

W.S.D.1.

AGENDA COVER MEMO

AGENDA DATE: April 15, 2009
TO: Board of County Commissioners
DEPARTMENT: Health and Human Services
PRESENTED BY: Trina Laidlaw, Assistant County Counsel
AGENDA TITLE: ORDER/ IN THE MATTER OF ADOPTING LANE MANUAL
CHAPTER 9 RULES FOR PROCEDURES FOR LANE
COUNTY BOARD OF HEALTH

I. MOTION

Move to Adopt the Order Amending Chapter 9 of Lane Manual to Provide for Board of Health Procedures, Adding LM 9.900 – LM 9.901.

II. AGENDA ITEM SUMMARY

The Board is being asked to clarify procedures within Chapter 9 of the Lane Manual for the actions of the Board of County Commissioners, acting as the Lane County Board of Health.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

The purpose of this agenda item is to attempt to clarify current procedures for Board of Health actions and incorporate them into county rule.

B. Policy Issues

It may be helpful for future actions to have an understanding about the procedural framework for taking action.

C. Board Goals

Adoption of these Lane Manual rules may assist with establishing a more clear process and more efficiency.

D. Financial and/or Resource Considerations

None. The proposed processes are similar to those currently used.

E. Analysis

On March 31, 2009, the Board discussed potential LM rules covering this subject. This agenda item is a follow up. The proposed rules for the Board of Health attached here would:

1. Clarify that the Board of Commissioners is the county board of health for Lane County.

2. Establish a procedure for adopting policies and fees.

3. Establish a procedure for adopting policies together with rules, including a first reading of the resolution or order title only making the proposed rules available to the Commissioners and public, a second reading no less than 13 days after the first reading, and at least one public hearing.

4. Set forth guidelines for codifying and publishing the Board of Health rules. The Board of Health would designate where it wishes its rules to be published in its order. Generally, public accessibility and convenience support publication in Lane Code for matters directly affecting the public. It may also designate codification in Lane Manual or in some other manner designed to provide public accessibility. Only the County Commissioners, acting on behalf of the county (Board of County Commissioners), may have the authority to order publication in Lane Code or Lane Manual. The proposed rules identify the Board of Commissioners' role to order codification and publication of Board of Health rules.

5. Establish the ability of the Board of Health and Board of Commissioners to meet jointly, as long as their distinct roles are separated in their order(s).

6. The proposed rules are not intended to interfere with the ability to use emergency procedures when necessary or to interfere with the Board of Commissioners' ability to adopt its own rules on behalf of the county.

F. Alternatives/Options

1. Adopt the Lane Manual Chapter 9 addition, as presented.

2. Direct staff to adopt the Lane Manual Chapter 9 addition, with revisions.

3. Withdraw the consideration of the establishment of Board of Health procedures from consideration.

IV. TIMING/IMPLEMENTATION

Board concurrence being received, Counsel will immediately amend the Lane Manual, as provided herein.

V. RECOMMENDATION

Health and Human Services staff support approval of this request.

VI. FOLLOW-UP

It is anticipated that the first Board of Health policy order proposed will be related to nutritional/caloric menu labeling.

VII. ATTACHMENTS

Board Order

Lane Manual Chapter 9 Revision (Legislative and Final Formats)

BEFORD THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO. 09-

IN THE MATTER OF AMENDING CHAPTER 9 OF
LANE MANUAL TO ADOPT RULES FOR PRO-
CEDURES FOR LANE COUNTY BOARD OF
HEALTH (LM 9.900, 9.901)

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

Lane Manual Chapter 9 is hereby amended by removing, substituting and adding the following section:

REMOVE THIS SECTION

None

INSERT THIS SECTION

9.900 through 9.901

as located on pages 9-12 through 9-13

(a total of 2 pages)

Said section is attached hereto and incorporated herein by reference. The purpose of this addition is to adopt procedures establishing the authority of the Lane County Board of Commissioners, when sitting as the Lane County Board of Health, to adopt ordinances and to provide for the enforcement of these orders, effective April 1, 2009.

Adopted this _____ day of _____ 2009.

Peter Sorenson, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM

Date 4/16/09 Lane County

David Law
OFFICE OF LEGAL COUNSEL

SEWAGE FACILITIES MANAGEMENT REGULATIONS

9.800 Review of Submissions.

All submissions required for approval of sewage facilities management corporations shall be submitted to the Director of the Department of Health and Human Services, or his or her designee. The Director, or his or her designee, shall make a recommendation to the Board regarding approval of the management corporation. *(Revised by Order No. 93-3-31-7; Effective 3.31.93)*

9.805 Fees.

The following fees are established for administration of the sewage facilities management regulations.

- (1) Submittal Review Fee.
 - (a) 20 lots or less \$300.00
 - (b) 21 to 40 lots \$ 5.00/additional lot
 - (c) Additional lots \$ 2.50/additional lot
- (2) Annual Review Fee.
 - (a) 40 lots or less \$100.00
 - (b) Each additional 20 lots or portion thereof..... \$25.00 *(Revised by*

Order No. 93-3-31-7; Effective 3.31.93)

LANE COUNTY BOARD OF HEALTH

9.900 Authority.

The Board of County Commissioners is the county board of health for Lane County pursuant to ORS 431. The Lane County Board of Health ("Board of Health") has the authority to adopt policies or rules to implement Lane County Department of Health and Human Services ("Department") responsibilities under the county public health authority. It shall have the authority to amend or repeal such policies and rules. The Board has authority to adopt policies and rules implementing Department responsibilities to administer and enforce other public health rules and laws pursuant to statute, and to adopt fees for services.

By statute, Lane County is part of a statewide public health system, and is granted public health authority with countywide jurisdiction. One requirement is to have plans approved by the Oregon Department of Human Services ("DHS"), and a contract with DHS in order to receive state funding to perform under the plans and program elements. The Department has responsibility to address implementation under the plans and programs.

9.901 Procedures.

The Board of Health will use the following procedures to adopt policies, rules, and fees under its authority except when there is a public health emergency or incident needing expedited attention:

(1) Policies may be adopted by resolution or order, and fees by order, using the Board of Commissioners' regular process except actions will be taken as the Board of Health. Policies being considered shall include information or findings concerning the public health interest and identifying the duty(ies) and role of the Department being addressed.

(2) Policies may be adopted at the same time as adoption of rules. The same information or findings in (1) should be included in joint policies/rules, in addition to the

proposed rules. The Board of Health shall set and conduct at least one public hearing before adopting rules, subject to (3)(a) below. The Board of Health will adopt joint policies/rules by order.

(3) Because the Board of Health currently has no formally recognized method to codify or publish its rules, the following guidelines will be followed:

(a) The Board of Health will designate where its rules will be codified or published in its order. Generally, public accessibility supports publication in Lane Code for matters which include direct affect on the public; however, the Board of Health may not have authority to codify or publish its rules in Lane Code. The Board of Commissioners, acting on behalf of the county ("Board of Commissioners") is authorized to approve the codification and publication of Board of Health rules in Lane Code by ordinance, if this is the selected method. It is not the intent that this limited codification and publication role be construed as the Board of Commissioners acting to adopt its own rules on behalf of the county under Home Rule. The Board of Health's rules are based on a specific grant of power by the state in ORS 431.

(b) The Board of Health may designate codification of its rules in Lane Manual, or in some other manner designed to provide broad public accessibility. The Board of Commissioners is authorized to approve the codification and publication of Board of Health rules in Lane Manual as designated by the Board of Health.

(4) The Board of Health and the Board of Commissioners may meet jointly to accomplish the adoption and codification steps in (1) – (3), as long as any action taken by the Board of Commissioners is taken after the Board of Health's action and is identified in its order or ordinance as for the purpose of codification and publication of Board of Health action. Any action of the Board of Health should be clearly identified as adoption of policies or rules in its order. For joint meetings where codification or publication is to be by the Board of Commissioners by ordinance, the county's regular ordinance procedure should be used.

(5) The Board of Health may act to amend or repeal its policies, rules or fees by order using the county's regular process, except that action will be taken as the Board of Health. It may include a direction to the Board of Commissioners to make the appropriate codification and publication changes to Lane Code or Lane Manual, as appropriate. The Board of Health and Board of Commissioners may meet jointly pursuant to (4) above.

(6) Nothing in these rules shall be construed as: a) interfering with the Board of Health's or public health authority's use of emergency procedures which are required by law or which they deem necessary to meet a public health need; b) amending, limiting or interfering with the ability of any county officers, agents or employees to act in emergencies or otherwise meet their legal obligations.

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At right margin indicates changes

Bold indicates material being added

~~Strikethrough~~ indicates material being deleted

9.901

Lane Manual

LEGISLATIVE

FORMAT

9.901