

RESOLUTION NO. _____

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF SAN BENITO COUNTY
APPROVING SAN BENITO COUNTY PROCEDURES FOR THE CONDUCT OF MAIL BALLOT
ELECTIONS CONDUCTED PURSUANT TO ARTICLE XIID,
SECTION 6(C) OF THE CALIFORNIA CONSTITUTION
TO ADOPT OR INCREASE FEES OR CHARGES**

WHEREAS, this Board of Supervisors ("Board") is authorized by Government Code section 25210 et seq. to provide services to county service areas and to levy charges to pay for those services; and

WHEREAS, Article XIID, section 6(c) of the California Constitution requires the Board of Supervisors to conduct mail ballot elections for new or increased property related fees and charges for services other than water, sewer and refuse collection; and

WHEREAS, upon adoption of this resolution, any and all resolutions, or rules or regulations of this Board in conflict with it, shall be repealed and shall have no further force or effect. This resolution supersedes all prior resolutions of the Board to the extent that such resolutions established procedures for conducting mail ballot elections to adopt or increase property related fees or charges for services other than water, sewer and refuse collection conducted by the Board pursuant to Article XIID, section 6(c) of the California Constitution.

IT IS, THEREFORE, RESOLVED by the San Benito County Board of Supervisors that when proposing new or increased property related fees or charges for services other than water, sewer and refuse collection pursuant to Article XIID, section 6 of the California Constitution, the following procedures shall apply:

Part I - Introduction

In connection with consideration of property-related fees for county service areas, other than water, sewer and refuse collection services, the County of San Benito will conduct two proceedings:

1. A protest hearing
2. A mail ballot election

A mail ballot election will only be held if (i) the Board of Supervisors determines that, as of the close of the public input portion of the protest hearing, a majority protest does not exist and (ii) the Board of Supervisors adopts a resolution calling a mail ballot election.

The resolution calling for a mailed ballot election shall identify the parcels upon which a fee or charge is proposed for imposition and the amount of the fee or charge proposed to be imposed upon each parcel.

All references in this document to the San Benito Registrar of Voters shall, to the extent the reference requires that the San Benito Registrar of Voters perform a function, be deemed to include any employee of the County who is designated by the San Benito Registrar of Voters to perform that function.

The term "owner" or "record owner", when used in this document and not otherwise defined, includes any person who qualifies as an owner for purposes of Article XIII D, Section 6 of the California Constitution.

Part 2 - Mail Ballot Election

A. Mailing of Ballot

1. Not less than 45 days prior to the date of the mail ballot election, election materials shall be mailed to the record owner of each parcel to which the fee is proposed to apply.
2. Election materials shall be mailed in an envelope include which includes on its face, in at least 16-point bold font and in substantially the following form, the statement: "OFFICIAL BALLOT ENCLOSED" and shall include a notice, a ballot and a ballot return envelope. The County may also repeat the phrase "OFFICIAL BALLOT ENCLOSED" in languages other than English.
3. The Notice shall include:
 - a. The total amount of the fee chargeable to all parcels in the county service area that are subject to the fee;
 - b. The amount chargeable to the owner's particular parcel;
 - c. A description of the inflation adjustment formula applicable to the fee, if any;
 - d. The duration of the fee;
 - e. The reason for the fee and the basis upon which the amount of the proposed fee was calculated;
 - f. The date and time by which ballots must be returned to the San Benito Registrar of Voters and the address for return of ballots;
 - g. The date, time and location where ballots will be tabulated;
 - h. A summary of the procedures applicable to the completion, return and tabulation of the ballots;
 - i. A disclosure that the fee will only be approved if the number of ballots cast (and not withdrawn) in favor of the fee exceed the number of ballots cast (and not withdrawn) in opposition to the fee; and
 - j. Such other relevant information as staff may determine to include.
4. The ballot shall include:
 - a. The address for return of ballots;

- b. The name of the record owner
 - c. A place where the person returning the ballot shall reasonably identify the parcel by APN or street address:
 - d. A place where the person casting the ballot may indicate support or opposition to the fee;
 - e. A place where the person submitting the ballot may print his or her name and execute a statement under penalty of perjury that he or she is an owner of the parcel identified on the ballot or is a person legally entitled to submit a ballot on behalf of an owner; and
 - f. The date, time and location where ballots will be tabulated;
 - g. Such other relevant information as staff may determine to include.
5. The ballot return envelope shall be pre-addressed to the San Benito Registrar of Voters. In order to ensure proper handling, the ballot return envelope shall include on its face the words "Ballot Return Envelope—Do Not Open Until Close of [date] Election At Time of Official Tabulation".
6. Any information required to be included on the notice may instead be included on the ballot.
7. For purposes of this Subsection A, "record ownership" shall be determined by the name appearing on the last equalized secured property tax assessment roll. Notice, a ballot, and a ballot return envelope shall be mailed to the record owner at the mailing address indicated on that roll.

B. Completion of Ballots

1. Who May Complete a Ballot

A ballot may be completed by an owner of the parcel subject to the fee. If the owner of the parcel is a partnership, joint tenancy or tenancy in common, a ballot may be completed by any of the general partners, joint tenants or tenants in common. Except as set forth below, only one ballot may be completed for each parcel.

2. Proportional Ballots

If a parcel has multiple owners, any owner may request a proportional ballot. If the ownership interest of the owner is not shown on the last equalized secured property tax assessment roll, such request must include evidence, satisfactory to the San Benito Registrar of Voters, of the owner's proportional rights in the parcel. The San Benito Registrar of Voters will provide the proportional ballot to the owner at the address shown on the assessment roll. Any request for a ballot to be mailed to another location must be made in writing and must include evidence, satisfactory to the San Benito Registrar of Voters, of the identity of the person requesting the ballot. Each proportional ballot will be marked to show the date on which the ballot was provided, to identify it as a proportional ballot and to indicate the owner's proportional rights in the parcel. The San Benito Registrar of Voters will keep a record of each proportional ballot provided to an owner.

3. Duplicate Ballots

If a ballot is lost, withdrawn, destroyed, or never received, the San Benito Registrar of Voters will mail or otherwise provide a duplicate ballot to the owner upon receipt of a request in writing delivered to the San Benito Registrar of Voters. The duplicate ballot will be marked to show the date on which the ballot was mailed or provided and to identify it as a duplicate ballot or a duplicate proportional ballot. The same procedure applies to duplicate ballots or duplicate proportional ballots which are lost, withdrawn, destroyed or never received.

If the ownership interest of the owner requesting the Duplicate ballot is not shown on the last equalized secured property tax assessment roll (as, for example, when a parcel has been acquired after the assessment roll is equalized), the duplicate ballot request must include evidence, satisfactory to the San Benito Registrar of Voters, of the person's rights in the parcel. In this case, the duplicate ballot shall indicate the name of the owner who has requested the ballot.

The San Benito Registrar of Voters will provide the duplicate ballot to the owner at the address shown on the assessment roll. Any request for a ballot to be mailed to another location must be made in writing and must include evidence, satisfactory to the San Benito Registrar of Voters, of the identity of the person requesting the ballot.

Each duplicate ballot will be marked to show the date on which the ballot was provided, to identify it as a duplicate ballot. The San Benito Registrar of Voters will keep a record of each duplicate ballot provided to an owner.

4. Provisional Ballot

If a person requests a duplicate ballot, and that person does not provide the San Benito Registrar of Voters with evidence sufficient to demonstrate that the person is the owner of a parcel that will be subject to the fee, the San Benito Registrar of Voters will issue that person a provisional ballot. Each provisional ballot shall be marked to show the date on which the ballot was provided, to identify the person to whom it was issued, and to identify the parcel for which the requesting person claims an ownership interest. The San Benito Registrar of Voters will keep a record of each provisional ballot provided.

5. Marking and Signing the Ballot

To complete a ballot, the owner of the parcel must (i) mark the appropriate box supporting or opposing the proposed fee, and (ii) sign, under penalty of perjury, the statement on the ballot that the person completing the ballot is an owner of the parcel or a person legally authorized to execute documents on behalf of the owner. Ballots must be completed in ink and include the original wet signature of the signer.

6. Only Ballots Provided by the County Will Be Accepted

The San Benito Registrar of Voters will only accept ballots mailed or otherwise provided to owners by the County.

C. Return of Ballots

1. Where to Return Ballots

Ballots may be hand-delivered to the Registrar of Voters, 440 Fifth St., Second Floor, Room 205, during the normal business hours of that office. Ballots may also be returned to the Office of the San Benito Registrar of Voters by mail. The mailing address for return of ballots shall be the address printed on the ballot and ballot return envelope.

2. When to Return Ballots

All returned ballots must be received by the San Benito Registrar of Voters prior to the date and time set by the Board of Supervisors in the resolution calling the election. Envelopes postmarked, but not received by the San Benito Registrar of Voters, prior that date will not be counted.

3. Withdrawal of Ballots

Anyone who submits a ballot may withdraw it by submitting to the San Benito Registrar of Voters a signed written request that the ballot be withdrawn. The request shall contain sufficient information to identify the affected parcel and the name of the person who submitted both the ballot and the request that it be withdrawn.

When ballots are tabulated, the San Benito Registrar of Voters will segregate withdrawn ballots from all other returned ballots. The San Benito Registrar of Voters will retain all withdrawn ballots and will indicate on the face of such withdrawn ballots that they have been withdrawn.

If any ballot has been withdrawn, the person withdrawing the ballot may request a duplicate ballot.

4. Changes to Ballots

In order to change the contents of a ballot that has been submitted, the person who has signed that ballot must (i) request that such ballot be withdrawn, (ii) request that a duplicate ballot be issued and (iii) return the duplicate ballot fully completed. Each of these steps must be completed according to the procedures set forth above.

D. Tabulation of Ballots

1. Which Ballots Will Be Counted?

Only ballots which are completed and returned in compliance with these procedures will be counted. Ballots received by the San Benito Registrar of Voters after the close of the deadline for return of ballots will not be counted. Ballots which are not signed by the owner will not be counted. Ballots with no boxes marked, or with both support and oppose boxes marked, will not be counted. Ballots withdrawn in accordance with these procedures will not be counted.

The San Benito Registrar of Voters will keep a record of each proportional, duplicate, or provisional ballot mailed or otherwise provided to an owner and will ensure that only one ballot is tabulated for the parcel (or for each owner in the case of proportional ballots).

Provisional ballots shall not be counted unless, by the deadline for returning ballots, the

San Benito Registrar of Voters has received sufficient evidence of ownership as would have been

required for the issuance of a duplicate ballot. All provisional ballots that have been returned to the San Benito Registrar of Voters shall be retained along with other ballots so returned.

2. When and Where Ballots Will Be Tabulated

The San Benito Registrar of Voters will count the ballots in a public place at a date and time scheduled for such purpose by the San Benito Registrar of Voters. Tabulation will be performed in view of such members of the public who choose to observe such tabulation. Ballots will not be removed from their return envelopes until tabulation begins.

The ballot tabulation may be continued to a different time or different location accessible to the public, provided that the time and location are announced at the location at which the tabulation commenced and posted by the agency in a location accessible to the public

3. How Ballots Will Be Tabulated

Ballots may be counted by hand, by computer or by any other tabulating device.

Each ballot, other than a proportional ballot, will count as one vote. Proportional ballots will be counted as a fraction of a vote, weighted in accordance with the respective ownership interests of each proportional ballot submitted. If one or more proportional ballots are returned for a parcel and a non-proportional ballot is returned for the parcel, the non-proportional ballot will either be disregarded (if the same owner has returned a proportional ballot) or treated as a proportional ballot (if the same owner has not returned a proportional ballot).

4. Who Will Tabulate Ballots?

Ballots will be tabulated by the San Benito Registrar of Voters or some other impartial person designated by the Board of Supervisors who does not have a vested interest in the outcome of the Election. The San Benito Registrar of Voters or other designated person may be assisted by any of the staff and consultants of the County.

5. Results of Tabulation

The property owners will be deemed to have approved the fee (including any associated inflation adjustment formula) if the number of votes cast in favor of the fee exceeds the number of votes cast in opposition to the fee.

6. Announcement of Tabulation

The results of the tabulation will be announced at a meeting of the Board of Supervisors and will be certified by resolution of the Board of Supervisors.

E. Resolution of Disputes

In the event a question arises regarding whether the signer of a ballot (or person on whose behalf a ballot has been submitted) is an owner of the parcel to which the ballot applies, the

San Benito Registrar of Voters will make such determination from the last equalized secured property tax assessment roll and any evidence of ownership submitted to the San Benito Registrar of Voters prior to the closing of the election. The San Benito Registrar of Voters will be under no duty to obtain or consider any other evidence as to ownership of property and her determination of ownership will be final and conclusive.

In the event a question arises regarding whether the signer of a ballot is legally entitled to submit a ballot on behalf of an owner, the County may rely on the statement on the ballot signed under penalty of perjury and any evidence submitted to the San Benito Registrar of Voters prior to the closing of the election. The San Benito Registrar of Voters will be under no duty to obtain or consider any other evidence as to whether the signer of the ballot is an authorized representative of the owner and its determination will be final and conclusive.

F. Confidentiality

The County considers the vote contained on a ballot (i.e. whether the box in support is checked or the box in opposition is checked) to be a public record, and will disclose the ballots received upon the conclusion of the election upon a request.

PASSED AND ADOPTED by the San Benito County Board of Supervisors on the 23rd day of March 2021, by the following vote:

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

BY: _____
Mark Medina
Chair of San Benito County Board of Supervisors

APPROVED AS TO FORM & LEGALITY:

BY: _____
Barbara Thompson, County Counsel

ATTEST:
BY: _____
Jennifer Frechette, Clerk of the Board