

**AN ORDINANCE AMENDING THE SAN DIEGO COUNTY
ADMINISTRATIVE CODE RELATING TO THE
OFFICE OF COUNTY COUNSEL**

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

Section 1. Article IX (Sections 140, 141, and 142) of the San Diego County Administrative Code is hereby repealed in its entirety, and Section 142 is recodified as Section 68 in the San Diego County Administrative Code as set forth in Section 4 of this Ordinance.

Section 2. Article XXXVI (Sections 680 and 681) of the San Diego County Administrative Code is hereby repealed in its entirety, and Sections 680 and 681 are recodified as Section 142 in the San Diego County Administrative Code as set forth in Section 3 of this Ordinance.

Section 3. Article IX (Sections 140 through 144, inclusive) is hereby added to the San Diego County Administrative Code, as follows:

ARTICLE IX

OFFICE OF COUNTY COUNSEL

SEC. 140. RECOGNITION OF THE OFFICE OF COUNTY COUNSEL.

SEC. 140.1. RECOGNITION OF THE COUNTY COUNSEL.

SEC. 140.2. COUNTY COUNSEL SERVES AS CHIEF CIVIL LEGAL ADVISOR TO THE COUNTY.

SEC. 141. DUTIES OF THE COUNTY COUNSEL.

SEC. 141.1. COUNTY COUNSEL TO APPOINT PERSONNEL.

SEC. 141.2. AUTHORIZATION TO CONTRACT FOR SERVICES.

SEC. 141.3. COUNTY COUNSEL TO PREPARE BUDGET.

SEC. 142. LITIGATION AUTHORIZATION.

SEC. 143. ESTABLISHMENT OF HOURLY RATES.

SEC. 144. PROHIBITED ACTIVITIES.

SEC. 140. RECOGNITION OF THE OFFICE OF COUNTY COUNSEL.

Pursuant to San Diego County Charter Sections 704 through 704.5, the Office of County Counsel is recognized as the chief civil law advisor of the County for purposes of providing legal services and representation to the County, through the Board of Supervisors, Chief Administrative Officer, County Officers (elected or appointed), and other official County boards, commissions, bodies, and committees in their capacity of speaking for and performing services for the County. In addition, the County Counsel also provides legal services and representation upon request to school districts, special districts, the Superior Court, and certain other public agency bodies as authorized by law. Hereinafter, reference to "County" shall include the aforementioned County bodies and officials, and reference to "County Counsel clients" shall include all of the aforementioned bodies and officials, unless otherwise specifically indicated. There is established in the County of San Diego an Office of County Counsel, hereinafter in this Article referred to as Office.

SEC. 140.1. RECOGNITION OF THE COUNTY COUNSEL.

There is in the County and in the Office the position of County Counsel. The position shall be in the Unclassified Service of the County and shall be filled by appointment by the Board of Supervisors in accordance with the County Charter, Rules of the Unclassified Service and County ordinances. The County Counsel shall serve at the pleasure of the Board of Supervisors. The County Counsel shall exercise general supervision of the Department.

SEC. 140.2. COUNTY COUNSEL SERVES AS CHIEF CIVIL LEGAL ADVISOR TO THE COUNTY.

(a) Pursuant to the San Diego County Charter, the County Counsel serves as the chief legal advisor to the County. In this capacity, the County Counsel shall provide legal services and representation to the County.

(b) No person, other than County Counsel, shall serve as the attorney or legal advisor to the County, and no County body or official shall hire, employ, retain, or use any person, other than County Counsel, for official legal advice, services, or representation for County purposes, except as provided by law or under the following circumstances:

(1) Conflict of Interest. Pursuant to the San Diego County Charter, when the County Counsel determines that a conflict of interest exists and determines to disqualify himself/herself from representing the County in a specific matter, the County Counsel, pursuant to authorization of the Board of Supervisors, shall be responsible for obtaining appropriate other counsel to represent the County in the particular matter.

(2) Specialized Legal Services. When the County Counsel determines that there is a need to obtain specialized legal services, which is not available within the Office, the County Counsel, pursuant to authorization of the Board of Supervisors, shall be responsible for obtaining appropriate outside counsel to provide the necessary expertise and specialized legal services required by the particular matter.

(3) Need for Additional Assistance. When the County Counsel determines that the legal needs of the County require additional attorney assistance not available through the Office, the County Counsel, pursuant to authorization of the Board of Supervisors, may obtain other appropriate counsel to provide legal services and representation to the County.

SEC. 141. DUTIES OF THE COUNTY COUNSEL.

(a) The County Counsel shall act under the supervision of the Board of Supervisors and shall exercise general supervision over all functions of the Office and shall enforce such rules and regulations as are prescribed and approved by the Board of Supervisors.

(b) The County Counsel shall perform the following duties:

(1) Plans, directs, organizes, and evaluates the overall activities of the Office of County Counsel with respect to the provision of legal services and representation to County Counsel clients.

- (2) Represents and provides legal services to the County in Juvenile Court with respect to juvenile dependency matters.
- (3) Prepares ordinances, briefs, opinions, and other legal documents.
- (4) Represents the County Council clients in litigation proceedings and participates in the preparation and litigation of cases in Federal and State Courts, and of administrative cases before Administrative Agencies.
- (5) Reviews and approves contracts and other legal documents.
- (6) Provides legal advice and risk analysis on issues of importance to the County Council clients.
- (7) Plans, directs, organizes, and evaluates the overall activities of the Claims Division in the Office of County Counsel in connection with the processing and administration of public liability claims filed against the County in accordance with the provisions under Article X of this Code.
- (8) Directs the development of the Office's annual budget and monitors the revenues and expenditures of the Office.
- (9) Performs such other duties as may be requested by the Board of Supervisors, the Chief Administrative Officer, and other County Council clients in accordance with or as may be required or permitted by State law, the San Diego County Charter, or County Ordinance.

SEC. 141.1. COUNTY COUNSEL TO APPOINT PERSONNEL.

The County Counsel shall appoint and employ such personnel as may be necessary to conduct the business of the Office. All appointments and employments made by the County Counsel, other than Unclassified Service positions authorized in the Office, shall be in accordance with the provisions of the County Charter, Rules of the Civil Service Commission, and County ordinances.

SEC. 141.2. AUTHORIZATION TO CONTRACT FOR SERVICES.

The County Counsel is hereby authorized to enter into and execute contracts, and any other documents as is necessary for the execution of such contracts, for services with experts, consultants, or other counsel to assist in providing the County with legal services, legal representation, and support for such services or representation. The County Counsel shall report to the Board of Supervisors, at least annually, on the cost of such services utilized by the County Counsel.

SEC. 141.3. COUNTY COUNSEL TO PREPARE BUDGET.

The County Counsel shall prepare and submit to the Chief Administrative Officer the required annual itemized estimates of the expenditures and revenues of the Office. The County Counsel shall supervise the expenditure of all funds allocated to the Office and review expenditures of those funds.

SEC. 142. LITIGATION AUTHORIZATION.

The County Counsel is authorized to file suit or institute other proceedings in a court of competent jurisdiction to recover money or damages or seek other relief as appropriate as follows:

(a) To collect unsecured delinquent property taxes from the assessee shown on the unsecured tax roll, when requested by the County Tax Collector.

(b) To enforce payment of a surety bond for the payment of taxes when requested by the County Tax Collector.

(c) To enforce payment of a debt for general relief from the person who received the aid when requested by the Director of the Department of Revenue and Recovery after he has determined that the debtor has acquired property.

(d) To enforce payment of a debt for hospital care from any or all of those persons made liable by Section 238 of this Code when requested by the Director of the Department of Revenue and Recovery after he/she has determined that the person or persons to be sued have acquired property.

(e) To enforce the County's right to recover welfare moneys received by recipient of public welfare to which the recipient was not entitled when requested by the Director of the Department of Revenue and Recovery.

(f) To collect costs for the detention or placement of minors by order of the Juvenile Court in any of the County Juvenile Probation facilities when requested by the Director of the Department of Revenue and Recovery.

(g) To enforce the County's right to recover pursuant to Chapter 5, Part 1, Division 4 of the Labor Code (Sec. 3850, et seq.) when requested by the Human Resources Services Manager, Risk Management Division.

(h) To enforce the County's right to recover from a person for damage to County property upon request of the County Auditor and Controller or the Director of the Department of Revenue and Recovery.

(i) To enforce payment of a surety bond or instrument of credit securing the performance of work or the installation of public improvements required as a condition of approving a subdivision map or issuing a permit or other entitlement for the use of land, when requested by the Director of Planning and Land Use.

(j) To enforce the County's right to recover under Government Code Sections 23004.1 and 23004.2 when required by the Director of the Health and Human Services Agency or the Director of the Department of Revenue and Recovery.

(k) To initiate eviction proceedings and foreclosure proceedings upon the request of the Chief Administrative Officer.

(l) To enforce repair and maintenance obligations of a landlord for premises occupied by the County when requested by the Director of the Department of General Services.

(m) To enforce the provisions of Chapter 4 (commencing with Sec. 22.400) of Division 2 of Title 2, the San Diego County Code relating to Business Certificate Taxes when requested by the Treasurer-Tax Collector.

(n) To enforce any local, state or federal regulatory ordinance, permit, rule, regulation, statute or other law, when requested by the County official authorized to enforce it.

(o) To recover civil penalties or seek injunctive or other relief on behalf of the Air Pollution Control District, when requested by the Air Pollution Control Officer.

(p) To enforce, pursue, or protect the County's rights by filing: (i) appeals or writs with respect to juvenile dependency matters, (ii) actions for indemnity, (iii) cross-complaints, and (iv) amicus briefs in matters that support or advance the interests of the County.

(q) To adjust, settle, or compromise claims or actions which the County may have against third parties for damages accruing to the County for damages to its officers, employees or agents or property. Any compromise or settlement exceeding \$25,000 shall be approved by the Board of Supervisors.

SEC. 143. ESTABLISHMENT OF HOURLY RATES.

The Board of Supervisors periodically shall establish, by resolution, hourly rates to be charged by County Counsel for County Counsel attorney and paralegal services. The hourly rates shall be supported by a full cost recovery study approved by the Auditor and Controller. The hourly rates shall be charged to County Counsel billable clients who receive legal services and representation from the Office of County Counsel.

SEC. 144. PROHIBITED ACTIVITIES.

Pursuant to San Diego County Charter Section 704.5 the County Counsel and all attorneys appointed by the County Counsel shall not engage in private practice of law and shall devote their full time to the duties of their position.

Section 4. Section 68 of the San Diego County Administrative Code is hereby amended, as follows:

SEC. 68. SUBPOENAS.

The Civil Service Commission is hereby authorized, as to all matters within its jurisdiction and in accordance with the rules that it establishes, to issue subpoenas and subpoenas duces tecum and to provide for the compensation of persons subpoenaed. The president or the Executive Officer of the Commission shall sign subpoenas and subpoenas duces tecum.

Section 5. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after the date of its passage, and before the expiration of fifteen (15) days after its passage, a summary shall be published once with the names of the members voting for and against the same in a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED this 16th day of July, 2002.