

# TITLE 10

## SPECIAL ORDINANCES, REGULATIONS, RULES, POLICIES, AND BARGAINING AGREEMENTS

### SUBTITLE 3 — POLICIES

#### POLICY 34

#### UNIFORM HEARING PROCEDURES (PRESENTATION OF ORAL TESTI- MONY)

participants to fully address matters being considered by the Board, on the one hand, and to efficiently maintain control of time constraints and to stay within published time limitations on the other hand.

[Adopted 2001-685 §1 eff 12/19/2001]

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#### I. POLICY PROVISION

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#### 34.100 Policy statement

It is the policy of the County that the Board of Commissioners, pursuant to parliamentary authority and its inherent authority as a governing body, to establish reasonable time limits on the presentation of oral testimony that balances the needs of

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#### II. GENERAL PROVISIONS

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#### 34.200 Purpose

The purposes of this policy are:

(A) to declare the authority of the Board to establish limitations of debate and the time allowed to present oral testimony in meetings and hearings conducted by the Board; and

(B) to establish reasonable limitations on the presentation of oral testimony by participants in public meetings and hearings.

[Adopted 2001-685 §1 eff 12/19/2001]

#### 34.210 Authority

(A) This Board has the authority under parliamentary rules to limit debate and to fix the limits of debate on matters being considered by the Board.

(B) This Board has inherent and parliamentary authority to place reasonable limits on the presentation of oral testimony given on the floor by participants during meetings and hearings.

[Adopted 2001-685 §1 eff 12/19/2001]

#### 34.220 Definitions

As used in this policy, the following definitions apply:

(A) “**Agency**” means those elected offices and department heads set forth in LCC 630.020

under the definitions of “elected official” and “department head.”

(B) “**Board**” means the Linn County Board of Commissioners.

(C) “**Debate**” means discussion by members of the Board on an item of business properly before the Board.

(D) “**Department head**” has the meaning given the term in LCC 630.020.

(E) “**Elected office**” has the meaning given the term in LCC 630.020.

(F) “**LCC**” means the Linn County Code.

(G) “**LCP**” means the Linn County Policies.

(H) “**Oral testimony**” means testimony presented orally by a member of the public directed at an action or proposal properly before the Board and made when such testimony is so authorized and recognized by the chair of the Board.

(I) “**Order of business**” means an item of business on an agenda approved by the Board.

(J) “**Opponent**” includes the opponent’s legal representative, if any.

(K) “**Parliamentary authority**” means those rules and interpretations set forth in *ROBERT’S RULES OF ORDER NEWLY REVISED*, 10<sup>th</sup> ed. (2000) as modified by LCP 32 (*SIMPLIFIED PARLIAMENTARY RULES OF ORDER FOR LINN COUNTY GOVERNING BODIES*).<sup>1</sup>

(L) “**Participants**” includes proponents and supporters of an action or proposal being considered by the Board, opponents thereof, and persons who are neither supporters of nor opponents of the action or proposal.

(M) “**Proponent**” means the applicant(s) of an action or proposal to be considered and decided upon by the Board. The term includes the applicant’s legal representative, if any.

(N) “**Supporter**” means a person presenting oral testimony on an action or proposal other than the proponent.

[Adopted 2001-685 §1 eff 12/19/2001]

### 34.230 Background

Parliamentary authority provides that the assembly may limit debate on a matter being considered by the assembly.

[Adopted 2001-685 §1 eff 12/19/2001]

### 34.240 Policy term

This policy applies until it is amended or rescinded by the Board.

[Adopted 2001-685 §1 eff 12/19/2001]

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## III. COMPLIANCE PROVISIONS

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### 34.300 Procedure to comply with the policy

(A) The Board may establish limitations on debate and the presentation of oral testimony from the floor in the following manner:

(1) by majority vote of the Board at any time during a meeting or hearing; or

(2) by a written policy adopted in a public meeting; or

(3) by an ordinance adopted after a public hearing in accordance with applicable state statutes.

(B) The overall time limitation of an action or proposal shall conform as closely as possible and is reasonable to the time allocated to and published in the order of business containing that action or proposal. Any time limitations established pursuant to this section in advance of that action or proposal being considered may later be reasonably and fairly adjusted by the Board for the purpose of conforming to the time constraints set for that item in the order of business.

(C) The Board establishes as its policy the following time limits for the presentation of oral testimony by participants on the floor in any meeting or hearing conducted by the Board:

(1) *Case in chief*.

(a) The proponent(s) of an action will be limited to a maximum of 20 minutes to present oral testimony addressing the action or proposal.

(b) Supporters of the action or proposal shall be allowed a maximum of 3 minutes each.

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<sup>1</sup> Order of the Board 2001-145 eff 3/21/01; amended 2001-605 eff 10/23/2001.

(c) The opponent(s) of the action may present oral testimony addressing the action or proposal; however, such testimony shall be limited to a maximum of 20 minutes plus the time taken by supporters.

(d) Subject to the time limitations allowed in the order of business, individuals who neither support nor oppose the action or proposal will be limited to a maximum of 3 minutes each to present their oral testimony.

(2) *Rebuttal testimony.*

(a) The proponent will be allowed a maximum of 10 minutes to rebut issues addressed by any opponents or neutral participants.

(b) The opponents and neutral participants are not allowed any rebuttal time; however, a fair and reasonable time, not to exceed 10 minutes, shall be allowed for the sole purpose of addressing any new relevant matters admitted into the record raised by the proponent(s) during rebuttal if such new evidence is prejudicial to the opponent's substantial rights.

(D) The time allotted to the opponents should be divided fairly among them. At its discretion, the Board may allow either of the following methods to determine how time is to be fairly divided among the opponents:

(1) The number of supporters and opponents wishing to testify may be determined from the sign-up sheet and a show of hands in the public audience at the beginning of the meeting or hearing, and the time to be allotted to the opponents may then be found by dividing the number of opponents into the total number of minutes available to the proponent's time plus the time allotted to the supporters; or

(2) a determination may be made by the opponents themselves during a brief recess not to exceed 5 minutes taken for the purpose of obtaining an agreement among the opponents as to the number of opponents who will testify and the amount of time each opponent will take.

(E) The Board, following any participant's testimony and during its debate, may ask questions of and seek clarifications from any participant, and the responses thereto shall not in any

way be applied toward any time limitations established pursuant to this section.

(F) Subject to the Linn County Code or other rules of procedure or law, the time limitations imposed by this section do not in any way limit any participant from offering for acceptance by the Board any written testimony that is directed at the action or proposal. The Board encourages all individuals to provide written testimony prior to the public hearing; however, with permission of the Board a participant may submit such testimony during and/or following the public meeting or hearing subject to any conditions imposed by the Board.

(G) The Board shall cause a notice to be issued to all potential participants of an action or proposal to be decided by the decision-making body sufficient to inform such participants of any time limitations established by this section. The notice shall also inform the participants that such time limitations remain at all times subject to change by the decision-making body.

[Adopted 2001-685 §1 eff 12/19/2001]

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**References and Authorities:**

ORS 203, 197, 215; LCP 32; pursuant to the reasoning in *Derry v. Douglas county*, 28 Or LUBA 212 (1994) (if the local code is silent on the procedure to follow in a tie vote, counsel should consult Robert's Rules of Order for a default position). LUBA seems to recognize basic parliamentary rules in the absence of a local code providing procedural rules otherwise; see also *Northeast Neighborhood Assoc. v. Salem*, 4 Or LUBA 221 (1981); *Bennett v. Linn Co. Board of Commissioners*, 14 Or LUBA 217 (1986); *Sokol v. City of Lake Oswego*, 18 Or LUBA 375 (1989) *aff'd*, 100 Or App 594 (1999); *Seto v. Tri-Met*, 21 Or LUBA 185 (1991); *ROBERT'S RULES OF ORDER NEWLY REVISED*, 10<sup>th</sup> ed. (2000) as modified by LCP 32 (*SIMPLIFIED PARLIAMENTARY RULES OF ORDER FOR LINN COUNTY GOVERNING BODIES*).

**Cross References:**

LCP 32 (Order of the Board 2001-145 eff 3/21/01; amended 2001-605 eff 10/23/2001)

**Legislative History of Policy 34:**

Adopted 2001-685 eff 12/19/2001

Amendments to 2001-685:

#1 none

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