

**BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO**

**AN ORDINANCE OF THE COUNTY OF SAN BENITO )  
AMENDING ARTICLE III “FEES FOR COUNTY SERVICES” ) ORDINANCE NO.  
OF CHAPTER 5.01 “COUNTY FEES” OF TITLE 5 OF THE )  
SAN BENITO COUNTY CODE, BY THE ADDITION OF )  
SUBARTICLE IX “COUNTY COUNSEL” )  
\_\_\_\_\_ )**

The Board of Supervisors of the County of San Benito ordains as follows:

**SECTION 1. Findings, Codification, Severability and Enactment.** The Board of Supervisors hereby finds: (1) the County is authorized by the California Government Code to establish fees to recover the cost of services provided by the County Counsel Office, and its contracted attorneys, for legal services; and (2) the fees for services specified herein represent the reasonable fees necessary to reimburse and recover costs the County incurs for performing the applicable services. Specifically, the outside counsel fees adopted herein are established at actual costs only, and do not exceed those costs.

**SECTION 2.** A new Subarticle IX “COUNTY COUNSEL” of Article III of Chapter 5.01 is hereby added to read as follows:

**SUBARTICLE IX. COUNTY COUNSEL**

**5.01.118 COUNSEL FEES FEES**

**(A) OUTSIDE COUNSEL FEES**

1. Notwithstanding any other section of this code, and to supplement the fees set forth in those sections, all Applicants submitting an application for any discretionary approval from the Resource Management Agency shall be charged, and pay, all expenses for outside legal counsel when such counsel has been retained by the County to provide legal advice relating to that application. Applicants will be responsible in the same manner and at the same rate as the County may incur those expenses.

2. The amount paid under Section 5.01.060 as “Legal Surcharge” shall be applied to the fees specified above, so that the applicant receives full credit for the amounts paid as part of the Application submittal as the “Legal Surcharge.”

3. For work performed by outside legal counsel on contract with the San Benito County, in addition to hourly rates, Applicants shall be responsible for actual costs charged to the County for costs and expenses, including but not limited to photocopying and mileage expenses. Due to the costs of staff time for legal billing, applicants receiving less than one total hour of outside counsel time shall not be billed for the costs of outside counsel.

4. Rates different than above may be established by an agreement with an Applicant. The hourly rate billed by Outside Counsel shall not exceed \$450.00/hour, absent a project specific reimbursement agreement.

**(B) COUNTY COUNSEL INTERNAL STAFF FEES**

Fees for County Counsel staff may be fixed by the Board of Supervisors, from time to time, by resolution.

**(C) COLLECTION OF FEE**

(1) Applicant shall be billed for the work being performed by outside counsel. Any balance shall be due and payable within five (5) days of written notice by the County of the amount due, at the address on file for the person/entity requesting the service, such as on the Application submitted to the Resource Management Department. The notice may be provided by fax, email or by mail. Applicants shall notify County Counsel, at [legal@cosb.us](mailto:legal@cosb.us), of any change in address within 5 business days of such change occurring.

(2) In the event that the fee was incurred as a result of an appeal or discretionary approval by the County, such approval may be postponed or denied in the event of non-payment of the fee.

(3) No discretionary approvals shall be granted by the County when there is a past-due amount owed to the County, unless this provision is waived by County Counsel.

(4) Payment of all fees shall be a condition of approval for any discretionary approval.

**Section 3. Codification, Severability and Enactment.** Section 2 shall be codified in the San Benito County Code. The remaining sections shall not be codified. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portion(s) of this ordinance. The Board of Supervisors declares that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one section, subsection, sentence, clause or phrase be declared invalid.

The fees authorized herein shall be collected commencing on the date the ordinance becomes effective. This ordinance shall take effect and be in full force and effect thirty (30) days after its passage and approval. Prior to the expiration of fifteen (15) days from the final passage hereof, the clerk of the San Benito County Board of Supervisors shall cause this ordinance to be published in a newspaper of general circulation in the County of San Benito.

**Introduced** at a regular meeting of the Board of Supervisors held on the 26th day of June, 2018. Final passage and adoption by the Board of Supervisors of the County of San Benito was at a regular meeting of said Board held on 24<sup>th</sup> day of July, 2018, by the following vote:

AYES: Supervisor(s)  
NOES: Supervisor(s)  
ABSTAIN: Supervisor(s)  
ABSENT: Supervisor(s)

By: \_\_\_\_\_  
Anthony Botelho, Chair  
San Benito County Board of Supervisors

**ATTEST:**  
JANET SLIBSAGER, Clerk  
San Benito Board of Supervisors

**APPROVED AS TO LEGAL FORM**  
BARBARA THOMPSON  
County Counsel

By: \_\_\_\_\_  
Clerk of the Board of Supervisors

By: \_\_\_\_\_  
County Counsel

Date: \_\_\_\_\_

Date: \_\_\_\_\_