

ORDINANCE NO. 4339

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF VENTURA REPEALING ORDINANCE 4330 AND ESTABLISHING FEES PERTAINING TO COPYING PUBLIC RECORDS

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

SECTION 1. PURPOSE OF ORDINANCE

The purpose of this ordinance is to allow the County to recover the cost of responding to and providing copies of records requested pursuant to the Public Records Act. (Gov. Code, § 6250 et seq.) Government Code section 6253, subdivision (b), provides that the County may charge a fee for providing a copy of a public record based on the direct costs of duplication or an amount authorized and determined under some other statute. Government Code section 54985 provides that the Board of Supervisors has the authority to increase or decrease the fee or charge, that is otherwise authorized to be levied by another provision of the law, in the amount reasonably necessary to recover the cost of providing any service or the cost of enforcing any regulation for which the fee or charge is levied. The cost of providing a copy of a public record may vary depending on the classification of County employee who responds to the request and the cost of the medium used. Different levels of classifications of County employees may be required to respond to a Public Records Act request depending on the complexity of the issues involved and the nature of the documents to be copied. Therefore, the amount reasonably necessary to recover the cost of providing a copy of a public record should be determined by the hourly rate of the County employee responding to the request plus the cost of the use of the machine duplicating the document and the cost of the medium used. Notwithstanding the County's ability to recover its full costs of providing a copy of a public record, in order to promote access to public records, this ordinance establishes a maximum hourly rate charged for responding to the request and provides that no hourly rate will be charged for the first two full hours of employee time expended in providing the copy.

SECTION 2. CHARGE FOR COPIES OF PUBLIC RECORDS

The cost charge for providing a copy of a public record which is requested and produced pursuant to Government Code section 6250 et seq. is hereby determined to be the amount reasonably necessary to recover the cost of providing the copy. For purposes of this ordinance, the amount reasonably necessary to recover the cost of providing the copy is as follows:

- A. A charge per page equal to the current per page copy rate approved by the Board of Supervisors.

- B. The actual cost of the time of employees spent in locating, retrieving, reviewing, preparing, copying, and furnishing the records, provided, however, that the actual cost shall be calculated using the lower of: (1) the hourly cost recovery rate of the employees responding to the request for public records, as set by the Board of Supervisors, or (2) \$24.00 per hour. There shall be no charge for the first two hours of employee time expended. Time shall be calculated by rounding to the nearest one-quarter of an hour.
- C. If the response requires duplication to a medium other than 8 ½ by 11 copy paper, the amount reasonably necessary to recover the cost of that medium and any equipment required for the duplication shall be used in place of the per page cost.
- D. All other costs incurred in providing the copy including, without limitation, mailing and shipping.

SECTION 3: AUTHORIZATION FOR WAIVER

Agency and department heads, and their delegates, are authorized to waive collection of the charge for providing copies of public records if the total cost of fulfilling a request does not exceed \$15.00, and the burden of collection outweighs the benefit derived.

SECTION 4: CHARGE INAPPLICABILITY

This ordinance shall not apply to fees or charges specified in Government Code section 54985, subdivision (c).

SECTION 5: REPEAL

County of Ventura Ordinance 4330 is hereby repealed. Except as provided in the preceding sentence, this ordinance shall not amend or repeal, either expressly or by implication, any ordinance already adopted that provides for a charge for providing a copy of a public record.

SECTION 6: SURVIVAL CLAUSE

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(s) of 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 may be declared unconstitutional or invalid.

SECTION 7: OPERATIVE DATE

This ordinance shall become operative 30 days after the date of adoption.

PASSED AND ADOPTED this 14th day of February, 2006 by the following vote:

AYES: Supervisors Bennett, Long, Mikels,
Flynn and Parks.

NOES: None.

ABSENT: None.

Linda Parks
CHAIR, BOARD OF SUPERVISORS



ATTEST: JOHN F. JOHNSTON,
Clerk of the Board of Supervisors
County of Ventura, State of California

By Tabeta Rodriguez
Chief Deputy Clerk of the Board



MEMBERS OF THE BOARD
LINDA PARKS
Chair

STEVE BENNETT
KATHY I. LONG
JUDY MIKELS
JOHN K. FLYNN

BOARD OF SUPERVISORS
COUNTY OF VENTURA
GOVERNMENT CENTER, HALL OF ADMINISTRATION
800 SOUTH VICTORIA AVENUE, VENTURA, CALIFORNIA 93009

February 7, 2006

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, California 93009

SUBJECT: ADOPTION OF AN ORDINANCE REPEALING ORDINANCE NO.
4330 AND ESTABLISHING FEES FOR RETRIEVING AND COPYING
PUBLIC RECORDS

RECOMMENDATIONS:

1. Introduce, read in title only, and waive further reading of the attached Ordinance, which will repeal our Ordinance 4330 and will adopt new restrictions on the fees to be charged for copying public records requested by members of the public, and set this matter for a hearing on final adoption on February 14, 2006.

Under the existing and the proposed ordinance, citizens requesting copies of County documents will be charged the rate that the Board determines to be the actual per page copying cost.

Under the existing ordinance, citizens are also charged the actual cost of retrieval and copying time at the approved hourly rate of the employees who do the work. The proposed ordinance would limit those charges. Citizens would not be charged for the first two hours of retrieval and copying time. For the third hour and longer, the charge would be the lower of: (1) the actual hourly rate of the employees doing the retrieval and copying; or (2) \$24.00 per hour.

2. Direct the County Executive Officer to modify the Administrative manual to reflect the changes approved by the Board.

DISCUSSION:

When we hired our CEO in 2001 we identified as one of his goals "building trust in county government and confidence that we had an open door policy".

When the policy for copying fees was brought to us last fall, the Board and the CEO had no intention of trying to decrease public access to records. Rather, during the normal review of the Administrative Manual, a number of examples of very extensive copying requests surfaced, some exceeding 100,000 pages. Some of these requests were from individuals demanding tremendous amounts of copying time from staff, and other requests were from businesses to profit their business ventures.

The fundamental question raised is, to what extent should the taxpayer subsidize an individual's access to government records versus to what extent does an attempt to recover costs associated with that request create an inappropriate barrier to the access of public records.

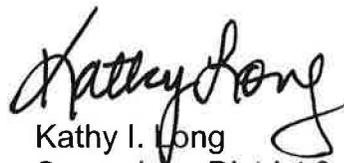
Given the perception by some that the new policy adopted last fall is an attempt to decrease public access, we believe it is prudent for us to err on the side of public access.

In addition to approving the above recommendations, we also request that the CEO monitor the demands for staff copying time. If at a later date hard evidence indicates a serious problem exists, we can address the issue at that time.

Cordially,



Steve Bennett
Supervisor, District 1



Kathy I. Long
Supervisor, District 3