

WHEREAS, the municipal governing body of the Borough of Lindenwold wishes to ensure consistency in its provisions, and

WHEREAS, under N.J.S.A. 47:1A-5c, OPRA allows public agencies to impose special service charges whenever the nature, format, manner of collation, or volume of a government record embodied in the form of printed matter to be inspected, examined, or copied pursuant to this section is such that the record cannot be reproduced by ordinary document copying equipment in ordinary business size or when fulfilling a request requires an extraordinary expenditure of time and effort. and

WHEREAS, Special service charges must be based upon the actual direct cost of providing the copy or copies, and

WHEREAS, based on OPRA, the municipality wishes to solidify requests for government records.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the municipal governing body of the Borough of Lindenwold, as follows:

§ 242-1 Purpose.

New Jersey has adopted the Open Public Records Act which has as its general purpose making government records more available to the public than they have been in the past. In certain instances, the production of archived records or records in a format which is not the usual format maintained by the municipality or other special circumstances would be costly and time consuming. The New Jersey Public Records Act permits the municipality to require the payment of fees, special service charges and/or special charges as a prerequisite to the production of records requiring extraordinary time and effort, special equipment or special formatting.

§ 242-2 Ordinary requests for information.

The statutory fee schedule shall apply to routine requests under the Open Public Records Act. The fees of N.J.S.A. 47:1A-5 are hereby incorporated herein as such fee schedule presently exists or as such fees might appear in future modifications or amendments of the statute. At present time, fees under N.J.S.A. 47:1A-5 for routine copies of municipal documents are listed under Chapter 150-2 Fee Schedule. In addition the following is added:

A. Actual postage for any documents sent by mail.

B. Actual costs for the envelope for any documents sent by mail.

C. Photographs will be photocopied at the actual cost. If requests are made for supuplicate photographs, the actual cost of making the photographs shall be charged.

D. Duplication of videotapes, computer disc, CD-ROM and/or DVD will be charged the actual costs to provide this record.

E. Any document that has to be retrieved from the off-site record archive facility will be charged the actual costs to retrieve this document.

§ 242-3 No research or interpretation may be compelled.

Nothing in this article shall require the custodian of documents or any other municipal official to examine, analyze, tabulate, or interpret documents which are subject to production under the New Jersey Open Public Records Act.

§ 242-4 Special services charges; special charges authorized.

A. Charges authorized. The Borough Clerk or other custodian or keeper of documents qualifying for mandatory production as "governmental records" under the New Jersey Public Records Act shall be entitled to special service charges and/or special charges as set forth in Section 25-5 below.

B. Requests to be in writing. Any requests for documents shall be made to the Borough Clerk on a form established by the Borough Clerk for such purposes.

C. Advance notice of fees; special service charges and special charges; deposit. Any requester of government records which are eligible for the imposition of a special charge or special service charge under Section 242-5 below shall receive advance notice of the amount of fees and charges before any work is started. The Borough Clerk shall require prepayment of such charges before causing the work to begin.

§ 242-5 Fees, special services charges and special charges when charged; amounts authorized.

A. Duplication or other work beyond capability of municipal-in-house work force. Whenever the in-house municipal work force or available municipal equipment is insufficient to duplicate or produce government records in a timely fashion, the Borough Clerk may cause such duplication or production to be accomplished by outside vendors such as copy centers or producers of digital images. If the costs of such duplication or production charged by such vendors exceeds the routine charges set forth in N.J.S.A. 47:1A-5, the actual direct cost of same without any additional surcharge for labor costs shall be paid.

B. Special service charges authorized. Whenever government records cannot be reproduced by regular copying equipment or fulfillment of the request would involve extraordinary expenditure of time and effort to

accommodate the request (for example, where a large number of records must be recovered from storage or substantial staff time is required to review, sort and assemble records), charges may be imposed as follows:

- (1) The actual cost (materials and supplies but no staff labor) of duplication or reproduction; plus
- (2) A special service charge of \$25 per hour or the actual direct cost of labor (if less) shall be imposed for each hour of extraordinary time predicted to be utilized to respond to the request.
- (3) Rates for in-house production of prints or blueprints. Any prints or blueprints produced in-house in response to a governmental records request shall be produced for actual cost of labor and materials for reproduction of such prints or blueprints.

C. Cost of GIS data. The cost of any GIS data owned by the Borough of Lindenwold shall be actual cost of labor and materials for reproduction of such data.

D. Digital records. If a request for governmental records involves production or conversion of digital or computerized records or film which is:

- (1) In a medium not routinely used by the agency (i.e., electronic or film);
- (2) Not routinely developed or maintained by an agency; or
- (3) Requiring a substantial amount of manipulation or programming of information technology;
- (4) Then requester shall pay fees and special charges as follows:
 - (a) Direct costs (no overhead) to comply with the request; plus
 - (b) Special charges; the cost of technology and labor actually incurred.

§ 242-6 **Application of copyright laws.**

The Borough of Lindenwold may be compelled by New Jersey Law to produce or duplicate governmental records but no compliance with these legal obligations shall be deemed to constitute a license, sublicense or waiver of copyright laws.

§ 242-7 **Custodians of records; collection of fees.**

The Chief of Police or some responsible police personnel designated by him shall be custodian of Police Department records. The Borough Clerk shall be custodian of all other records of the Borough of Lindenwold. These officials shall reproduce or cause to be reproduced requested copies of records in their custody and shall collect the fees and charges designated in Section 242-2. Such fees and charges shall be delivered to the Borough Treasurer within forty-eight (48) hours of their receipt.

§ 242-8 **Effect on other legislation.**

Nothing herein contained shall prevent any person from examining and making copies of any public record, not otherwise restricted, without charge as provided in Chapter 73 of the Laws of New Jersey 1963. (N.J.S.A. 47:1A-1 et seq.)

§ 242-9 **Exceptions.**

There shall be no charge for copies of reports or other documents which the borough shall be required to give and/or make for any public officer or law enforcement authority or which may be given to aid any public officer or law enforcement authority in the enforcement of the law.

INTRODUCED: January 26, 2022

ADOPTED: February 9, 2022

Richard E. Roach, Jr.
Mayor

Deborah C. Jackson
Borough Clerk