



## **PERMIT FREEDOM ACT**

### **SECTION 1. PERMIT CONDITIONS.**

(a) Notwithstanding any other law, in any case in which a license or permit is required prior to a person engaging in any constitutionally protected activity, the criteria for the granting or denial of that license or permit shall be specified in clear and unambiguous language, and the applicant shall be entitled to a review and determination of that permit or license application within 30 days or such other time as the legislature shall by law prescribe.

(b) If the municipality or agency does not take action within the applicable time period, the application is deemed approved, unless the application is incomplete and the applicant after being notified of the deficiency has failed to correct it.

(c) The determination of what constitutes clear and unambiguous language shall be a judicial question, without deference to the legislature, municipality or agency.

### **SECTION 2. MUNICIPAL AND ADMINISTRATIVE HEARINGS.**

(a) Unless knowingly and voluntarily waived by the parties, all municipal or administrative hearings relating to a license or permit application must comply with the rules of procedure and rules of evidence required in judicial proceedings. Notice may be taken of



judicially cognizable facts, and of generally recognized technical or scientific facts within the municipality's or agency's specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed, including any staff memoranda or data, and parties shall be afforded an opportunity to contest the material so noticed. The municipality's or agency's experience, technical competence, and specialized knowledge may be used in the evaluation of the evidence.

(b) The parties to a contested case or appealable municipal or administrative action have the right to be represented by counsel or to proceed without counsel, to submit evidence, and to cross-examine witnesses.

(c) A party may file a motion to disqualify a presiding officer from conducting a hearing for bias, prejudice, personal interest, or lack of technical expertise necessary for a hearing. The presiding officer may issue subpoenas to compel the attendance of witnesses and the production of documents. The subpoenas shall be served and, on application to the superior court, enforced in the manner provided by law for the service and enforcement of subpoenas in civil matters. The presiding officer may administer oaths and affirmations to witnesses.

(d) All hearings shall be recorded. The presiding officer shall secure either a court reporter or an electronic means of producing a clear and accurate record of the proceeding at the municipality's or agency's expense.

(e) On application of a party or the municipality or agency and for use as evidence, the presiding officer may permit a deposition to be taken, in the manner and on the terms designated by the presiding officer, of a witness who cannot be subpoenaed or who is unable to attend the hearing. Subpoenas for the production of documents may be ordered by the presiding officer if

the party seeking the discovery demonstrates that the party has reasonable need of the materials being sought. All provisions of law compelling a person under subpoena to testify are applicable.

(f) Disposition may be made by stipulation, agreed settlement, consent order, or default. Findings of fact shall be based exclusively on the evidence and on matters officially noticed. A final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(g) The burden of proof in municipal or administrative hearings relating to an application for, or the suspension, revocation, termination, or modification on its own initiative of the material conditions of, a license or a permit shall be preponderance of evidence, or such greater burden as the legislature shall specify, and the municipality or agency shall bear the burden.

### **SECTION 3. JUDICIAL REVIEW.**

(a) In any action to review a final municipal or administrative decision involving the denial, modification, or revocation of a license or permit, the applicant or licensee shall be entitled to a speedy and public determination by a court of law. If requested by an applicant or licensee within 30 days after filing a notice of appeal or petition for review, the court shall hold an evidentiary hearing, including testimony and argument, to the extent necessary to make the determination. The court shall decide de novo all relevant questions of law unless the parties stipulate otherwise. On demand of any party, if the determination of facts may be made by a jury. Relevant and admissible exhibits and testimony that were not received during the hearing may be admitted so long as compliant with the rules of evidence, and objections that a party failed to make to evidence offered at the hearing before the municipality or agency shall be considered, unless either of the following is true:

(1) The exhibit, testimony, or objection was withheld for purposes of delay, harassment, or other improper purpose.

(2) Allowing admission of the exhibit or testimony or consideration of the objection would cause substantial prejudice to another party.