

Windham Town Council Freedom of Access Act (FOAA) Training

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Presented by

Ben McCall
bmccall@dwmlaw.com / 207.771.9214

FOAA Training Requirements

(1 M.R.S. § 412)

Training must include instruction in:

- 1.** The general legal requirements regarding public records and public proceedings;
- 2.** The procedures and requirements regarding complying with a request for a public record; and
- 3.** The penalties and other consequences for failure to comply with the law.

Note: Keep a certificate of completion following training.

Purpose of FOAA

- “The Legislature finds and declares that public proceedings exist to aid in the conduct of the people's business. It is the intent of the Legislature that their actions be taken openly and that the records of their actions be open to public inspection and their deliberations be conducted openly. It is further the intent of the Legislature that clandestine meetings, conferences or meetings held on private property without proper notice and ample opportunity for attendance by the public not be used to defeat the purposes of [the FOAA].”

Public Records

- Public Records defined - 1 M.R.S. § 402
- Exceptions
 - Search tool: <http://www.mainelegislature.org/legis/foa/>

Public Records Requests

(1 M.R.S. § 408-A)

- Acknowledgement - within 5 days
- Staff time - \$25 per hour (first 2 hours free)
- 10¢ per page for copies (no fee for records provided electronically)
- Denials of requests - within 5 days
- Summaries not required
- Unduly burdensome requests
- Electronic record requests

Public Records (cont'd)

Required Recordkeeping

- Date, time, place, attendance, motions/votes, and roll calls
 - Not required: meeting minutes
- Conditional approval or denial of an application or license (written decision)
- Local Government Record Retention Laws

Public Access Officers

- Responsibilities
- Response required even when public access officer is unavailable

Public Proceedings

- Public Proceedings defined - 1 M.R.S. § 402(2)(C)
- Open to Public
- Public Proceeding vs. Public Hearing
- ~~Email~~
- Remote Meetings
- Notice of Meetings

Public Proceedings (cont'd)

Executive Session (1 M.R.S. § 405)

- Permitted topics
 - Personnel issues
 - Sale or acquisition of real property
 - Labor contracts and labor negotiations
 - Meetings with legal counsel
 - Discussion of statutorily confidential materials
 - Consultation with CEO re: land use enforcement action pending in District Court if CEO is prosecuting matter for Town
- Prohibited topics
 - Budget
 - Any other topic not listed in statute

Public Proceedings (cont'd)

Procedures for Executive Session

- Motion Requirements
- 3/5 vote requirement (present and voting)
- Discussion limited to items identified
- No vote or other formal action permitted
- Public records do not include documents prepared for or notes made during executive session

Appeals/Violations

- Private suit / appeal to Superior Court
- Refusal to provide public records
- Claim of illegal executive session
 - Where proven, action taken during session is void
- Attorney's fees (if bad faith)
- Willful violations
 - Civil violations and subject to penalty

Thank you!



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