



CITY OF PORTSMOUTH, NEW HAMPSHIRE
GOVERNANCE COMMITTEE

PUBLIC MEETING NOTICE
MONDAY, OCTOBER 6, 2025 AT 11:00 A.M.
City Hall Complex, Conference Room A
1 Junkins Avenue
Portsmouth, NH 03801

*Members of the public also have the option to join the meeting over Zoom.
(See below for more details)**

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1. Welcome and Call to Order
 2. Roll Call
 3. Approval of the minutes of the September 29, 2025 Governance Committee meeting
 4. Review of Draft Encumbrance Ordinance
 5. Other Business
 6. Public Comment
 7. Announcements
 8. Adjournment

***Join Zoom Meeting**

When: October 6, 2025 11:00 AM Eastern Time (US and Canada)

Register in advance for this meeting:

<https://us06web.zoom.us/meeting/register/06ARzFJ4SOuszS87Ky4j5g>

After registering, you will receive a confirmation email containing information about joining the meeting.



CITY OF PORTSMOUTH, NEW HAMPSHIRE
GOVERNANCE COMMITTEE
MEETING MINUTES
Monday, September 29, 2025
City Hall Complex, Council Chambers
1 Junkins Avenue, Portsmouth, NH

1. **Welcome and Call to Order:** The meeting was called to order at 11:00 a.m.
2. **Roll Call:** Assistant Mayor Joanna Kelley; Councilor Katherine Cook; Councilor Vincent Lombardi; and Councilor John Tabor were present.

Staff: Carl Weber, Deputy City Manager; Susan Morrell, City Attorney; and Jane Ferrini, Senior Assistant City Attorney
3. **Review and Approval of the Minutes of the September 15, 2025 meeting:**
Councilor Tabor moved to accept the minutes of the September 15, 2025 meeting. Seconded by Councilor Lombardi. All in favor. The motion was approved.
4. **Draft Encumbrance Ordinance:** The Committee reviewed edits to the ordinance per discussion at the September 15, 2025 meeting. These edits included the addition of a new section in the ordinance on Arts and Culture banners at the suggestion of the Arts and Cultural Commission. A section on special events was also added. Attorney Ferrini provided a summary of the banner ordinance language and stated that the banners would be similar to a flag and would require an annual permit fee and fee. City Attorney Morrell stated that the banner policy will be discussed the next City Council meeting and recommended that it be referenced and included as part of the encumbrance ordinance. Council Cook stated that the City Council policy will direct the City Manager to establish a banner program with guidelines. Councilor Lombardi asked who would be able to request permission to hang a banner and added that the selection of applicants would need to be broad enough to allow not only non-profits, but civic organizations, as well. The Committee discussed the inclusion of education and civic institutions, as well as arts and cultural non-profit, or affiliated with a non-profit, would be eligible to apply for selection. Assistant Mayor Kelley inquired if a time limit of 30-45 days seemed reasonable and recommended that there should be a break between hanging a different banner. There was discussion that a manageable number of banners should be determined, along with specific areas or zones, time frames, and events. Input from the Public Works Department will be obtained to help determine these criteria and as the City light posts would be utilized, determine if DPW would have the bandwidth to hang the banners due to potential damage by others, along with the cost to do so.

Special Events Permits: Attorney Ferrini provided a summary of this addition to the encumbrance ordinance. She stated special event permits are being created in

order to standardize what and how special event information is submitted to the Council, along with streamlining the special event process, making it easier for the applicants to navigate the process and the staff to issue permits. It is anticipated that these permits will be available on the OpenGov permit system in the near future.

The Committee discussed presenting the first section of the revised Encumbrance Ordinance to the City Council for a first reading on Monday, October 20, 2025 in order to have final reading and approval by the end of the year.

5. **Other Business:** None
6. **Public Comment:** None
7. **Announcements:** The next Governance Committee meeting was scheduled for Monday, October 6, 2025 at 11:00 a.m. in Conference Room A.
8. **Adjournment:** Councilor Lombardi moved to adjourn the meeting, seconded by Assistant Mayor Kelley. All in favor. Motion was approved. Meeting adjourned at 12:32 p.m.

Meeting Minutes prepared by:
Barbara Zulkiewicz

Minutes approved: _____

CHAPTER 6 LICENSES AND ENCUMBRANCES, ARTICLE I: ENCUMBRANCE PERMITS AND LICENSES FOR USE OF PUBLIC PROPERTY

Section 6.101: STATEMENT OF PURPOSE

The purpose of this ordinance is to establish a comprehensive framework for the licensing and encumbering of public property within the City and aims to ensure the responsible use and management of public assets, create an efficient and transparent approval process and safeguard the interests of the community while promoting economic development. By regulating the use of public property, the City seeks to:

1. **Enhance Efficiency and Transparency:** Establish efficient and transparent procedures for issuing licenses and encumbrance permits for use of public property.
2. **Promote Fair Access:** Provide the public with equitable access to public property.
3. **Preserve Public Assets:** Maintain and preserve the integrity of public property.
4. **Facilitate Economic Development:** Support local businesses and economic activities by providing clear guidelines for the use of public property.
5. **Maintain Public Safety:** Ensure that public property is used in a manner that protects the health, safety, and welfare of residents and visitors.

Section 6.102: AUTHORITY

The City Council regulates the use of public property through the creation of ordinances and policies in its administration of municipal affairs. The City Manager carries out the policy decisions of the City Council and manages City property.

Public property includes but is not limited to public ways, roads, rights-of-way, streets, lanes, alleys, sidewalks, parking spaces, loading zones and other public spaces, including intrusions into the airspace over sidewalks and streets ("Public Property"). Public forum areas are governed by a separate City Council policy and are excluded from the definition of Public Property in this Chapter.

The regulation of Public Property includes the issuance of permits and licenses for the temporary placement, installation, location or use of any obstruction on, in or over Public Property, including but not limited to structures, fixtures, objects, equipment or other encroachments ("Encumbrance").

No license or permit will be issued for an Encumbrance that endangers public safety, impedes the free path of travel for the public, including pedestrian and vehicular traffic, or impedes egress or access to driveways, entrances, hydrants, poles, utilities, traffic signs or other government use.

Permits and licenses for Encumbrances may be temporarily or permanently suspended in an emergency or if the public interest requires such termination.

The City Manager is responsible for establishing and publishing rules, regulations, and the forms necessary for the issuance and management of encumbrance permits and licenses under this Chapter. All rules, regulations and procedures associated with these licenses and permits shall be published on the City's website.

~~The City Manager shall provide monthly updates to the City Council regarding the issuance of encumbrance permits and licenses under this Chapter.~~

The City Manager or designee has the authority to issue temporary encumbrance permits for the use of Public Property for a period not to exceed one year. The City Manager will submit written reports to the City Council on all temporary encumbrance permits issued each month. The City Council's acceptance of these reports shall constitute the City Council's approval, endorsement and acceptance of the permits issued.

**Section 6.103: ~~TEMPORARY ENCUMBRANCE PERMITS, LICENSES AND FOR USE~~
OF PUBLIC PROPERTY**

~~No person shall place or erect an Encumbrance that projects over the airspace of Public Property unless the City has issued a permit or license.~~

~~No license or permit will be issued for an Encumbrance that endangers public safety, impedes the free path of travel for the public, including pedestrian and vehicular traffic, or impedes egress or access to driveways, entrances, hydrants, poles, utilities, traffic signs or other government use.~~

~~Permits and licenses for Encumbrances may be temporarily or permanently suspended in an emergency or if the public interest requires such termination.~~

Permits and Licenses may be issued by the City Manager or delegee for the following Encumbrances that are in compliance with the provisions set forth above, the published rules, regulations and procedures for permits and licenses and the specific provisions set forth in this Chapter:

A. Projecting Signs and Awnings

An annual permit may be issued for signs and awnings that are affixed to private property ~~Dimensional requirements for permanently affixed signs and awnings~~ that project over the airspace of Public Property. Signs and awnings shall comply with the ~~dimensional requirements for~~ height, setbacks and dimensional standards set forth in the City's Zoning Ordinance.

B. Flags

An annual permit may be issued for one flag per business over Public Property that does not exceed 12 square feet in area and has at least 7 feet of clearance above Public Property. A flag may be either an “open” flag or a flag that advertises the name of the business. The limitation of one flag per business does not apply to the American Flag or the New Hampshire State Flag. Flags defined in this Section are not considered signs under the City’s Zoning Ordinance.

C. Arts and Culture Banners

An annual permit may be issued for temporary Arts and Culture Banners that project over the airspace of Public Property. Banners may be affixed to City light posts ~~at designated locations throughout the City. and erected along heavy traffic corridors in the City.~~ The Arts and Culture Banner Program is authorized by Council Policy _____ and associated Guidance documents that provide information that includes but is not limited to the ~~specific locations throughout the City where banners are permitted, the duration of the permit, associated fees for the erection and removal of the banners, manner of how the banners may be erected, the banner height, setback and dimensional requirements standards the banners,~~ and the process for selecting the nonprofit Arts and Cultural ~~(educational or civic) institutions or entity affiliated with one eligible to apply for the banner permit. is more fully set forth in City Council policy.~~

D. A- Frame Signs

An annual permit may be issued for one A-Frame sign located in Public Property on the sidewalk within the frontage where ~~the~~ a business entrance is located. The A-Frame sign may not exceed 8 square feet in area on each side. If a business does not have sufficient frontage to place an A-Frame sign, it may place ~~an A-Frame sign one~~ within the frontage of an abutting business with the express written permission of the abutter. If a business is located in an alley, a wayfinding A-Frame sign may be located within the frontage of another business with the express written permission of the other business owner.

E. Tables, Chairs and Benches

Annual permits may be issued for tables, chairs and benches for use by the general public on Public Property if, among other things, the number, size and location of the tables, chairs and benches do not impede the free path of travel for the public.

F. Planters

Annual permits may be issued for planters on Public Property if, among other things, the size and location of the planters do not impede the free path of travel for the public. Permits will be revoked if the plants in the planters are not maintained.

G. Mannequins and Clothing Racks

An annual permit may be issued for ~~one~~ mannequin ~~and~~ one clothing rack on Public Property in front of a business that sells clothing if, among other things, the size and location of the mannequin or clothing rack does not impede the free path of travel for the

public. Permits will be revoked if the mannequin or clothing rack is placed in front of or impedes access to the Public Property in front of an abutter.

Section 6.104: CONSTRUCTION ENCUMBRANCE PERMITS ~~Short-Term Encumbrance Permits~~

Encumbrances of Public Property may be permitted ~~for construction projects~~ through the issuance of ~~either a Short-Term Encumbrance Permit or revocable License~~. Permits ~~and revocable Licenses~~ may be granted for construction project Encumbrances that may include but not be limited to scaffolding, fencing and laydown areas for construction materials. Permits ~~and revocable Licenses~~ may also be issued for non-construction related Encumbrances ~~related to the trades~~ that may include but not be limited to moving trucks, equipment and vehicles associated with window washing and landscaping. All other permits required for construction projects, such as Excavation, Flagging and Driveway Permits, are issued after administrative review by the Department of Public Works and are not subject to this ordinance. (1)

A. Short-Term Encumbrance Permits

Encumbrance Permits for up to 30 calendar days will be administered and issued by the Department of Public Works.

B. Short-Term Encumbrance Permit Extensions

Short-Term Encumbrance Permits ~~issued for 30 calendar days~~ may be extended ~~at the discretion of the Department of Public Works~~ for up to an additional 30 calendar days ~~(60 days total)~~ after administrative review ~~by the Department of Public Works~~. ~~If there is a request for an additional 30 day extension (90 days total), an extension may only be granted by the City Manager for good cause. All extensions may require new conditions and fees. The City Manager's monthly report to the City Council will distinguish between the initial permit and each extension.~~

~~3. The City Manager will provide the City Council with monthly reports on active Encumbrance Permits.~~

Section 6.105: ~~Long Term Encumbrances Requiring License~~ LICENSES

Licenses are long-term encumbrances that require approval by the City Council and include the following:

A. Construction Licenses

Requests for construction-related Encumbrance Permits for use of Public Property over 90 calendar days will be granted only after approval by the City Council.

B. Revocable Licenses Requiring Recording

When the City identifies encroachments in the City right-of-way or other Public Property, the City Council may require the Owner to record a revocable License at the Rockingham County Registry of Deeds that sets forth the City and Owner's rights and responsibilities and memorializes the location of the ~~Encumbrance encroachment~~. Revocable Licenses for recording may ~~require include but not be limited~~ Encumbrances for steps, walls, fences, pipes and underground monitoring wells.

C. Licenses for Public Utilities

City Council approval is required for all revocable Licenses for utility Encumbrances that include but are not limited to poles, wires and conduits that are in, on, over or within the City right-of-way or other Public Property.

D. Licenses for Use of Public Property

City Council approval is required for all Licenses for the use of Public Property as defined in this Chapter and licenses for the use of City Parks and Parking Lots. ~~The issuance of these licenses does not limit or revoke the authority of the City Manager regarding Parking Lots and Parks as that are more further defined fully set forth~~ in City Ordinance Chapters 7 and 8.

E. Valet Agreements

Valet Agreements for the use of City parking spaces to ~~drop off cars for~~ valet ~~services~~ must be approved by the City Council after being reviewed and recommended by the Parking and Traffic Safety Committee.

Section 6.106: PERMITS AND LICENSES FOR COMMERCIAL USE OF PUBLIC PROPERTY

Under limited circumstances, some commercial use of Public Property is permitted and regulated by City Ordinance and Council Policy. These commercial uses include the following:

A. Hawkers and Peddlers. See Chapter 6 License, Article XIII, Hawkers and Peddlers, Section 6.1301-1306 and Hawkers and Peddlers Policy 2009-04.

Hawkers and Peddlers shall not encumber Public Property with carts, stand, nonmotorized vehicle or tables for the sale or display of food or

goods without first obtaining a Hawkers and Peddlers permit pursuant to the ordinance and policy set forth above.

- B. Vendor Parking Space.** See Chapter 6 License, Article XIII, Hawkers and Peddlers, Section 6.1307.
- C. Outdoor Dining.** See Chapter 6, License, Article XVII, Outdoor Dining Encumbrance Permit, Sections 6.1701-1707.
- D. Taxis.** See Chapter 7, Vehicles, Traffic and Parking, Article II, Taxis, Section 7.201-217.

Section 6.107: ~~Special Events Permits~~ SPECIAL EVENT PERMITS

The City has a strong commitment to foster support for local nonprofits and the arts and culture community through granting special event permits that allow these organizations to host diverse events on Public Property because they add vitality and support the economy of our community. Because these events take place on Public Property, they require significant municipal service support, that may include but not be limited to: Police details; inspections from Fire and Building Inspections Departments; street closure, barriers and logistical support from the Department of Public Works; food vending review by the Health Department; and review of alcohol service, if applicable, by the City's Liquor Review Committee, which is a prerequisite for the issuance of a liquor license from the New Hampshire Liquor Commission. Use of municipal services for special event permits require timely application and payment of associated fees for other permits that may be required for the event, that include but are not limited to:

- A. Temporary Event Food Permit (Health Department)
- B. Building Permit for Tents (Inspections Department)
- C. Temporary Permit to Operate a Place of Assembly (Fire Department)
- D. Liquor Review Committee Approval
- E. New Hampshire Liquor Commission Liquor License

City Council approval is required for Special Events generally, but not for the issuance of the Special Event Permit **by the City Manager or designee** and other associated permits for the events **issued by other City departments**.

Section 6.108: REQUIRED AND PROHIBITED CONDUCT OF APPLICANT

Every Applicant that is issued an encumbrance permit or license shall:

- A. Agree to permit the City to conduct all reasonable inspections of the encumbrance area;

- B. Comply with all applicable governing laws, codes, City ordinances, State statutes, and City rules, regulations and policies;
- C. Maintain the encumbrance area in a safe, clean and appropriate manner and take all action necessary to protect public safety;
- D. Refrain from damaging the encumbrance area and restore it to its original condition upon termination of the permit or license except as may be otherwise approved;
- E. Refrain from occupying the encumbrance area after the expiration of the permit or license or at any time during periods of revocation or suspension;
- F. Remove all structures, fixtures, object, equipment or other encroachments (~~“Encroachments”~~ “Encumbrances”) from the encumbrance area after the term of the permit or license has expired. If not removed, the City may remove and store all ~~Encroachments~~ Encumbrances and assess a \$250 removal and storage fee. If the fee is not paid, or the ~~Encroachments~~ Encumbrances are not retrieved, ownership of the ~~Encroachments~~ Encumbrances may be forfeited to the City; and
- G. Comply with all terms, conditions and other additional requirements set forth in the encumbrance permit or license, when applicable, agree to indemnify the City, to name the City as an additional insured in the amount prescribed and to pay all permit and license fees and fees for extensions.

Section 6.109: DENIAL, SUSPENSION, REVOCATION AND PENALTIES

A. Denial and Temporary Suspension:

The City may deny or temporarily suspend any encumbrance permit or license if it interferes with special events or for any maintenance or construction which requires closure or encumbrance of any public road, right-of-way, sidewalk, parking space, loading zone or other ~~Public PCity~~ property.

B. Suspension and Revocation:

Encumbrance permits and licenses will be suspended or revoked for breach of the terms and conditions of the permit or license and for failure to comply with this Chapter. The encumbrance permit or license will be suspended 48 hours after receipt of written notice from the City. No 48 hours' notice is required if it is an emergency.

C. Penalties:

Any person who violates this ordinance or the terms and conditions of the encumbrance permit or license issued pursuant to this Chapter, including those who fail to obtain permits and licenses, shall be subject to all penalties set forth in City Ordinance, Chapter 1, Article XIII and all other additional remedies permitted by law.

Section 6.110: APPEALS TO CITY COUNCIL

Any person aggrieved by the denial or approval of certain permits or license under this Chapter ~~(list)~~ may appeal to the City Council for a de novo review within 30 days of the issuance of the permit or license. Such appeal shall be submitted to the City Clerk and shall state the date of the issuance or denial of the permit or license being appealed, a brief description of the basis for appeal and the issue presented. The City Clerk will docket the appeal and will put all timely filed appeals on the next available City Council Agenda.

~~Section __: CITY MANAGER REPORT~~

~~— The City Manager or designee shall, on a monthly basis, keep the City Council informed~~
~~— of permits and licenses issued pursuant to this Chapter.~~