

TITLE 10

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

SUBTITLE 3 — POLICIES

POLICY 35

DETERMINATION OF RECORD REQUEST COSTS AND PROCEDURE

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35.010 Purpose

This Policy is intended to implement the statutory requirement in ORS 192.324(7) that Linn County make available a written procedure for making public records requests.

[Adopted 14-283 eff 8/19/14; amd 2019-366 eff 11/5/19]

35.100 Policy

Every Linn County Department and Office shall charge a fee in connection with a request under ORS 192.311 to 192.338, equal to the hourly rate of the employee fulfilling the request,

multiplied by the number of hours actually spent in performing such service rounded to the nearest 1/10th of an hour, and for materials or media used to furnish the requested records, or as otherwise established by the annual Fee Resolution adopted by the County. Provided, however, the minimum fee shall be \$5.

[Adopted 01-246 eff 6/30/01; amd 14-283 eff 8/19/14; amd 2019-366 eff 11/5/19]

35.150 Submitting requests

(A) All records requests should be directed to the Linn County Department or Office the individual believes possesses the records. A list of Linn County Departments and Offices is available at www.co.linn.or.us

(B) The request should be mailed to:
[Name of Department or Office]
P.O. Box 100
Albany, OR 97321

(C) Within five business days after receiving a written records request, the Department or Office shall acknowledge receipt of the request. The acknowledgment must:

(1) Confirm that the Department or Office is the custodian of the requested record(s);

(2) Inform the requester that the Department or Office is not the custodian of the requested record(s); or

(3) Notify the requester that the Department or Office is uncertain whether the Department or Office is the custodian of the requested record(s).

[Adopted 14-283 eff 8/19/14; amd 2019-366 eff 11/5/19]

35.200 Procedure to calculate the estimated cost for producing public records

(A) The Department Head or Elected Official of a Linn County Department receiving a request to make public records available under ORS 192.311 to 192.338, or the employee designated by the Department Head or Elected Official, shall consider the request and make an estimate of the time reasonably calculated to be necessary to fulfill the request; the estimate of the actual cost in accordance with LCP 35.100 shall be computed; the person making the request shall be advised of the estimated cost of the service requested.

(B) The estimated cost shall not include the cost of making the estimate.

(C) Any other reimbursable costs expected to be incurred shall be included in the estimate in accordance with ORS 192.311 to 192.338.

(D) Written fee estimates shall be provided at the time the acknowledgment receipt is issued under LCP 35.150(c), or as soon as reasonably possibly thereafter, but in no event later than 10 business days after the acknowledgment receipt is issued.

[Adopted 01-246 eff 6/30/01; amd 14-283 eff 8/19/14; amd 2019-366 eff 11/5/19]

35.300 Procedure for producing record requests

(A) Upon deposit of the estimated cost, the Department Head or Elected Official shall assign the employee who will perform the service to proceed with performing the services requested, and shall designate the time when the service shall be performed, and may impose such rules and regulations necessary to prevent interference with the regular discharge of the employees duties.

(B) The employee performing services requested in connection with making public records available shall keep a written record of the time spent in performing the services requested, in hours and tenths of hours, rounded to the nearest tenth. If the actual cost of the services is greater than the deposited estimated cost, the Department or Office must inform the requester of the additional fee as soon as reasonably possible, but in no

event later than 10 business days after deposit of the estimated costs.

(C) The public records to be made available shall not be delivered to the person requesting them until the actual costs in addition to the previously deposited estimated cost have been paid, including the cost of time spent by an attorney for the public body in reviewing the public records, redacting material or segregating exempt and non-exempt records.

(D) The public records shall be delivered to the person requesting them no later than 10 business days after receipt of the fees, or if there is a waiver of fees, no later than 10 business days after the acknowledgment receipt was issued under LCP 35.150(c).

(E) If additional time is required to fulfill the records request, the Department or Office shall provide a written statement to the requester informing them that the County is still processing the request and providing them with a reasonable estimated date by which the Department or Office expects to complete its response based on the information currently available. This written statement is to be sent to the requester no later than 10 business days after receipt of the fee, or if there is a waiver of fees, no later than 10 business days after the acknowledgment receipt was issued under LCP 35.150(c).

[Adopted 01-246 eff 6/30/01; amd 14-283 eff 8/19/14; amd 2019-366 eff 11/5/19]

35.400 Relation to fee resolution

Unless otherwise addressed in the annually adopted Fee Resolution, the fees provided for by this Policy are in addition to fees for copies or media provided in the Fee Resolution.

[Adopted 01-246 eff 6/30/01; amd 14-283 eff 8/19/14]

35.500 Waiver of fees

(A) A Linn County Department Head or Elected Official may waive any fee provided by this Policy if:

- (1) the time needed to fulfill the request is negligible;
- (2) there is a statutory basis for waiving the fee; or

(3) the requested service is within the normal scope of the Department's or Office's activities.

[Adopted 01-246 eff 6/30/01; amd 14-283 eff 8/19/14]

35.600 Failure to pay fee

(A) If the requester fails to pay the fee within 60 days of the date on which the Department or Office informed the requester of the fee, or if the requester fails to pay the fee within 60 days of the date on which the Department or Office informed the requester of the denial of a fee waiver, the Department or Office shall close the request.

[Adopted 2019-366 eff 11/5/19]

References and Authorities:

ORS 203; ORS 192

Legislative History of Policy 35:

Adopted 01-246 eff 6/30/01

Amendments 01-246

#1 14-283 eff 8/19/14

#2 19-366 eff 11/5/19
