

Town of Scarborough
Protocol on Requests for Public Records Under
Maine’s Freedom of Access Act (“Right-To-Know Law”)
1 M.R.S.A. §§401 et seq.

PURPOSE: The purpose of this policy is to ensure that all members of the public have access to public records in the possession of the Town and that the time and method of providing public records to members of the public both complies with their rights under the law and allows for the smooth functions of governmental departments.

DEFINITION: A complete definition of the term “public records” can be found in Title 1 M.R.S.A. §402(3). In summary, it is defined as any written, printed or graphic matter or any mechanical or electronic data that is in the possession or custody of an agency or public official and has been received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business, unless there is an exception to the definition. Statutory exceptions to the public record definition may be found through the State’s keyword search tool: <http://www.mainelegislature.org/legis/foa/>.

The Town is prohibited by law; however, from releasing information classified as confidential under state or federal law.

GUIDELINES CONCERNING ACCESS TO PUBLIC RECORDS:

1. Initiating a Request. Persons requesting access to public records are asked to complete the attached form and present it to the Town during regular business hours. The Freedom of Access Act (FOAA) does not require that requests be in writing and persons seeking access to public records are not obligated to put their request in writing without forfeiting their right to inspect and copy the records. However, the Town strongly urges members of the public to put their request in writing to maintain a record of when the request was received and to make certain that the documents requested can be located as quickly as possible and made available for inspection. The Town may also request clarification concerning which public record(s) are being requested.

The request should designate by name or reasonable description a document or group of documents in existence on the date of the request. Requests for future documents cannot be honored. Requests should be as specific as possible to assist Town staff in retrieving information and, thereby, decreasing unnecessary costs.

2. Acknowledgements. Within five business days of the request for access to public records, the Public Access Officer or his/her designee(s) will provide written acknowledgement of the request. Within a reasonable time of receiving the request, the Public Access Officer or his/her designee(s) will provide a good faith, nonbinding estimate of the amount of time it will take to comply with the request, along with a cost estimate. If the cost will be greater than \$30, the Town must inform the requester before proceeding.

3. Obtaining Records. Staff is not obligated to create any record. The process to obtain public records could include any or all of the following tasks: searching for, retrieving, compiling, converting or copying records for inspection and distribution. These tasks will occur in a manner that does not delay or inconvenience the regular activities of the Town.

4. Inspection of Records. Public records may be inspected, by appointment, during normal business hours at a time and in a manner that ensures protection of the records and does not delay or inconvenience the regular activities of the Town department that is the custodian of the record. The Town will provide access to electronically stored public records either as a printed document or as an electronic document, at the requester's option, subject to the limitations in the law. The Town shall mail a copy of the records upon request, and may charge for the actual mailing costs.
5. Protection of Records. To protect its public records, the Town may require that an employee or official of the Town be present during inspection and/or copying of documents.
6. Scheduling. When the presence of an employee or official is required to ensure the protection of any record, the inspection or copying shall be scheduled during the regular business hours of the Town.
7. Copying. If Town copiers are used, the charge to the person requesting the copies shall be the current rate charged by the Town (scheduled attached). If any record is copied on a photocopier other than one belonging to the Town, the Town reserves the right to have an employee or official present at the time the record is copied to protect the record.

Requests that require copying only several pages, that are readily available, may be produced at the time of the request. Other requests may require several days to complete the task of copying documents based on the reasonable availability of staff to perform the task.

8. Fees. The fees for obtaining records will be charged pursuant to Title 1 M.R.S.A. §408-A. Fees may include the payment of costs incurred by the Town in searching for, retrieving, compiling, converting or copying for inspection and mailing of public records as may be allowed by Title 1 M.R.S.A. §408-A(8). In accordance with Title 1 M.R.S.A. §408-A(8), the Town will not charge for the first hour of staff time needed to process a public records request. Advance payment may be required under certain circumstances. Pursuant to Title 1 M.R.S.A. §408-A(10), this may be required when the estimated total costs exceeds \$100, or if the requester has previously failed to pay a properly assessed fee for a FOAA request in a timely manner. Fee waivers are available under certain, limited circumstances.
9. Appeals. Any denial by the Town of a request to inspect a public record may be appealed to Superior Court by the person whose request is denied within 30 calendar days of receipt of the denial.
10. This protocol is a guide. Within the law, this protocol may be altered in the sound discretion of the Town Manager as may be necessary to meet specific circumstances.

Town of Scarborough
Office of the Town Clerk

259 U.S. Route One
P.O. Box 360
Scarborough, ME 04070
207-730-4020

www.scarboroughmaine.org

Request for Access to Public Records

I request access to the following public records of the Town of Scarborough:

FEES: Turnover for fee schedule.

Date: _____

Signature: _____

Print Name: _____

Address: _____

Telephone: _____

Email Address: _____

<p><i>This Space for Official Use Only</i></p> <p>____ Material provided. Date: _____</p> <p>____ Request Denied</p> <p>Reason for Denial:</p> <p>_____</p> <p>_____</p> <p>By: _____</p> <p>Date: _____</p> <p>Date Notified: _____</p>

Town Staff

Date Received: _____

Received By: _____

Signature

Fee Schedule

These fees for obtaining records will be charged pursuant to Title 1 M.R.S.A. §408-A. Fees may include the payment of costs incurred by the Town in searching for, retrieving, compiling, converting or copying for inspection and mailing of public records as may be allowed by Title 1 M.R.S.A. §408-A(8). In accordance with Title 1 M.R.S.A. §408-A(8), the Town will not charge for the first hour of staff time needed to process a public records request. If Town copiers are used, the charge to the person requesting the copies shall be the current rate charged by the Town (See Chapter 311 – Schedule of Fees – located at <http://www.scarboroughmaine.org/town-government/town-ordinances>).

Advance payment may be required under certain circumstances. Pursuant to Title 1 M.R.S.A. §408-A (10), this may be required when the estimated total costs exceeds \$100, or if the requestor has previously failed to pay a property assessed fee for a FOAA request in a timely manner. Fee waivers are available under certain, limited circumstances.