

AGENDA COVER MEMO

AGENDA DATE: February 20, 2008
Memorandum Date: February 6, 2008

TO: LANE COUNTY BOARD OF COMMISSIONERS

DEPARTMENT: LANE COUNTY OFFICE OF LEGAL COUNSEL

PRESENTED BY: Liane I Richardson, Assistant County Counsel

AGENDA ITEM TITLE: IN THE MATTER OF AMENDING CHAPTER 2 OF LANE MANUAL
TO ADD RESPONSES AND PROCEDURES RELATING TO
PUBLIC RECORDS REQUESTS (LM 2.150, 2.162 AND 2.163)

I. MOTION

I MOVE TO APPROVE CHANGES TO THE LANE MANUAL RELATING TO PUBLIC RECORDS REQUESTS.

II. AGENDA ITEM SUMMARY

The Board is being asked to approve amendments to Chapter 2 of the Lane Manual to revise the provisions relating to public records requests in order to bring the Lane Manual into compliance with recent changes in state law.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History The Oregon legislature modified Oregon Revised Statutes 192.001 through 102.500, which set out the rules and regulations surrounding public records requests. Lane Manual Chapter 2 contains sections dealing with public records requests. Those sections have not been modified since 1993, and there are portions that are now out of compliance with state rules. Specifically, the new rules require a public body, when responding to a public records request, to respond as soon as practicable and without unreasonable delay. Such response is now required to contain one of six enumerated responses. Additionally, public bodies are required to identify individuals who may be served with public records requests and to identify the fees that may be charged for such requests. The amendments to Lane Manual address the new requirements.

B. Policy Issues Compliance with state law is a policy issue addressed with this change to the Lane Manual.

C. Board Goals The Board is committed to the most efficient use of the public's resources and to complying with state law. These revisions are consistent with the Board's goals.

D. Financial and/or Resource Considerations The revisions should help protect the County from potential claims regarding noncompliance with state public records law.

E. Analysis The proposed revisions incorporate the language necessary in order for the County to once again be in compliance with state law regarding public records requests.

F. Alternatives/Options The Board could choose to leave the language as it is, or the Board could choose to implement the revisions as recommended.

IV. TIMING/IMPLEMENTATION Effective immediately upon approval.

V. RECOMMENDATION I recommend the Board adopt the proposed changes.

VI. ATTACHMENTS Board Order with LM pages attached.

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO.

IN THE MATTER OF AMENDING CHAPTER 2
OF THE LANE MANUAL TO ADD RESPONSES
AND PROCEDURES RELATING TO PUBLIC
RECORDS REQUESTS (LM 2.150, 2.162 AND
2.163)

The Board of County Commissioners of Lane County orders as follows:

Lane Manual Chapter 2 is hereby amended by deleting, substituting, and adding the following section(s):

DELETE THIS SECTION

2.150
as located on page 2-9
(a total of 1 page)

None

INSERT THIS SECTION(S)

2.150
as located on page 2-9
(a total of 1 page)

2.162 and 2.163
as located on pages 2-10 through 2-11
(a total of 2 pages)

Said section(s) are attached hereto and incorporated herein by reference. The purpose of this substitution and addition is to establish responses to and procedures for public records requests (LM 2.150, 2.162 and 2.163).

Adopted this _____ day of _____ 2008.

Chair, Lane County Board of Commissioners

APPROVED AS TO FORM

Date 2/4/08 Lane County

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OFFICE OF LEGAL COUNSEL

(i) Charges for copy photographs made from existing negatives will reflect the current commercial price for reproduction plus a Museum handling charge. A current price list will be available for patrons.

(j) There will be a use fee charged for one-time use of illustrative material in promotional literature or advertising (brochures, calendars, etc.) and for commercial ventures (interior decoration, menus, etc.) and for illustrative material in commercial publications (books, film, tape, etc.).

(k) Any reproduction that is used as an illustration or in a display must bear a credit line adjacent to the print: "Courtesy of Lane County Historical Museum."

(l) Reproduction of photographs by patrons will not be permitted, nor will collection negatives or prints be loaned without the written permission of the Museum Director.

(m) Oversize reproductions and other special reproduction procedures or processes may be permitted with consultation and approval of the Museum Director. Additional costs for these services will be charged to the patron.

(n) In exceptional circumstances and if presented in writing, the County Administrator may grant, on an individual basis, a waiver of this policy. *(Revised by Order No. 93-3-31-7, Effective 3.31.93; 89-3-15-4, 3.15.89)*

INSPECTION OF PUBLIC RECORDS AND REQUESTS FOR INFORMATION

2.150 Policy Statement.

It is the policy of Lane County that the public has a right to inspect any public record maintained by the County, consistent with ORS 192.001 through 192.500. Responses to public requests for inspection of records and information should be done as soon as practicable and without unreasonable delay, pursuant to ORS 192.440(2). Reasonable delays in responding may occur depending upon the nature of the request, workload and staffing of the office which must respond and other factors. *(Revised by Order No. 76-5-26-8; Effective 12.26.76)*

2.155 Purpose.

The purpose of these rules is to clarify for staff how inspection of public records and requests for information may be submitted and responses made. *(Revised by Order No. 76-5-26-8; Effective 12.26.76)*

2.160 Definitions.

The "public" includes any natural person, corporation, partnership, firm or association. "Public record" includes any writing containing information relating to the conduct of the public's business, prepared, owned, used or retained by the County, regardless of physical form or characteristics.

Certified Copy. A reproduction of a public record which shall be supplied upon request and inscribed with a notation by a County employee, including signature, date and the words "Certified Copy". If the public record is not suitable for reproduction, a facsimile may be prepared and the notation "Certified Facsimile Copy", signature and date inscribed.

Copy. A reproduction of a public record made at the request of a member of the general public.

Custodian of Records. The person responsible for maintaining public records and furnishing a proper and reasonable facility for making memoranda or abstracts from the records during normal business hours.

Exempt Records. Those specified in ORS 192.500 and those records which, by law, have been determined by County Counsel to be exempt from public inspection.

Fees. Those costs specified elsewhere in the Lane Manual which will be charged the general public and others for providing copies of public records and for supplying requested information. These fees are calculated to reimburse the County for actual costs in making such records or information available. No fee will be charged for inspection of public records. *(Revised by Order No. 76-5-26-8; Effective 12.26.76)*

2.162 Responses to Public Records Requests.

The response to the public request must be done as soon as practicable and without unreasonable delay. Reasonable delays in responding may occur depending upon the nature of the request, workload and staffing of the office which must respond and other factors. Additionally, the response must acknowledge receipt of the request and must include one of the following statements:

1. A statement that the department does not possess, or is not the custodian of, the public record.
2. Copies of all requested public records for which the department does not claim an exemption from disclosure under ORS 192.410 to 192.505.
3. A statement that the department is the custodian of at least some of the requested public records, an estimate of the time the department requires before the public records may be inspected or copies of the records will be provided and an estimate of the fees that the requester must pay as a condition of receiving the public records.
4. A statement that the department is the custodian of at least some of the requested public records and that an estimate of the time and fees for disclosure of the public records will be provided by the department within a reasonable time.
5. A statement that the department is uncertain whether the department possesses the public record and that the department will search for the record and make an appropriate response as soon as practicable.
6. A statement that state or federal law prohibits the department from acknowledging whether the record exists or that acknowledging whether the record exists would result in the loss of federal benefits or other sanction. A statement under this paragraph must include a citation to the state or federal law relied upon by the department.

If an exemption is to be claimed for all or a portion of the records requested, the department should also note that in the response.

2.163 Procedures for Public Records Requests.

The County shall make available to the public the written procedures for making public records requests. These procedures shall be posted on the County's website and shall be available at the Board of Commissioner's Office.

1. Public Records requests may be made to the appropriate department head, the County Administrator and/or the Public Information Officer. Names and addresses for those individuals are located on the County's website under the department headings. Requests made to the wrong department may take longer to respond to as they will need to be routed to the correct department:
2. Fees shall be calculated to reimburse the County for actual costs in making records or information available. This may include a charge for staff time, attorney review of the public records, and copying charges. Specific information on fees is located in Chapter 60 of the Lane Manual.

3. The Department will inform the requester when the fees will exceed \$25 and will wait to receive confirmation that the requester wants the department to proceed with making the public record available prior to incurring additional costs.

2.165 Procedures for Inspection of Public Records.

The following procedures are recommended as guidelines for responding to requests for inspection of public records.

(1) Requests for inspection of public records should be honored, wherever possible, at the time the request is made. If that is not possible, the request should be honored within the next two or three days, unless there are extenuating circumstances which are explained to the person making the request.

(2) Requests to inspect public records should clearly identify specific records desired for inspection. The request should be required to be made in writing if this would facilitate understanding the request and supplying the response.

(3) Records shall not be removed by the public from the office where they are maintained, unless a procedure which protects and assures the integrity of the records during removal has been established by the office.

(4) An adequate logging system for keeping track of records at all times should be maintained by each office. The logging system may indicate the title of the records file, the person or group reviewing the record, the amount of time the record is in the public's possession, the number of items contained in the file, a notation that all items were returned when the file was returned and other information deemed appropriate by the office. The logging system should also be used when records are transferred to other County offices in the course of official County business.

At right margin indicates changes
Bold indicates material being added
~~Strikethrough~~ indicates material being deleted

LEGISLATIVE FORMAT

- 2.150 Lane Manual 2.160
- (i) Charges for copy photographs made from existing negatives will reflect the current commercial price for reproduction plus a Museum handling charge. A current price list will be available for patrons.
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