

NOTICE OF PENDING ORDINANCE

ORDINANCE NO. 10-1298

The ordinance published herewith was introduced and passed upon first reading at a meeting of the Borough Council of the Borough of Tinton Falls, in the County of Monmouth, State of New Jersey, held on June 1, 2010. This Ordinance will be further considered for adoption, after the public hearing is held thereon, at a meeting of the Borough Council to be held on Tuesday, June 15, 2010, located in the Municipal Building, 556 Tinton Avenue, Tinton Falls, New Jersey, beginning at 7:30 o'clock P.M. During the week prior to and up to and including the date of such meeting, copies of said Ordinance will be made available in the Clerk's Office to the members of the general public who shall request the same.

KAREN MOUNT-TAYLOR, RMC, CMC

ORDINANCE AMENDING CHAPTER 3-35B OF THE GENERAL REVISED ORDINANCES OF THE BOROUGH OF TINTON FALLS GOVERNING COPYING FEES ASSOCIATED WITH PUBLIC RECORDS REQUESTS PURSUANT TO RECENT COURT DECISIONS

WHEREAS, the Borough of Tinton Falls ("the Borough"), like many other government entities, had adopted ordinances governing copying costs for public records requests based on certain rates provided in the statutory provisions of the Open Public Records Act ("OPRA") in 2002, namely N.J.S.A. 47:1A-5(b) that have been construed as maximum default rates; and

WHEREAS, recently consolidated court decisions in the matter of Smith v. Hudson County Register, 411 N.J. Super. 538 (App. Div. 2010), however, held that as of July 1, 2010, only reasonably approximated actual costs may be utilized by government entities subject to OPRA in determining what fees to charge those requesting copies of public records under N.J.S.A. 47:1A-5(b); and

WHEREAS, the Borough Clerk and Director of Law recommend updating the Borough ordinances governing such fees to be in conformance with this recent interpretation of the law.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Tinton Falls in the County of Monmouth, State of New Jersey that Chapter 3-35B of the General Revised Ordinances of the Borough of Tinton Falls are hereby amended and supplemented as follows:

3-35B.4 Fees; Actual Costs. ~~Schedule.~~

a. Unless otherwise provided by law, the fees for copies of government records shall be based on reasonably approximated actual costs, excluding labor and overhead. Fees are to be arrived at by the Borough Clerk based on data provided by the Borough's Chief Financial Officer and/or Purchasing Agent. Reasonably approximated actual costs may be ascertained by calculating the cost of paper, toner or ink, copier leases, maintenance contracts, repair costs outside of such contracts, and other related but readily identifiable expenses associated with the operation and maintenance of copying or related equipment amortized over the course of the most recent fiscal or calendar year divided by the actual or estimated usage of the copying or related equipment. The data and calculations utilized to amortize such costs shall be re-examined annually to ensure reasonable accuracy. The resulting copying fees shall be published on the Borough's website and at the Borough Clerk's office. Costs associated with the production of copies of any non-standard media, such as, larger scale documents, maps, plans, photographs, books or bound publications, and forms of electronically recorded media, shall be determined on an as-provided basis based on the reasonably approximated actual costs associated with producing copies of the same. Actual postage rates will be assessed to any records sent through the mails or other private delivery service.

a. ~~Records in eight and one half (8.5") inches by eleven (11") inches or eight and one half (8.5") inches by fourteen (14") inches format:~~

Up to 10 copies	\$.75 per page
11 to 20 copies	\$.50 per page
21+	\$.25 per page

b. ~~Other Records.~~

Tax Map page	\$10.00 per page
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Zoning Map	\$15.00 per page
Street Map	\$15.00 per page
For larger documents	\$ 1.50 per square foot — (i.e., plans)
Master Plan	\$20.00
Zoning Ordinance	\$50.00 (includes zoning map)
Cassette tape	\$ 5.00 (per tape)
Video tape	\$25.00
Information on diskette or CD	\$ 5.00 per diskette or — CD
Computer generated picture (B/W or Color)	\$ 5.00 per sheet
Copy of computer screen	\$.75 per sheet
Film developing	\$15.00 (24 or 36 — exposures)
Enlargements	\$15.00

c. Postage and Surcharges.

1. ~~Postage costs will be added to all requests for public records required to be mailed and will be determined at time of request.~~
2. ~~A surcharge of fifty (\$.50) cents per page will be applied to all records sent by fax.~~

- b. Extraordinary service charges shall be applied for any extensive use of information technology or for the labor cost of personnel providing the service that is actually incurred by the Borough for the programming, clerical and supervisory assistance required to provide a government record in the medium requested if it is not a medium routinely used by the Borough not routinely developed or maintained by the Borough or requiring a substantial amount of manipulation or programming of information. This rate shall be forty-five (\$45.00) dollars per hour for supervisory or programming and thirty-five (\$35.00) dollars per hour for clerical.