission, a commission sponsored by organizations such as the Government Finance Officers Association, the National Association of Counties, and the International City/County Management Association. In its publication "A Performance Management Framework for State and Local Government: From Measurement and Reporting to Management and Improving", the Commission identified a number of reasons why public organizations are embracing performance management. The publication states that performance management has the potential to help governments address the performance challenges they face. Some of the most important challenges identified are the following:

- The need to focus the organization on results that are important for stakeholders,
- The need to improve results within resource constraints,
- The need to engage all public employees not just top officials and managers in finding ways to better serve the public in an era of complexity and rapid changes in the environment, and
- The need to gain and keep the public's trust and confidence.

The Commission identified seven principles that it believes helps transform and unite governmental processes such as planning, budgeting, management, and evaluation into a single, well-aligned system for improving results. These seven performance management principles are the following

- A results focus permeates strategies, processes, the organizational culture, and decisions.
- Information, measures, goals, priorities, and activities are relevant to the priorities and well-being of the government and the community.
- Information related to performance, decisions, regulations, and processes is transparent – easy to access, use, and understand.
- Goals, programs, activities, and resources are aligned with priorities and desired results.
- Decisions and processes are driven by timely, accurate, and meaningful data.
- Practices are sustainable over time and across organizational changes.
- Performance management transforms the organization, its management, and the policy making process.

In *How Effective are Your Community Services?* published by the Urban Institute and the International City/County Management Association, there is a chapter on handling citizen complaints and requests. Although the discussion is not specifically related to code enforcement, the types of performance measures are still relevant to handling code enforcement complaints. The chapter identifies five different categories or objectives:

- Satisfactory response to and resolution of complaints from the government's perspective and the complainant's perspective.
- Speedy resolution of complaints,
- Quality of treatment of complainants (speed, courtesy, fairness, etc.)
- Willingness and ability of citizens to make their complaints known to the government,
- Reduction or prevention of justifiable citizen complaints.

Within each of these areas, specific performance measures are also identified, and data can be gathered from agency records or through a complaint or household survey. Measures that are relevant for code enforcement include the following:

- Percentage of complaints by type that were judged by the government and the complainants as resolved satisfactorily or unsatisfactorily,

- The median response time for resolution of justifiable complaints,
- The number and percentage of excessively delayed responses by type of complaint, and
- The percentage of complainants satisfied or dissatisfied with the aspects of their treatment by agency personnel such as speed and timeliness of response, absence of red tape, and other factors such as courtesy, inconvenience, attitude of agency staff, and fairness of their treatment.

As discussed in the previous chapter, a number of suggestions were made concerning performance measures. The suggested performance measures relate to the volume of work processed (e.g. number of complaints and violations), how many violations were resolved and how they were resolved (e.g. voluntary versus citations, Hearing Officer orders), the timeliness of the work (e.g. number of days to close a case), and opinions about the work performed (e.g. fair or unfair, helpful or uncooperative). Regardless of which performance measures are recommended, the CES must have a process and system capable of capturing the performance measurement data.

Recommendation 3.1: The CES should first establish target completion times for each type of violation to establish a level of service that can be expected by a complainant as well as setting standards for CES specialists. Measuring performance is meaningful only if the CES program has standards or benchmarks that it is using to determine how well it is performing. Since the draft report was issued, the CES has established some target completion times for different types of violations.

Recommendation 3.2: Performance management reports should be developed from data provided by the Accela system or through other data collection systems. The following represents suggested performance measures:

- Workload Indicators
  - The total number of complaints filed by type and priority including the number of low priority complaints and referrals to other agencies.
  - The number of cases that are in progress in total and by staff member.
  - The number of ongoing and closed cases involving voluntary compliance, citations, fines, the Hearing Officer, court case, LUBA etc.)
- Efficiency Indicators
  - The number of closed cases compared to the total cases opened (e.g. Percentage closure rate) in total and by staff member.
- Effectiveness Indicators
  - The average number of days that current cases have been open by type of violation in total and by staff member compared to interim target times.
  - The average number of days that closed cases were open by type of violation in total and by staff member compared to interim target times.
  - The number of cases closed by closure reason (e.g. no violation, voluntarily complied, permit obtained, compliance after citations, Hearing Officer orders)

If the CES also wants to assess its performance from the perspective of the complainants and violators, the CES might consider conducting a survey of the participants in past cases every two to three years. The survey might include questions that ask opinions about the services provided, the quality of the service by the code enforcement specialist, their satisfaction with the process, and whether they were treated fairly.

Recommendation 3.3: The recommendations regarding the average number of days to close cases should separate out the days that involve obtaining other permits, such as zoning and building type permits. The average number of days should be calculated from when the complaint is received to the

date the case is closed when corrective action is taken or when a permit application is submitted if required for corrective action. Once a permit application is submitted, the CES has little ability to control the permit processing or construction times, and the responsibility for making sure that the permit is completed is the staff from the approving division (e.g. Planning, Building, WES).

Observation 4: *During the interviews and our analysis of case files, a few other issues were identified besides opportunities to improve the complaint handling and investigation process, CES program management, and CES performance measurement. These issues involve organization of case file documents and records, on-site verification of complaints, confidentiality, temporary care permit coordination, and County Commissioner review.*

As part of our analysis, a small sample of case files were reviewed to understand the documentation gathered and what actions and activities were performed by a CES specialist investigating complaints. For some files the documentation was consistent and understandable, but for others, primarily the more complicated and lengthy cases, there were instances where it was difficult to follow what documents pertained to the case and how they were associated with the case. Past violation data and additional violations not in the same category as the original complaint sometimes made it difficult to determine what documents were associated with which violation, CES specialist activities, and correspondence.

Based on a few interviews with alleged violators, a few comments were made that CES specialists have been on private property without the owner's authorization in order to verify complaints and code violations. The CES has a specific procedure if permission is not received to be on a property.

Confidentiality has been an issue since the Board of County Commissioners directed in early 2013 that the CES no longer accept anonymous or confidential complaints except under certain circumstances. However, both the County staff and citizens identified the lack of confidentiality as an issue and potential barrier to the complaint process. Because there are no data on how the changes have affected the number of complaints investigated or processed, it is difficult to determine the impact on the complaint process. If complainants want to be anonymous or be confidential, they will not have a complaint investigated by the CES or they must have or hope other people make the same complaint. For a confidential complaint to be investigated, two complaints from different addresses must be received. In a March 2013 presentation, the CES staff noted that multiple complaints are received in less than 10% of the matters. Consequently, when there is a confidential complaint, there is a potential that fewer complaints will be investigated if other people do not file the same complaint. Until data is collected and analyzed on these types of complaints, the impact of the revised confidentiality policy will not be known, and the County will not be able to determine how the alleged violator's right to know one's accuser affects the County's ability to conduct code enforcement in a complaint driven system.

Another issue identified by County staff involved temporary dwelling for care permits in rural areas where required permits cover different time periods. These permits are generally authorized by the Planning and Zoning Division for two to three years depending on the zoning in the area. In addition, septic permits might also be needed for the dwelling, but these permits are approved for five years by Water Environment Services. Consequently, a temporary care dwelling can be out of compliance, but its septic permit can be still valid.

During interviews with alleged violators, one person suggested that the Board of County Commissioners be a last appeal opportunity after a Hearing Officer decision instead of going directly to the Land Use Board of Appeals. Every County Commissioner believed that they should not get involved in hearing or deciding such code enforcement cases. They stated that is why the County uses an impartial Hearing Officer.

Recommendation 4.1: To assure case files are complete, well documented, and organized, the CES should standardize the organization of case file documents as well as the organization and format for recording contacts and complainant and violator correspondence and responses.

Recommendation 4.2: If code enforcement specialists do not receive permission to be on a property and cannot verify the violation from either the complainant's property or the public right of way, they should be following the protocol for obtaining an administrative inspection warrant.

Recommendation 4.3: With the changes concerning confidentiality, the CES should monitor anonymous and confidentiality requests for complaints to evaluate whether the loss of anonymity and confidentiality as well as the need for additional complaints is having an impact on the number of complaints investigated. The CES should keep track of how many complaints are dropped when the CES staff informs the complainant that anonymous complaints are not accepted, how many complaints with only one confidential request are not investigated, how many are eventually investigated because additional complaints are received, and how many single confidential complaints were investigated because of imminent danger.

Recommendation 4.4: For temporary dwelling for care permits, the County should authorize the land use and septic permits for the same time period.

Recommendation 4.5: It is recommended that the Board of County Commissioners not be included as an appeal opportunity after decisions by the Hearing Officer and that any further appeals should continue to be done through the Land Use Board of Appeals.

THE COMPLAINT DRIVEN SYSTEM

The current code enforcement system is complaint driven, which means that the County will only investigate a potential code violation if there is a complaint and the initial complainant does not request confidentiality. In addition, the complaint must also be consistent with a certain priority level before it is investigated. Several citizens commented that they believe the County should investigate and enforce all potential violations of the County code regardless of the County's priority system. They believe that if the County does not intend to enforce the codes, then why have the laws. As discussed previously, the current Code Enforcement Section has a few issues to address to improve how the program is managed in addition to implementing the 2013 Board of Commissioners new directives. In addition, it is not known how many actual complaints are coming in because the low priority complaints are not being recorded or counted. In addition, the code enforcement specialists generally have a heavy caseload such that they are currently not closing enough cases and the number of outstanding cases is getting larger.

At this time it is not recommended that the complaint driven system be eliminated for a more encompassing and proactive code enforcement system. There are several recommendations to improve the management of the Code Enforcement Section, and changing the system at the same time might be too much change to implement all at once: a supervisor needs to be hired; the Section is transitioning to an electronic filing system and improved technology; better data is needed on what type of complaints are not being investigated; the workload needs to be better balanced; and the County needs to determine whether it will add a supervisor position, which would increase capacity, or promote within the Section. In addition, a more proactive program needs to be defined and new procedures might need to be established.

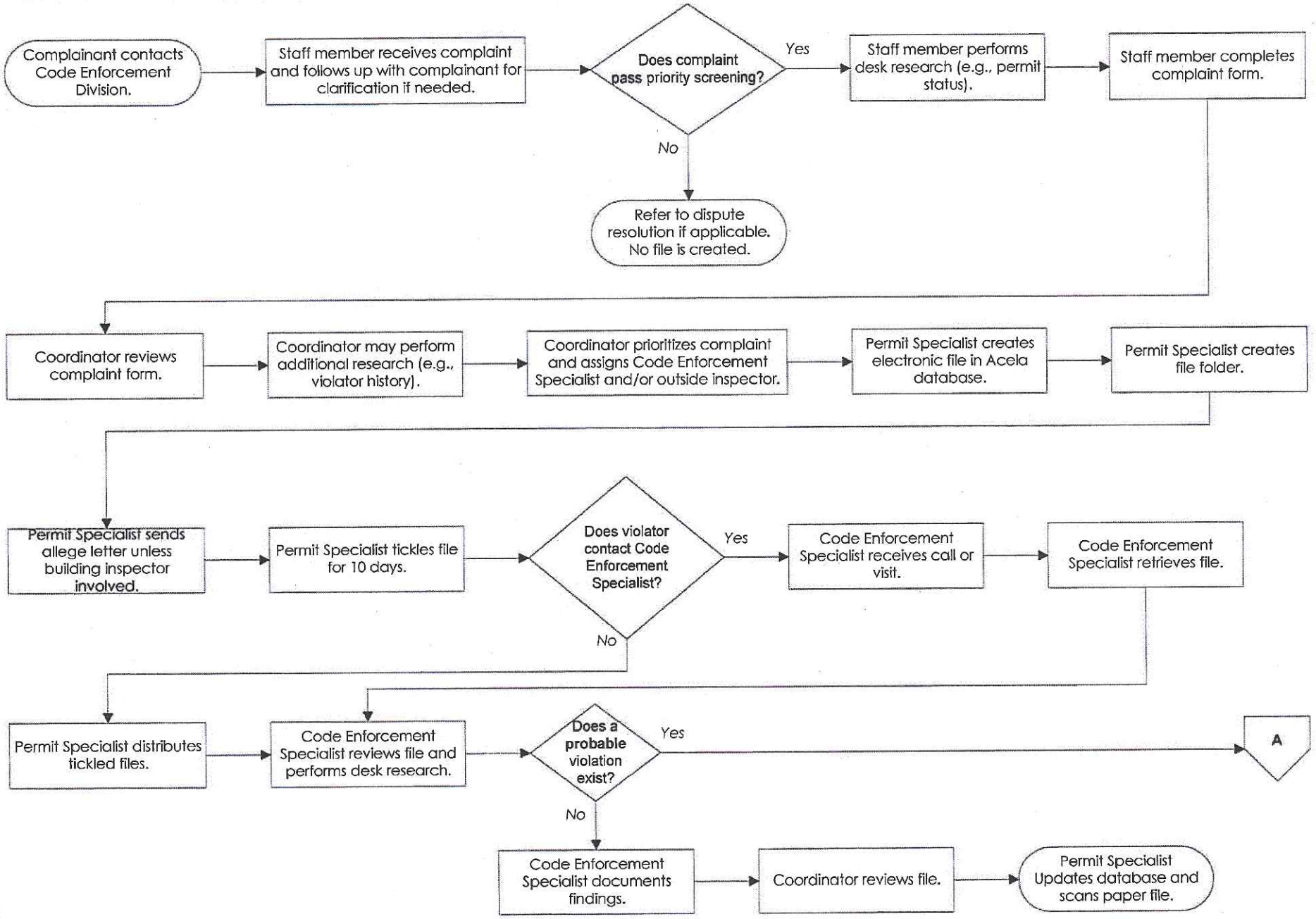
However, if the new code enforcement supervisor, improved technology, and a redistribution of the workload among the code enforcement specialists increases capacity, there may be more opportunities to get involved and broaden the existing program as discussed by some of the stakeholders who would like to see more cooperation and additional planning and working with their departments. There are some other alternatives where the Code Enforcement Section might be more proactive in making sure that the codes are enforced and the people are complying with the codes. Stakeholders have proposed some potential ideas such as attending more community meetings and establishing a code compliance campaign. However, for this type of proactive program, the County should determine whether it is the responsibility of the Code Enforcement Section to inform the

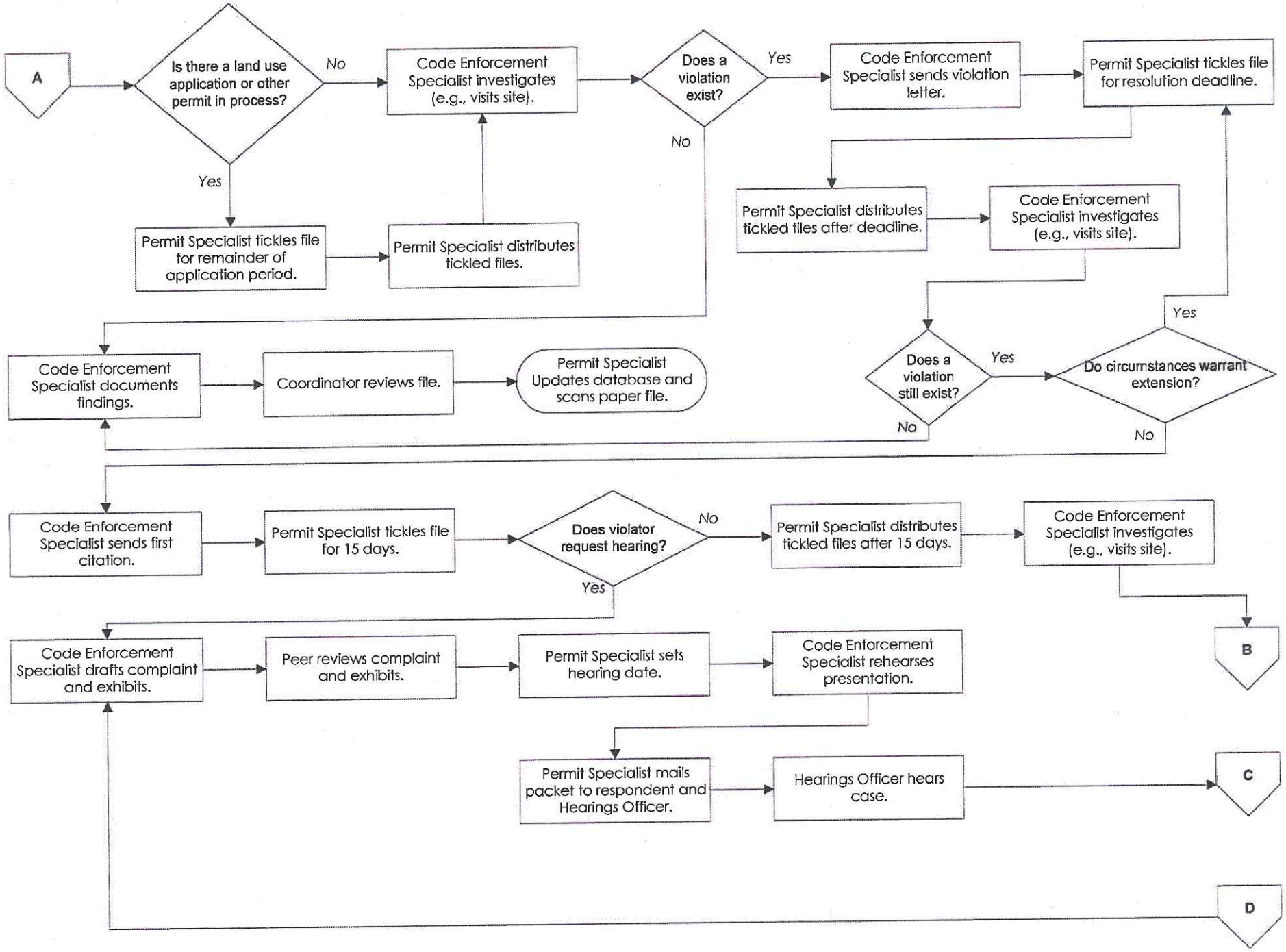
public and citizens about the various codes or whether it is the responsibility of the programs that establish the codes to be more proactive about informing the public about their codes. If the County decides that it wants the Code Enforcement Section to educate the public about the codes, the respective departments and divisions might consider paying for these types of services in addition to paying for investigating complaints involving their codes.

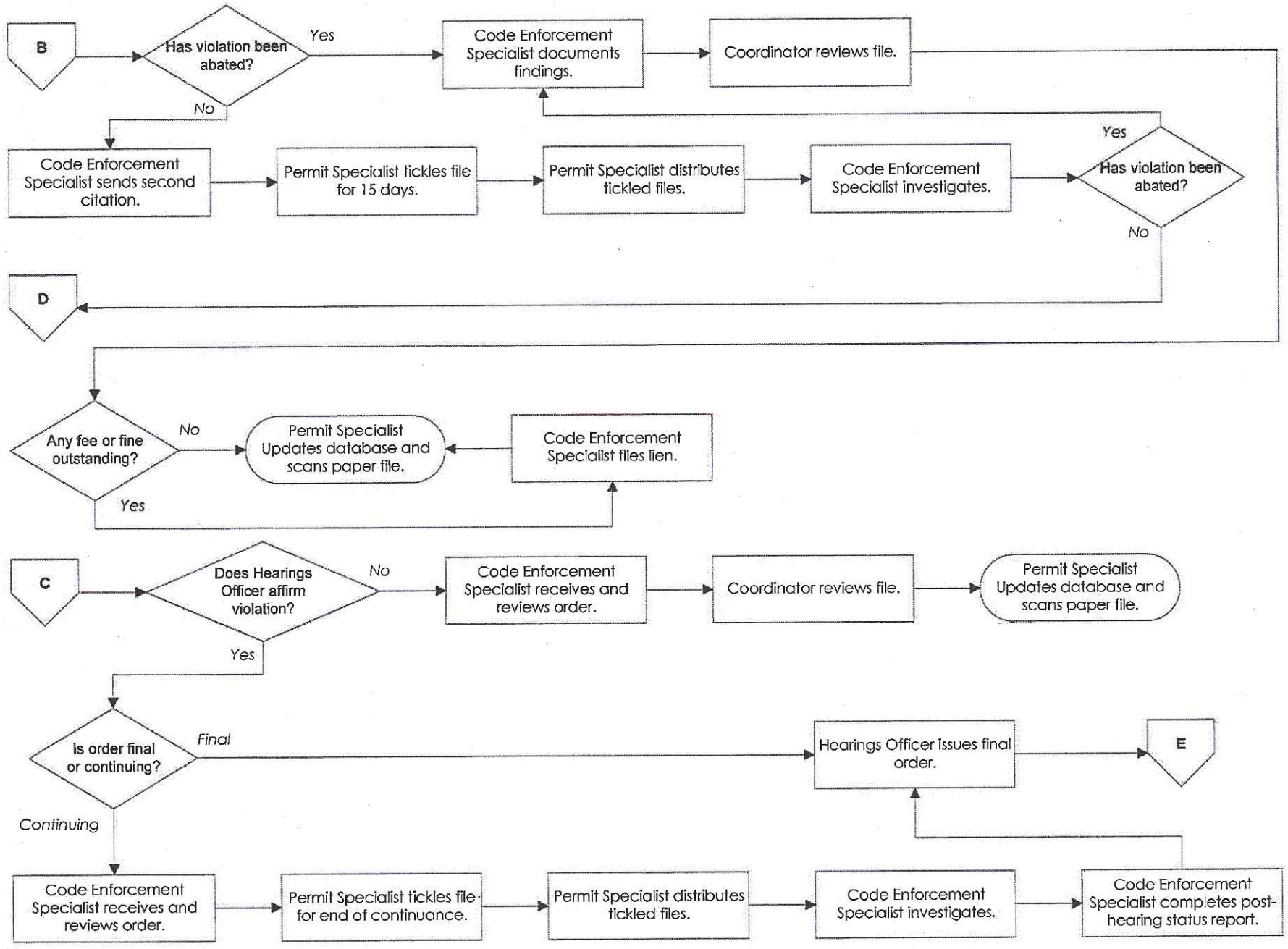
Besides educating the public and citizens on the County codes, another more proactive alternative occurs when the code enforcement specialists are out in the field working on existing complaints. If from the street or public right of way, they see any major violations that meet the County's priorities, they could start an investigation. The types of violations that they might observe include any obvious building construction and solid waste issues. Based on the types of complaints in a community, the code enforcement specialists might also establish a set of priority violations where they would initiate an investigation instead of waiting for a complaint. Current building inspectors or planning staff can also identify potential violations when they are out in the field. Before any complaint or investigation is actually initiated, the staff would need to check whether proper permits, if applicable, have already been submitted or approved.

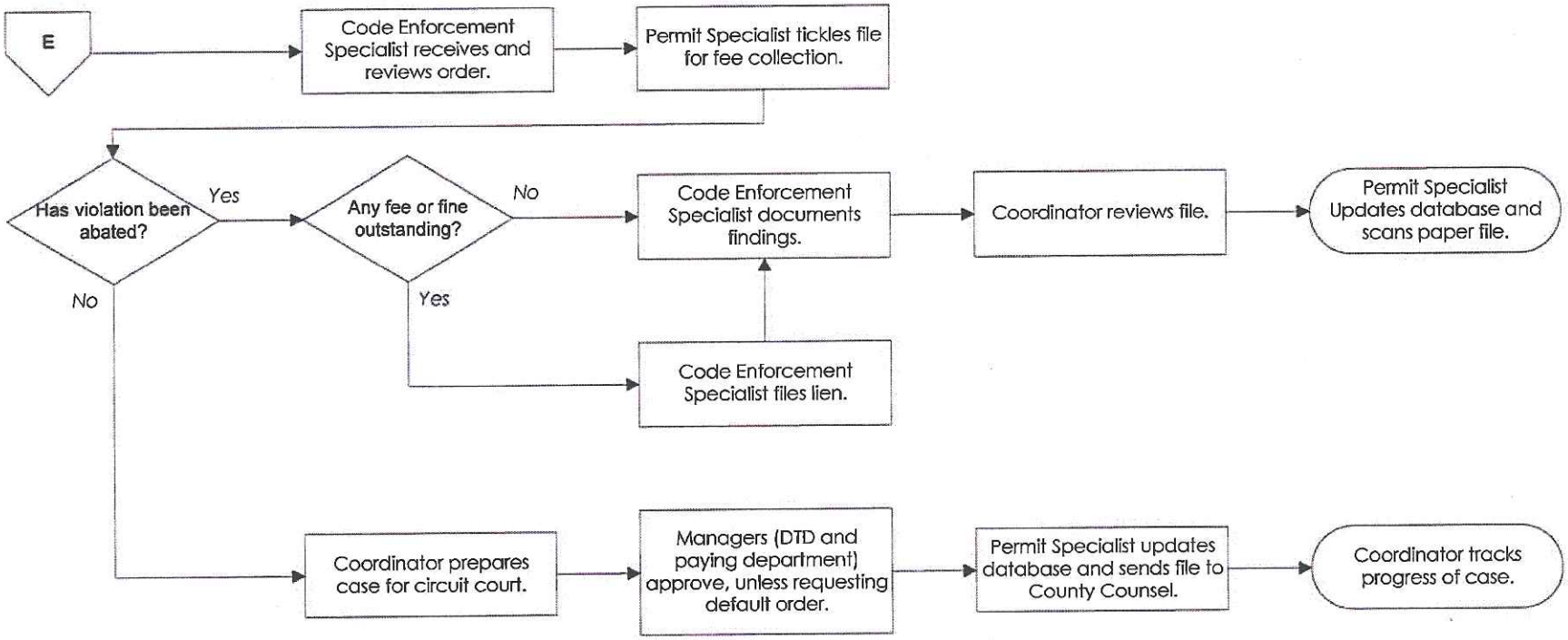
APPENDIX A: CODE ENFORCEMENT PROCESSES

Code Enforcement Complaint Process




A
Is there a land use application or other permit in process?
No
Yes
Code Enforcement Specialist investigates (e.g., visits site).
Permit Specialist tickles file for remainder of application period.
Permit Specialist distributes tickled files.
Does a violation exist?
Yes
No
Code Enforcement Specialist sends violation letter.
Permit Specialist tickles file for resolution deadline.
Permit Specialist distributes tickled files after deadline.
Code Enforcement Specialist investigates (e.g., visits site).
Does a violation still exist?
Yes
No
Do circumstances warrant extension?
Yes
No
Code Enforcement Specialist documents findings.
Coordinator reviews file.
Permit Specialist Updates database and scans paper file.
Code Enforcement Specialist sends first citation.
Permit Specialist tickles file for 15 days.
Does violator request hearing?
No
Yes
Permit Specialist distributes tickled files after 15 days.
Code Enforcement Specialist investigates (e.g., visits site).
B
Code Enforcement Specialist drafts complaint and exhibits.
Peer reviews complaint and exhibits.
Permit Specialist sets hearing date.
Code Enforcement Specialist rehearses presentation.
Permit Specialist mails packet to respondent and Hearings Officer.
Hearings Officer hears case.
C
D


B
Has violation been abated?
Yes
No
Code Enforcement Specialist documents findings.
Coordinator reviews file.
Code Enforcement Specialist sends second citation.
Permit Specialist tickles file for 15 days.
Permit Specialist distributes tickled files.
Code Enforcement Specialist investigates.
Has violation been abated?
Yes
No
D
Any fee or fine outstanding?
No
Yes
Permit Specialist Updates database and scans paper file.
Code Enforcement Specialist files lien.
C
Does Hearings Officer affirm violation?
No
Yes
Code Enforcement Specialist receives and reviews order.
Coordinator reviews file.
Permit Specialist Updates database and scans paper file.
Is order final or continuing?
Final
Continuing
Hearings Officer issues final order.
E
Code Enforcement Specialist receives and reviews order.
Permit Specialist tickles file for end of continuance.
Permit Specialist distributes tickled files.
Code Enforcement Specialist investigates.
Code Enforcement Specialist completes post-hearing status report.


E
Code Enforcement Specialist receives and reviews order.
Permit Specialist tickles file for fee collection.
Has violation been abated?
Yes
No
Any fee or fine outstanding?
No
Yes
Code Enforcement Specialist documents findings.
Coordinator reviews file.
Permit Specialist Updates database and scans paper file.
Code Enforcement Specialist files lien.
Coordinator prepares case for circuit court.
Managers (DTD and paying department) approve, unless requesting default order.
Permit Specialist updates database and sends file to County Counsel.
Coordinator tracks progress of case.