



# COUNTY OF SAN DIEGO

## AGENDA ITEM

### BOARD OF SUPERVISORS

NORA VARGAS  
First District

JOEL ANDERSON  
Second District

TERRA LAWSON-REMER  
Third District

VACANT  
Fourth District

JIM DESMOND  
Fifth District

**DATE:** May 2, 2023 and May 23, 2023

**14**

**TO:** Board of Supervisors

### SUBJECT

**NOTICED PUBLIC HEARING: AN ORDINANCE TO AMEND SECTIONS 86.7, 86.8, 86.9, AND 86.10 OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES RELATING TO FEES FOR SERVICES BY THE RECORDER AND COUNTY CLERK AND TO ADJUST RECORDER SHARE OF ADMINISTRATIVE COSTS FOR THE REAL ESTATE FRAUD FEE (05/02/2023 – first reading; 05/23/2023 – second reading, unless ordinance is modified on second reading). (DISTRICTS: ALL)**

### OVERVIEW

The Assessor/Recorder/County Clerk (ARCC) reviewed Recorder fees to determine whether the full cost of its services provided are recovered as required under Board of Supervisors Policy B-29 “Fees, Grants, Revenue Contracts – Department Responsibility for Cost Recovery” (Board Policy B-29) and as authorized under various State statutes. Submitted for your Board’s consideration is the adoption of a proposed ordinance amending sections of the San Diego County Code of Administrative Ordinances (Administrative Code) for fees for services provided by the Recorder. The proposed ordinance adjusts certain existing fees and repeals a fee that will no longer be charged by the Recorder. The proposed action also adjusts the distribution of the Real Estate Fraud Fee to the Recorder for administrative costs to comply with Board Policy B-29.

The Auditor and Controller has reviewed and approved the supporting documentation and methodology used to determine the proposed fees to be adjusted in this proposal.

The ordinance will be introduced on May 2, 2023, and, if approved, it will be scheduled for adoption on May 23, 2023. If the proposed ordinance is altered on May 23, 2023, then on that date a subsequent meeting date will be selected for the ordinance’s adoption. If the proposed ordinance is approved, the proposed changes will take effect on July 1, 2023.

### RECOMMENDATION(S)

#### ASSESSOR/RECORDER/COUNTY CLERK

**On May 2, 2023:**

1. Approve the introduction of the Ordinance (first reading):

**AN ORDINANCE TO AMEND SECTIONS 86.7, 86.8, 86.9, AND 86.10 OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES RELATING TO**

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FEES FOR SERVICES BY THE RECORDER AND COUNTY CLERK AND TO ADJUST RECORDER SHARE OF ADMINISTRATIVE COSTS FOR THE REAL ESTATE FRAUD FEE.

**If, on May 2, 2023, the Board takes action as recommended then, on May 23, 2023:**

1. Consider and adopt the Ordinance (second reading) entitled:

AN ORDINANCE TO AMEND SECTIONS 86.7, 86.8, 86.9, AND 86.10 OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES RELATING TO FEES FOR SERVICES BY THE RECORDER AND COUNTY CLERK AND TO ADJUST RECORDER SHARE OF ADMINISTRATIVE COSTS FOR THE REAL ESTATE FRAUD FEE.

#### **EQUITY IMPACT STATEMENT**

The Recorder remains committed to ensuring all communities across the county have access to its services, including those that have been historically underserved. The Recorder has and continues to identify ways to reduce departmental costs to provide its services to the public. Because the Recorder is service-based and the funding source is fees paid by customers, full cost recovery ensures that Recorder services which benefit a single agency or individual do not reduce resources available to the entire region.

The proposed actions would amend fees and charges for services that are provided to the public to cover the cost of services and pass-through fees in alignment with current San Diego County Board of Supervisors' policy. ARCC performed an analysis of Recorder services, including the direct and indirect costs of performing those tasks in relation to the specific services. ARCC further reviewed the frequency of services provided to ensure that the fees for services are not cost prohibitive for customers.

#### **SUSTAINABILITY IMPACT STATEMENT**

The proposed amendment to the fees and charges for services that are provided to the public will cover the full cost of services for the Recorder's internal operations. The fee changes are a result of the cumulative increase of the cost drivers such as salaries and benefits, services and supplies, and associated indirect costs of the Recorder. The adjustments to the Recorder fees are based on available expenditure and revenue data, live staff time studies, and annual service counts. The proposed actions are appropriate as they support the County of San Diego's Strategic Initiative of Sustainability to align the County's available resources with services to maintain fiscal stability and ensure long-term solvency. The proposed actions align with the County of San Diego Sustainability Goal of promoting economic sustainability for all and the United Nations Sustainable Development Goals of decent work and economic growth.

#### **FISCAL IMPACT**

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There is no current year fiscal impact associated with these recommendations. If approved, the proposal will result in an estimated net annual cost and revenue of \$73,500 for the ARCC, beginning in Fiscal Year 2023-24, which includes \$60,100 in revenue from the proposed adjustment to the distribution of the Real Estate Fraud Fee. Funds for this proposal will be included in the Fiscal Year 2023-25 CAO Recommended Operational Plan for ARCC. The funding source is fees paid by customers. These fees are estimated in an amount sufficient to recover full cost as required by Board Policy B-29: Fees, Grants, Revenue Contracts—Department Responsibility for Cost Recovery. Accordingly, there is no projected unrecovered cost, and a waiver of Board Policy B-29 is not needed. There will be no change in net General Fund cost and no additional staff years.

#### **BUSINESS IMPACT STATEMENT**

In terms of impact to the local economy, the fee changes will only impact customer requests for: recordings and filings; sending notifications of involuntary liens to debtors; refunds of documentary transfer tax paid on transfers of ownership; and, decorative certificate keepsakes of birth and marriage records. The proposed fee changes are considered reasonable and of minimal impact on the local business community.

#### **ADVISORY BOARD STATEMENT**

N/A

#### **BACKGROUND**

The Recorder completed a comprehensive review of its fees to determine whether the full cost of its services provided are recovered as required under Board Policy B-29 and as authorized under various State statutes. The review identified 11 fees eligible for a fee adjustment where, based on Government Code (GOV) section 54985 or the fee statute, this Board is allowed to increase or decrease a fee in an amount reasonably necessary to recover the cost of providing any product or service. Of those eligible fees, fee studies indicated a need for nine customer fees to be increased, one fee to be decreased, and one fee to be repealed. Additionally, the review indicated a need to increase the share of revenue the Recorder retains for administering the Real Estate Fraud Fee.

The Auditor and Controller has reviewed and approved the supporting documentation and methodology used to determine the proposed fees to be adjusted in this proposal.

The tables below show the County's current fee, the proposed fee, and the fee range of other surveyed counties. Jurisdictions surveyed include two or more of the following counties: Los Angeles, Orange, Riverside, Sacramento, San Bernardino, and San Francisco.

#### **Fees in the Administrative Code to be Increased (9):**

The proposed increases to Recorder fees are reasonable as they are based on the current cost of providing services. Proposed fee amounts account for the increase in the cumulative inflation of

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cost drivers since the fees were established and are not cost prohibitive to customers seeking services.

<b>Service</b>	<b>Current Fee</b>	<b>Proposed Fee</b>	<b>Other County Fees</b>
Additional Indexing - More Than Ten Names	\$ 5.00	\$ 7.00	\$1.00 to \$4.00
Decorative Certificate Keepsake	\$ 5.20	\$ 5.40	\$2.00 to \$8.00
Filing - Recorder	\$ 8.00	\$ 12.00	\$6.00 to \$7.00
Map Copy - First Page (Sizes Exceeding 11" x 17")	\$ 8.00	\$ 13.00	\$1.00 to \$15.00
Map Filing - First Page	\$ 39.00	\$ 50.00	\$5.00 to \$24.00
Map Filing - Each Additional Page	\$ 8.00	\$ 10.00	\$2.00 to \$19.00
Notification of Involuntary Lien - First Notice	\$ 10.00	\$ 13.00	\$6.00 to \$13.00
Notification of Involuntary Lien – Each Additional Notice	\$ 4.00	\$ 6.00	\$2.00 to \$13.00
Preliminary Notice	\$ 20.00	\$ 23.00	\$22.00 to \$72.00

**Additional Indexing – More Than Ten Names:**

The Recorder charges a fee for each group of ten names (or fractional portion thereof) recorded after the initial group of ten names of any instrument, paper, and notice recorded which requires additional indexing by the Recorder to give notice required by law and does not refer to a previously recorded document by reference pursuant to GOV 27361.8. The fee of \$5.00 has remained unchanged as adopted in 2019 through Ordinance No. 10634. The proposed ordinance would increase the fee from \$5.00 to \$7.00 based on the current cost of providing this service. For comparison, the fees charged by other counties are: \$1.00 (Orange, Riverside, Sacramento, San Bernardino, and San Francisco) and \$4.00 (Los Angeles).

**Decorative Certificate Keepsake:**

This fee is for a decorative certificate keepsake of a birth or marriage record provided by the Recorder pursuant to California Constitution, Article 11, Section 7. Through Ordinance No. 10634 in 2019, the adopted fee was \$5.20 plus the cost of the keepsake, based on the cost of providing the service and variable pricing of the keepsake from vendors. On January 10, 2023, Ordinance No. 10824 amended how the fee is charged to account for the fact that the service cost is recovered whether a single or multiple keepsakes are purchased in a single transaction. It was determined that the service cost is the same if a customer purchases more than one keepsake in a single transaction and may be a cost reduction for customers purchasing multiple keepsakes in one

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transaction. The proposed ordinance would increase the fee from \$5.20 to \$5.40 plus the cost of each keepsake in a single transaction. For comparison, the fees charged by other counties are: \$2.00 (Riverside) and \$8.00 (San Francisco).

**Filing – Recorder:**

This fee is for filing documents with the Recorder that are not required by law or authorized to be recorded pursuant to GOV 27380. The fee of \$8.00 has remained unchanged as adopted in 2019 through Ordinance No. 10634. The proposed ordinance would increase the fee from \$8.00 to \$12.00 based on the current cost of providing this service. For comparison, the fees charged by other counties are: \$6.00 (San Bernardino), \$7.00 (Sacramento), and \$14.00 (Riverside).

**Map Copy - First Page (Sizes Exceeding 11” x 17”):**

Pursuant to GOV 27366, the Recorder provides copies of the various types of maps filed whose sizes exceed 11” x 17” for a fee. Copies of maps with sizes 11” x 17” and smaller may be purchased at the standard copy fee. The fee of \$8.00 has remained unchanged as adopted in 2019 through Ordinance No. 10634. The proposed ordinance would increase the fee from \$8.00 to \$13.00 based on the current cost of providing this service. For comparison, the fees charged by other counties for a copy of a large-sized map are: \$1.00 (Orange), \$5.00 (San Francisco), and \$15.00 (San Bernardino).

**Map Filing – First Page:**

This Recorder fee is for filing the first page of a map where the land is surveyed, subdivided in lots, tracts, or parcels within the County of San Diego, pursuant to GOV 27372. The fee of \$39.00 has remained unchanged as adopted in 2019 through Ordinance No. 10634. The proposed ordinance would increase the fee from \$39.00 to \$50.00 based on the current cost of providing this service. For comparison, the fees charged by other counties for filing the first page of a map are: \$5.00 (Los Angeles), \$6.00 (Orange), \$7.00 (San Bernardino), \$9.00 (Riverside and San Francisco), and \$24.00 (Sacramento).

**Map Filing – Each Additional Page:**

This fee is for each additional page of a map filed with Recorder where land is surveyed, subdivided in lots, tracts, or parcels within the County of San Diego, pursuant to GOV 27372. The fee of \$8.00 has remained unchanged as adopted in 2019 through Ordinance No. 10634. The proposed ordinance would increase the fee from \$8.00 to \$10.00 based on the current cost of providing this service. For comparison, the fees charged by other counties for filing a map’s additional page are: \$2.00 (Orange, Riverside, San Bernardino, San Francisco), \$3.00 (Los Angeles), and \$19.00 (Sacramento).

**Notification of Involuntary Lien – First Notice:**

This fee is for the Recorder sending notice to a licensee that an abstract of judgment or other document creating an involuntary lien which may affect title to real property was recorded pursuant

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to GOV 27387. The fee of \$10.00 has remained unchanged as adopted in 2019 through Ordinance No. 10634. The proposed ordinance would increase the fee from \$10.00 to \$13.00 based on the current cost of providing this service and amend Section 86.7(o) of the Administrative Code to correct the authority reference for the fee. For comparison, the fees charged by other counties are: \$6.00 (San Francisco), \$9.00 (Los Angeles), \$10.00 (Orange and Sacramento), and \$13.00 (Riverside and San Bernardino).

**Notification of Involuntary Lien – Each Additional Notice:**

This fee is for each additional involuntary lien notice sent beyond the first for the same involuntary lien recorded pursuant to GOV 27387. The fee of \$4.00 has remained unchanged as adopted in 2019 through Ordinance No. 10634. The proposed ordinance would increase the fee from \$4.00 to \$6.00 based on the current cost of providing this service and amend Section 86.7(p) of the Administrative Code to correct the authority reference for the fee. For comparison, the fees charged by other counties are: \$2.00 (Los Angeles and San Francisco), \$10.00 (Orange and Sacramento), and \$13.00 (Riverside and San Bernardino).

**Preliminary Notice:**

This fee is for each preliminary notice filed pursuant to GOV 27361.9. The fee of \$20.00 has remained unchanged as adopted in 2000 through Resolution 2000-163. The proposed ordinance would increase the fee from \$20.00 to \$23.00 based on the current cost of providing this service. For comparison, the fees charged by other counties are: \$22.00 (San Francisco), \$29.00 (Sacramento), \$60.00 (San Bernardino), \$64.00 (Los Angeles), \$65.00 (Riverside), and \$72.00 (Orange).

**Fee in the Administrative Code to be Decreased (1):**

The proposed decrease is based on the department's ability to deliver the service required at a lower cost.

Service	Current Fee	Proposed Fee	Other County Fees
Map Copy – Each Additional Page (Sizes Exceeding 11" x 17")	\$ 1.00	\$ 0.50	\$1.00 to \$15.00

**Map Copy – Each Additional Page (Sizes Exceeding 11" x 17"):**

Pursuant to GOV 27366, the Recorder provides copies of the various types of maps and its subsequent pages whose sizes exceed 11" x 17" for a fee. Copies of maps with sizes 11" x 17" and smaller may be purchased at the standard copy fee. The fee of \$1.00 has remained unchanged as adopted in 2019 through Ordinance No. 10634. The proposed ordinance would decrease the fee from \$1.00 to \$0.50 based on the current cost of providing this service, as the majority of

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printing tasks are attributed to the first page of the map copy. For comparison, the fees charged by other counties for each additional page of a large-sized map copy are: \$1.00 (Orange), \$3.00 (San Francisco), and \$15.00 (San Bernardino).

**Fee in the Administrative Code to be Repealed (1):**

To ease the additional financial burden of charging a fee to customers who may have already incorrectly overpaid on documentary transfer tax and are now requesting a refund, the following fee will no longer be charged. Therefore, the proposed ordinance repeals the following fee:

Service	Current Fee	Proposed Fee	Other County Fees
Documentary Transfer Tax Refund Claim	\$ 33.00	\$ 0.00	\$0.00 to \$75.00

**Documentary Transfer Tax Refund Claim:**

This is an administrative fee for filing a claim for a full or partial refund of the transfer taxes paid following a property's change in ownership within the County of San Diego. This fee generally applies to refunds processed where submitter requests a refund for a non-county error. The fee of \$33.00 has remained unchanged as adopted in 2019 through Ordinance No. 10634. The proposed ordinance repeals the collection fee for this service. Of the six jurisdictions surveyed, four counties (Los Angeles, Orange, Sacramento, and San Francisco) do not charge a fee for this service while Riverside (\$50.00) and San Bernardino (\$75.00) charge this fee.

**Adjustment of Distribution of the Real Estate Fraud Fee to Cover Administrative Costs:**

Service	Current Fee	Current Fee Distribution	Proposed Fee Distribution
Recording – First Page – Real Estate Fraud Fee	\$ 3.00	5% Recorder (or \$0.15), 95% District Attorney (or \$2.85)	10% Recorder (or \$0.30), 90% District Attorney (or \$2.70)

The Real Estate Fraud Fee is for recording the first page of each real estate instrument pursuant to GOV 27388. After accounting for administrative costs, remaining revenue is placed in the Real Estate Fraud Prosecution Trust Fund for programs to enhance the capacity of local police and prosecutors to deter, investigate, and prosecute real estate fraud crimes. The amount deducted for administrative costs incurred by the County Recorder shall not exceed ten percent of the fees paid pursuant to GOV 27388(a)(2).

The current fee of \$3.00 was last approved in 2009 by Resolution 2009-039 and, when adopted, provided that 5% of the fee be directed to ARCC for administrative costs while the remaining 95%

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go toward the District Attorney's Real Estate Fraud Prosecution Program. The fee amount and its distribution of \$0.15 to the Recorder and \$2.85 to the District Attorney have remained unchanged since that time.

The Recorder proposes to increase the 5% share received from the Real Estate Fraud Fee for its administrative costs to 10%, the maximum allowable pursuant to GOV 27388(a)(2), to comply with Board Policy B-29 for full cost recovery by ARCC. The proposed fee distribution would be \$0.30 to the Recorder and \$2.70 to the District Attorney. This change does not impact the fee amount paid by the customer but will reduce the share for the Office of the District Attorney. It is projected that the change will net the County Recorder an additional \$60,100 annually. The increase in the Recorder's administrative costs is attributed to the time required to review each eligible document for recording to determine if the real estate fraud fee is applicable.

**LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN**

Today's requested action supports the Sustainability initiative of the County of San Diego's 2023-2028 Strategic Plan by aligning services to available resources to maintain fiscal stability and ensure long-term solvency.

Respectfully submitted,



JORDAN Z. MARKS

Assessor/Recorder/County Clerk

**ATTACHMENT(S)**

Attachment A – Summary of Proposed Ordinance

Attachment B – Ordinance Informational Copy

Attachment C – Ordinance Clean Copy