

ATTACHMENT A

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, ADDING CHAPTER 5.65 TO THE MONTEREY COUNTY CODE RELATING TO THE SURVEY MONUMENT PRESERVATION FUND

County Counsel Summary

This Ordinance adds Chapter 5.65 to the Monterey County Code to create a survey monument preservation fund. The Ordinance authorizes the County of Monterey Recorder to collect a fee of ten dollars for the recordation of any grant deed conveying real property for the purpose of paying necessary expenses incurred or authorized by the County Surveyor in retracing or re-monumenting major historical land division lines upon which later surveys are based. The Ordinance also provides that the County Treasurer-Tax Collector shall maintain a Survey Monument Preservation Fund into which the Survey Monument Preservation fees shall be paid. Lastly, the Ordinance provides that all monies in the Survey Monument Preservation Fund shall be used only for the purposes set forth in this Ordinance.

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. Purpose and Findings.

A. Pursuant to Article XI, section 7 of the California Constitution, the County of Monterey may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens.

B. California Government Code Section 27584 authorizes a county board of supervisors to establish a survey monument preservation fund. The purpose of this fund is to pay the necessary expenses incurred or authorized by a county surveyor in retracing or re-monumenting major historical land division lines upon which later surveys are based, such as, but not limited to, government section lines, rancho lines, grant lines, ranch section lines, acreage subdivision lot lines, and subdivision boundary lines within a county.

C. California Government Code Section 27585, for the limited purpose of financing a survey monument preservation fund, allows a county board of supervisors to impose a user fee, not to exceed ten dollars (\$10.00) or an amount set pursuant to Government Code Section 54985, which shall be charged and collected by a county recorder as a condition precedent to the filing or recording of any grant deed conveying real property.

D. The purpose of this Chapter 5.65 of the Monterey County Code is to develop a survey monument preservation fund to pay the necessary expenses incurred or authorized by the County of Monterey Surveyor in any retracement or re-monument survey of major historical

land division lines upon which later surveys are based, such as, but not limited to, government section lines, rancho lines, grant lines, rancho section lines, acreage subdivision lot lines, and subdivision boundary lines within Monterey County. This Chapter is adopted pursuant to Sections 27584 and 27585 of the California Government Code.

E. The adoption of this ordinance is not a project under the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(b)(5) because it is an organizational activity of government that will not result in a direct or indirect physical impact on the environment.

SECTION 2. Chapter 5.65 is added to the Monterey County Code to read:

Chapter 5.65

SURVEY MONUMENT PRESERVATION

Sections:

- 5.65.010 Intent and Purpose.**
- 5.65.020 Definitions.**
- 5.65.030 Survey Monument Preservation Fee.**
- 5.65.040 Exceptions.**
- 5.65.050 Survey Monument Preservation Fund.**
- 5.65.060 Administration.**
- 5.65.070 Effect of Failure to Collect Fee.**
- 5.65.080 Reliance on Information.**

5.65.010 Intent and Purpose.

The purpose of this Chapter is to develop a survey monument preservation fund to pay the necessary expenses incurred or authorized by the County of Monterey Surveyor in any retracement or re-monument survey of major historical land division lines upon which later surveys are based, such as, but not limited to, government section lines, rancho lines, grant lines, rancho section lines, acreage subdivision lot lines, and subdivision boundary lines within the county. This Chapter is adopted pursuant to Sections 27584 and 27585 of the California Government Code, as may be amended.

5.65.020 Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings set forth below when used in this Chapter:

“Grant deed” means any conveyance by which a fee simple estate in real property is passed, except that it does not include a quitclaim deed, sheriff’s deed, tax deed, reconveyance deed, decree of distribution, or judgment of partition.

“Recorded tract map” means a final map approved after August 14, 1929, and filed under the authority of a Subdivision Map Act of the State of California.

5.65.030 Survey Monument Preservation Fee.

There is hereby imposed a user fee of ten dollars (\$10.00) for survey monument preservation, which fee shall be charged and collected by the County of Monterey Recorder over and above any other fees required by law as a condition precedent to the filing or recording of any grant deed conveying real property.

5.65.040 Exceptions.

Grant deeds conveying the following shall be exempt from such fees:

- A. Entire lots created by a recorded tract map;
- B. Real property from the United States or any agency or instrumentality thereof, or from any public entity; and
- C. Real property to any public entity, or to the United States or any agency or instrumentality thereof.

5.65.050 Survey Monument Preservation Fund.

The County of Monterey Treasurer-Tax Collector shall maintain a Survey Monument Preservation Fund for the purposes set forth in this Chapter. The funds collected by the County Recorder for the Survey Monument Preservation Fund shall not be transferred to or deposited in any other fund and shall be used only for the purposes described in this Chapter.

5.65.060 Administration.

The County of Monterey Recorder shall administer this Chapter and shall, on or before the fifteenth day of each month, forward to the County of Monterey Treasurer-Tax Collector for deposit into the Survey Monument Preservation Fund all fees collected under this Chapter during the previous month.

5.65.070 Effect of Failure to Collect Fee.

Notwithstanding any other provision of this Chapter, the failure of the County of Monterey Recorder to collect the Survey Monument Preservation fee at the time of a document recordation:

- A. Shall not create any liability on the part of the County Recorder;
- B. Shall not affect the constructive notice otherwise imparted by the recording of the document; and

- C. Shall not prevent the County of Monterey from subsequently collecting the fee from the party who was liable to pay the fee at the time of the document recordation.

5.65.080 Reliance on Information.

In determining the applicability of the fee to any conveyance, the County of Monterey Recorder may rely on the information on the document involved and/or information obtained from the filer of the document.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 4. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED this ____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

Glenn Church, Chair
Monterey County Board of Supervisors

ATTEST:
VALERIE RALPH
Clerk of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

Kelly L. Donlon

Kelly L. Donlon
Assistant County Counsel