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## **AGENDA COVER MEMO**

AGENDA DATE: November 12, 2008  
Memorandum Date: October 16, 2008

TO: Board of County Commissioners

DEPARTMENT: Management Services

PRESENTED BY: Marle Hoehne, Program Supervisor  
Annette Newingham, Chief Deputy County Clerk

AGENDA ITEM TITLE: **Ordinance No. 6-08/In the Matter of Amending Chapter 2 of Lane Code to Delete Obsolete or Redundant County Clerk Recording Fees**

### **I. MOTION**

1. First Reading (November 12, 2008): I move the first reading of Ordinance No. 6-08 Amending the Lane Code to delete obsolete or redundant provisions regarding recording fees.

2. Second Reading (December 3, 2008): I move the adoption of Ordinance No. 6-08 Amending the Lane Code to delete obsolete or redundant provisions regarding recording fees.

### **II. AGENDA ITEM SUMMARY**

This item proposes the deletion of provisions in the Lane Code with respect to recording fees that are obsolete or that are redundant.

### **III. BACKGROUND/IMPLICATIONS OF ACTION**

#### **A. Board Action and Other History**

These fee changes were presented to the Finance and Audit Committee meeting on October 23, 2008. The Finance and Audit Committee moved acceptance and recommended the motion to the Board of Commissioners for Board action.

#### **B. Policy Issues**

The Board's adopted financial policies (LM 4.010(2)(d)) provide that generally, fees are to be set in an amount to cover the cost of service. The Lane Code provisions for the specific recording fees recommended for deletion are already covered by state statute or are inaccurate (out-of-date) or are already addressed in a more current provision in the Lane Manual.

#### **C. Board Goals**

The Board's goals for 2008-2010 include building public trust and providing outstanding customer service. Accurate description of the fees charged to the public is an element of both of these goals.

#### **D. Financial and/or Resource Considerations**

There are no financial implications to the deletion of these fee descriptions. From a resource perspective, these changes simplify the Code and make it easier for staff to find the relevant sections.

#### **E. Analysis**

The following is a detailed explanation of each fee proposed for deletion, and the reason supporting the proposed change. (Given that these are deletions, you may want to look at the legislative format, as the subsection cited is the one proposed for deletion).

LC 2.900(2): proposes deletion of fees for recording vacation orders or ordinances. The only time a vacation order or ordinance is recorded is when it has been approved by the County, and it is a County department that is submitting it for recording. LC 2.900(1) provides that the County Clerk shall not charge County departments for recording, so these fees have not been charged for a number of years. Therefore, it is proposed that the language relating to actions that are solely County actions (vacation orders or ordinances) be deleted.

LC 2.900(4): proposes deletion of fee for County Surveyor services for marking a vacation order or ordinance on the original plat. Because this Lane Code deals with recording fees, not surveyor fees, this is not the appropriate place for it. In addition, ORS 271.230 no longer allows changes to be made on the original plat once it is recorded, so this provision is obsolete.

LC 2.900(5), (6), and (7): proposes deletion of fees for recording activities relating to mining claims, specifically location notice, affidavit of annual labor and certificates of assessment. These fees are addressed more comprehensively and more recently than these Code sections by state statute (specifically, ORS 517.030, 517.220, 517.280, 517.290, 205.320(4)(b), 205.320(15) and 205.320(16)). Leaving these descriptions in the Lane Code risks confusion for customers as to the appropriate fee or the basis for it.

LC 2.900(8): proposes deletion of the language relating to a fee for processing a marriage license waiting period waiver. The Board also has language in Lane Manual 60.812 with respect to various matters involving marriage licenses, which has been updated recently to address registrations of domestic partnership registrations. County Counsel has determined that it is not necessary to have this particular fee in the Lane Code. It is less confusing for citizens to have all the fees regarding matters involving marriages and domestic partnerships in the same location.

We discovered the potential that these Code provisions were inconsistent with or redundant of state statute, the Lane Manual, or practice in the course of researching how to best implement the registration of domestic partnerships, but it has taken some time to complete the research and check with potentially affected parties to ensure that our initial assumption was correct.

#### **F. Alternatives/Options**

The Board could choose to reject these proposed Code changes. The inconsistencies between the Code and state statute or the Lane Manual have existed in some cases for some time without causing significant operational problems.

#### **IV. TIMING/IMPLEMENTATION**

If approved, these changes would go into effect 30 days after enactment.

#### **V. RECOMMENDATION**

I recommend enactment of the proposed ordinance and deletion of the obsolete or redundant Lane Code provisions. It would be consistent with the Board's goals of providing accurate public information and with providing excellent customer service.

#### **VI. ATTACHMENTS**

Ordinance No. 6-08 with attached Lane Code pages  
legislative format of Lane Code pages

IN THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDINANCE NO. 6-08

IN THE MATTER OF AMENDING CHAPTER 2 OF  
LANE CODE TO DELETE OBSOLETE OR  
REDUNDANT COUNTY CLERK RECORDING FEES  
(LC 2.900)

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

Chapter 2 of Lane Code is hereby amended by deleting, substituting, and adding new sections as follows:

**DELETE THESE SECTION(S)**

2.900  
Located on pages 2-20 through 2-21  
(total of 2 pages)

**INSERT THESE SECTION(S)**

2.900  
Located on pages 2-20 through 2-21  
(total of 2 pages)

Said section is attached hereto and incorporated herein by reference. The purpose of this substitution and addition is to delete obsolete or redundant County Clerk recording fees (LC 2.900).

ENACTED this \_\_\_\_\_ day of \_\_\_\_\_ 2008.

\_\_\_\_\_  
Chair, Lane County Board of Commissioners

\_\_\_\_\_  
Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 11/4/08 Lane County

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OFFICE OF LEGAL COUNSEL

amendments shall be reinstated and apply to the property, and the new property owner shall, to the maximum extent permitted by law, bring the property immediately into compliance with the reinstated regulation.

(3) If the Board grants an Order modifying, removing, or discontinuing application of a challenged land use regulation as a means to avoid having to compensate, or as a means to limit compensation to, an owner under the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004), and if, based on an appellate court interpretation or invalidation of the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004), in the same or any other case, the applying owner was not entitled to compensation in relation to the modified, removed, or discontinued challenged land use regulation, then the Order shall be deemed to have been invalid and ineffective as of and after the date of the Board's Order. Any such invalidity and ineffectiveness shall be limited as necessary to avoid the County being required to compensate the owner under the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004).

(4) Any modification, removal, or discontinued application of a challenged land use regulation Order granted under LC 2.700 through 2.770 shall terminate automatically on the occurrence of any event which determines the owner or future owner of the private real property that is the subject of the modified, removed, or discontinued application of a challenged land use regulation Order would not be entitled to just compensation under the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004) in relation to the land use regulation made inapplicable by the Board Order. *(Revised by Ordinance No. 9-00, Effective 12.6.00; 18-04, 12.1.04)*

## COUNTY LANDS AND BUILDINGS

### 2.800 Parking.

(1) The Board may designate by separate order certain locations on County-owned or controlled lands for parking purposes and may further order such regulation of parking considered reasonable and appropriate, including establishing user's fees and administrative charges in connection with such parking.

(2) For purposes of administration of any parking regulations ordered in accordance with LC 2.800(1) above, it shall be presumed:

(a) That a motor vehicle or other transportation vehicle was used with the owner's consent.

(b) That the owner of record was operating the vehicle whenever the actual operator is unknown.

(c) That a vehicle was parked for one-half the chargeable period whenever the actual time period is unknown. *(Revised by Ordinance No. 17-72, Effective 9.8.72; 18-77, 11.23.77)*

## FEES AND ASSESSMENTS

### 2.900 Fees to be Charged by the County Clerk for Recording and Other Services.

(1) The County Clerk shall charge no fees to Lane County or any of its Departments for recording.

(2) The fee for approval of a plat by the county court is \$5.

(3) For recording and indexing any plat, the County Clerk, in whose office the deed records of the County are kept, shall charge \$20 plus \$10 per lot.

(4) Pursuant to ORS 203.148 a fee of \$10 shall be charged for recording any instrument under ORS 205.130(2). This fee is in addition to any other fee charged by the

County Clerk. All moneys collected under this section shall be deposited in the Public Land Corner Preservation Fund. *(Revised by Ordinance No. 8-79, Effective 7.26.79; 5-84, 6.15.84; 6-86, 6.18.86; 19-86, 2.6.87; 15-87, 9.27.87; 5-03, 7.17.03)*

**2.905 Law Enforcement Medical Liability Account Assessment.**

Within 60 days of receipt of an assessment levied by Lane County Justice Courts pursuant to Section 5(4)(a) of Ch. 778 of 1991 Or Laws (SB 1142), the assessment shall be transmitted to the Oregon Department of Revenue for placement in the Law Enforcement Medical Liability Account. *(Revised by Ordinance No. 4-92, Effective 6.12.92)*

**2.920 Forfeiture Assets.**

Property or proceeds distributed to Lane County under Oregon Constitution article XV 10(7)(c) shall be deposited in the General Fund to be available for all lawful General Fund purposes. *(Revised by Ordinance No. 8-02, Effective 7.11.02)*

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

## LEGISLATIVE FORMAT

2.800 Lane Code 2.900  
amendments shall be reinstated and apply to the property, and the new property owner shall, to the maximum extent permitted by law, bring the property immediately into compliance with the reinstated regulation.

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**LEGISLATIVE  
FORMAT**

2.905 Lane Code 2.920

~~\_\_\_\_\_ (4) \_\_\_\_\_ The fee charged for the services of the County Surveyor for marking the record of a vacation order or ordinance upon the original plat shall be \$6.~~

~~\_\_\_\_\_ (5) \_\_\_\_\_ The fee for recording a copy of the location notice for a mining claim is \$5/document.~~

~~\_\_\_\_\_ (6) \_\_\_\_\_ The fee for recording an affidavit of annual labor upon a mining claim is \$5/page.~~

~~\_\_\_\_\_ (7) \_\_\_\_\_ The certificate described in ORS 517.280 shall not be issued until the co-owners entitled to it pay to the County Clerk a fee of \$12.50. The fee for recording the certificate shall be the same as for other mining conveyances, \$5 per page.~~

~~\_\_\_\_\_ (8) \_\_\_\_\_ For the preparation of and processing of a marriage license waiting period waiver request, the fee is \$4.~~

(94) Pursuant to ORS 203.148 a fee of \$10 shall be charged for recording any instrument under ORS 205.130(2). This fee is in addition to any other fee charged by the County Clerk. All moneys collected under this section shall be deposited in the Public Land Corner Preservation Fund. *(Revised by Ordinance No. 8-79, Effective 7.26.79; 5-84, 6.15.84; 6-86, 6.18.86; 19-86, 2.6.87; 15-87, 9.27.87; 5-03, 7.17.03)*

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