



CITY OF PORTSMOUTH

CITY COUNCIL POLICY No. 2009-05

Policy Regarding Public Gatherings in Market Square

WHEREAS, Market Square in downtown Portsmouth has developed by past public use into a public forum in which expressive conduct such as public gatherings, speech making, the carrying of political signs and other forms of expressive conduct are constitutionally protected; and

WHEREAS, Market Square is a place in which numerous businesses operate, many people reside and the streets and sidewalks are heavily travelled by persons and vehicles; and

WHEREAS, the City Council seeks to balance the need of people and vehicles to travel on, near or through Market Square safely against the protected expressive conduct created by the public forum which Market Square has become; and

WHEREAS, the City Council has been advised that it may adopt content neutral reasonable time, place and manner restrictions on the use of Market Square for expressive conduct so long as such restrictions are narrowly tailored to accomplish the legitimate government concern of protecting public safety and maintaining the safe and orderly conduct of citizen travel and business activity in Market Square, and alternate means of expressive conduct exist; and

WHEREAS, the City Council has the authority to regulate obstructions and other activities on the City streets and sidewalks (City ordinances Chapter 8, Article, I, Section 8.106); and

NOW THEN, the City Council of the City of Portsmouth duly convened, does hereby adopt the following policy regarding expressive conduct in Market Square:

1. The area affected by this policy is all of the streets and sidewalks in the area where Market Street, Daniel Street, Pleasant Street, Church Street and Congress Street (collectively, "the protected area") convene, expressly inclusive of the sidewalk area in front of the North Church;
2. The protected area may be utilized at any reasonable time and in any reasonable manner without prior permission from the City by any person or by a group of people provided that there is no interference with pedestrian or vehicular travel on the street or sidewalk.

3. Should any person or group desire to place an obstruction of any kind or type or the use of electronic amplification upon the City sidewalk or right of way, that person or group should submit the request in writing to the City Manager who shall have the authority to approve the same.
4. The City Manager shall have authority to approve the use of the Vaughn Mall for gatherings involving obstructions and/or amplification with such reasonable terms and conditions as the City Manager may determine to be necessary to safeguard public travel and the conduct of lawful business activity within or near the gathering or event.
5. The City Manager shall have authority to approve the use of that portion of Pleasant Street from Porter Street to Market Square (being the same area used for summer-in-the-street activities) for gatherings involving obstructions and/or amplification with such reasonable terms and conditions as the City Manager may determine to be necessary to safeguard public travel and the conduct of lawful business activity within or near the gathering or event.
6. The City Manager shall have the authority to assess the organizing person or group actual costs directly related to the use of the space. The costs are limited to police details for any necessary traffic control and wages for any public works personnel required for set up and clean-up. The assessment of costs is most likely to arise with the use of Pleasant Street which requires street closure and redirecting of traffic. In no event shall costs include police protection for public safety. The assessment of costs may be appealed to the City Council.
7. Consistent with past practice, all other requests for obstructions or encumbrances of the sidewalk, public spaces and roadways require City Council approval; short-term occupation permits for construction purposes excepted.

This policy shall take effect upon the passage by the City Council.

Adopted by the Portsmouth City Council on **July 20, 2009**.

Ratified by the Portsmouth City Council on January 19, 2010.

Ratified by the Portsmouth City Council on January 17, 2012.

Ratified by the Portsmouth City Council on January 13, 2014.

Ratified by the Portsmouth City Council on January 11, 2016.

Ratified by the Portsmouth City Council on January 16, 2018.

Ratified by the Portsmouth City Council on January 8, 2020.

Ratified by the Portsmouth City Council on January 24, 2022.

Ratified by the Portsmouth City Council on January 16, 2024.

Kelli L. Barnaby, MMC, CMC, CNHMC
City Clerk