

ORDINANCE NO. ()

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, ADOPTING FEES EFFECTIVE JULY 1, 2022 FOR VARIOUS PRODUCTS AND SERVICES PROVIDED BY THE RECORDER, ASSESSOR AND REGISTRAR OF VOTERS.

WHEREAS, the California State Legislature has passed AB 1466 which requires all Recorders in the State of California to establish a regulatory program to investigate, inspect and audit property records in coordination with County Counsel to identify and redact unlawfully restrictive and discriminatory covenants;

WHEREAS, residential racial segregation was enforced throughout the United States, including in California, by a combination of government policies and judicially enforced private agreements;

WHEREAS, one mechanism used to maintain residential segregation was the “racially restrictive covenant,” an agreement prohibiting the homeowner from selling or renting the property to members of a specific race, ethnic or religious background;

WHEREAS, in 1948, the companion cases of *Shelley v. Kramer* 334 U.S. 1 and *Hurd v. Hodge* 334 U.S. 24, the United States Supreme Court held that state court enforcement of racially restrictive property covenants violated the due process and equal protection clauses of the 14th Amendment to the United States Constitution;

WHEREAS, while the Supreme Court ruling made such covenants unenforceable, subsequent state legislation, in California and elsewhere, made racial discrimination in housing accommodations, including by the use of exclusionary covenants, unlawful;

WHEREAS, although originally targeting racial discrimination, these laws have subsequently been amended to include discrimination on other grounds, such as gender, religion, and sexual orientation, among others (Government Code section 12955);

WHEREAS, despite their unlawfulness and unenforceability, these offensive exclusionary restrictions still appear in existing CC&Rs that are transferred from property sellers to buyers, unless the restrictions have been previously stricken, modified or recorded over;

WHEREAS, the California Legislature, by a supermajority vote of both houses, has passed Assembly Bill 1466 (effective January 1, 2022) requiring all Recorders in the State of California to establish restrictive covenants programs which include: 1) an implementation plan prepared by July 1, 2022; 2) identification of unlawfully restrictive covenants in the records of the Recorder's office; 3) indexing of a restrictive covenant modification document available to the public; 4) redaction of unlawfully restrictive covenants in the records of the Recorder's office, subject to County Counsel approval, by rerecording a copy of the original document with the unlawfully restrictive language redacted; 5) retention of each nonredacted record for future reference and public request needs; 6) status reports by the County Recorders' Association of California on the progress of each county's restrictive covenants program; and 7) annual best practices meetings with all California Recorder offices; and

WHEREAS, Assembly Bill 1466 adds Government Code section 27388.2 to impose a \$2 recording fee on certain real estate instruments (not including transfers subject to documentary transfer taxes; transfers of residential dwellings to owner-occupiers; recordings by the federal government in accordance with the Uniform Federal Lien Registration Act; or recordings by the state or any county, municipality, or other political subdivision of the state) for the purpose of implementing the state mandated county restrictive covenants programs, as authorized by each county's board of supervisors; and

WHEREAS, the State Legislature's amendment of Government Code section 27388.2 allows a charge a fee of two dollars (\$2) to fund the AB 1466 Services for recording the first page of every real estate instrument, paper, or notice required or permitted by law to be recorded per each single transaction per parcel of real property, unless otherwise exempted by state law (AB 1466 Fee).

WHEREAS, Assembly Bill 1466, including the \$2 recording fee, was approved by more than a two-thirds vote of all members elected to each of the two houses of the Legislature; and

WHEREAS, the Sonoma County Recorder's Office, in coordination with the County Counsel's Office, has begun to search through historic recorded documents in Sonoma County to provide historic record investigations, inspections, audit services and perform administrative enforcement to remove unlawful restrictive covenants and prepare to report back to the Legislature (AB 1466 Services);

WHEREAS, the current Recorder fees do not provide sufficient resources to adequately fund this State mandated program to provide AB 1466 Services to remove unlawful and discriminatory and restrictive covenants from records;

WHEREAS, the AB 1466 Fee is necessary to provide adequate funds to cover the reasonable regulatory costs incurred by the County of Sonoma for providing the AB 1466 Services including the state mandated investigations, inspections, audits and administrative enforcement to remove unlawful discriminatory covenants as also authorized by the California Constitution, Art. XIIC, Sec. 1(e)(3);

WHEREAS, to ensure the amount of the AB 1466 Fee is no more than necessary to cover the reasonable cost of this state mandated program, Government Code Section 27388.2 prohibits the Sonoma County Recorder from charging the AB 1466 Fee after December 31, 2027 unless further findings are made in compliance with the California Constitution;

WHEREAS, the manner in which the State Legislature has allocated the \$2 AB 1466 Fee to a payor bears a fair or reasonable relationship to the payor's benefits received from the regulatory program services, including inspection, investigation, enforcement and audit, which will result in the removal of unlawful and discriminatory covenants countywide and comply with federal and state constitutional laws; and

WHEREAS, in addition, the Sonoma County Assessor and the Sonoma County Registrar of Voter are authorized by California Constitution, Article XIIC section 1(e)(1)-(2) to recover the reasonable costs of providing services to fee payors in compliance with Government Code section 408.3 and Government Code section 81008.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA ORDAINS AS FOLLOWS:

Section I. **Recorder's Fee**. The Sonoma County Clerk-Recorder is authorized and directed to collect the \$2 AB 1466 Fee to recover the reasonable costs of providing the state mandated inspection, investigation, audit and administrative enforcement services to remove unlawful and discriminatory restrictive covenants in compliance with the California Constitution, Article XIII A, Sec. 3(a) and Article XIIC, Sec. 1(e)(3).

Section II. **Assessors' Fees**. In addition, the California Constitution, Article XIIC section 1(e)(1)-(2) and Government Code Section 408.3 authorizes the establishment of fees to recover the estimated reasonable cost of processing and providing information and services as supported by the 2022 MGT Consulting Assessor Use Fee Study prepared for the Sonoma County Assessor.

Section III. **Registrar of Voters' Fee**. The California Constitution, Article XIIC section 1(e)(1)-(2) and Government Code Section 81008 allows for a copy fee of \$0.10 per copy and a retrieval fee of \$5.00 per request for items more than five years old.

Section IV. The adjusted fees are hereby adopted to recover the estimated reasonable cost required to provide such services as authorized by state law. The adjusted fees are attached as Exhibit A and incorporated herein.

Section V. Based on information presented to this Board, this Board finds that the proposed fees comply with all legal requirements, including Art. XIII C of the California Constitution.

Section VI. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section VII. This Ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage and shall be published once before the expiration of fifteen (15) days after said passage, with the names of the Supervisors voting for or against the same, in *The Press Democrat*, a newspaper of general circulation published in the County of Sonoma, State of California.

In regular session of the Board of Supervisors of the County of Sonoma, introduced on March 22, 2022, and finally passed and adopted on April 5, 2022, on regular roll call of the members of said Board by the following vote:

SUPERVISORS:

Gorin: Rabbitt: Coursey: Hopkins: Gore:

Ayes: Noes: Absent: Abstain:

WHEREUPON, the Chair declared the above and foregoing Ordinance duly adopted and

SO ORDERED.

Chair, Board of Supervisors
County of Sonoma

ATTEST:

Sheryl Bratton,
Clerk of the Board of Supervisors

Exhibit A
Assessor-Recorder-Registrar of Voters Fees

DIVISION	STATUTORY AUTHORITY	FEE SCHEDULE
ASSESSOR-RECORDER- REGISTRAR OF VOTERS FEES		
All Maps (single issue)	GC 408.3	\$110.00
All Maps (annual subscription with monthly updates)	GC 408.3	\$1,305.00
Roll Data (per parcel)	GC 408.3	\$10.00
Property Profile (per parcel)	GC 408.3	\$15.00
Building Records Documents (Covers first 3 pages)	GC 408.3	\$10.00
Building Records Documents (per page after first 3 pages)	GC 408.3	\$0.50
Mailing List w/Situs - Secured	GC 408.3	\$130.00
Mailing List w/Situs - Unsecured	GC 408.3	\$80.00
Property Transfer List (Transfer Journal) (per issue)	GC 408.3	\$70.00
Property Transfer List (Transfer Journal Parcel Yearly)	GC 408.3	\$865.00
Assessor's Master List - Secured - Parcel Number, Current Owner, Use Code & Mailing List (includes up to 2,000 parcels)	GC 408.3	\$180.00
Assessor's Master List - Secured -Parcel Number, Current Owner, Mailing List, Use Code & Roll Values (includes up to 2,000 parcels)	GC 408.3	\$210.00

DIVISION	STATUTORY AUTHORITY	FEE SCHEDULE
ASSESSOR-RECORDER- REGISTRAR OF VOTERS FEES		
Assessor's Master List - Secured -Parcel Number, Current Owner, Mailing List , Use Code, Roll Values, & Characteristics (includes up to 2,000 parcels)	GC 408.3	\$240.00
Assessor's Master List - Secured - plus per hour for custom report (minimum 1/2 hr)	GC 408.3	\$60.00
Assessor's Master List - Unsecured - Mailing List only (includes up to 2,000 parcels)	GC 408.3	\$140.00
Assessor's Master List - Unsecured - Mailing List with values (includes up to 2,000 parcels)	GC 408.3	\$180.00
Assessor's Master List - Unsecured - plus per hour for custom report (minimum 1/2 hr)	GC 408.3	\$60.00
Segregation	GC 408.3	\$130.00
Voluntary Combination	GC 408.3	\$335.00
Individual Parcel Report (Property Profile)	GC 408.3	\$25.00
Research (Half-Hour Rate)	GC 408.3	\$60.00
California Land Conservation Act Estimate	GC 408.3	\$190.00
Recorder - Covenant Fee	AB 1466/GC 27388.2	\$2.00
Registrar of Voters - Copy Fee	GC 81008	\$0.10
Registrar of Voters - Retrieval Fee	GC 81008	\$5.00