



**From:** City Manager

**Subject:** Revisions to § 101-1 Permit required for consumption of alcohol on public property.

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**History:**

At a council meeting earlier this year the draft of a revisions to § 101-1 Permit required for consumption of alcohol on public property was sent for legal review with direction to be returned to the council for consideration. The draft wording along with legal representation's notes were provided to the council. The council directed the City Manager to incorporate legal advice into a recommended version. Enclosure 1: § 101-1 Permit required for consumption of alcohol on public property. City Managers version is provided for the council's consideration

Upon further review from the City Managers desk the code currently has no provision for obtaining such a permit as required by the updated S101-1. Common City Practice, The City Manager's Office and the Parks and Recreation Director have developed a permitting process and form that has been accepted by many organizations and allows the city to manage facilities, but the city code has no requirement for this form to be used nor does it have a process for organizations to obtain the form. Current S222-5 requires a permit from the Police department to use Parks or Beaches before or after hours of operation but there is no evidence this is being enforced and there is no codification of "Special Event" in the Franklin Code which would define the scope and power of a permit being required under the wording of S101 as presented to this council today.

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**Recommendation:**

The City Managers recommendation is to send this back to the Legislative committee for a review and to establish requirements and wording to ensure S101-1 and S222-5 support each other in the definition of and process for the permits required for a Special Event. Such Clarification and support will ensure the Ordinance is being applied to all organizations equally and allow enforcement which the current code does not. Additionally, the city should continue to use the current process developed to mitigate risk to the city until the process can be codified in the code.

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**Suggested Motion**

Councilor moves, "I move Ordinance § 101-1 Permit required for consumption of alcohol on public property be returned to Legislative committee for rework and balancing against/with § 222-5 Permit required for use after hours, for the purpose of presenting an enforceable supported code for the City of Franklin."

Mayor calls for a second, discussion, and vote.

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**Alternatives:**

Council can pass the ordinance as presented.

Council can leave the ordinance as previously written.

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**Enclosures:**

Enclosure 1: § 101-1 Permit required for consumption of alcohol on public property. City Managers version

Enclosure 2: Draft of § 101-1 Permit required for consumption of alcohol on public property. With legal counsel's notes

Enclosure 3: § 222-5 Permit required for use after hours.

**§ 101-1 Permit required for consumption of alcohol on public property.**

**A.**

No person shall consume and/or serve alcohol, as defined by RSA 175:1, on any public sidewalk or any municipal building, park, beach, parking lot, land or other facility of the City of Franklin without first obtaining a written permit as hereinafter provided.

**B.**

Permits to consume any alcohol in or on any municipal facility which is under the management and control of the Board of Education of the City of Franklin must be obtained from said Board. All other permits required by this chapter, regardless of length, must be obtained by securing a City of Franklin, NH Special Event Permit including the affirming signature of the Chief of Police, Fire Chief, Parks and Recreation Director, City Manager, and the Mayor. If the request is denied, an appeal can be made to the City Council for a majority vote approval.

**C.**

After securing the City of Franklin, NH Special Event Permit, a state Alcohol Use permit must be obtained in accordance with New Hampshire State law.

**D.**

All alcohol stored on City property must be secured in accordance with New Hampshire State Law.

§ 101-1 **Permit required for consumption ~~Liquor~~ of alcohol on public property.**

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**A.**  
No person shall ~~drink consume and/or serve any intoxicating liquor or beverage~~ alcohol, as defined by RSA 175:1, in or on any public highway or sidewalk in the City of Franklin or in or on any municipal building, park, beach, parking lot, land or other facility of the City of Franklin without first obtaining a written permit as hereinafter provided.

**Commented [ST1]:** I would recommend utilizing this word as it is actually defined within RSA 175:1. The term "liquor" has certain limitations from which the more general term (alcohol) would be better suited for this legislation.  
**Commented [ST2]:** While the City can certainly regulate most activity (including this one) on City roads, it may be difficult to monitor as well as enforce. Furthermore, there is already a NH statute concerning open containers of alcohol in vehicles on any type of highway. As such, it may be a little too redundant or unnecessary given the law already in place.

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**B.**  
Permits to ~~drink consume~~ any ~~intoxicating liquor or beverage~~ alcohol in or on any municipal facility which is under the management and control of the Board of Education of the City of Franklin must be obtained from said Board. All other permits required by this chapter must be obtained from a committee consisting of the City Manager, Chief of Police, Fire Chief, Director of Recreation and the Mayor. If the request is denied, an appeal can be made to the City Council for a majority vote approval.

**C.**  
If the request to serve alcohol is for more than a three-day consecutive period, the applicant will need approval from both the committee, described above, and the City Council. The application will need to be submitted no later than two months prior to the planned event. The request, if granted will be no longer than a one-year time period. The renewal process is the same as an initial application.

**Commented [ST3]:** The structure of this legislation is to provide an appeal process. What is the appeal procedure for a denial of permit under Section C? My recommendation would be to copy the same process as set forth in Section B (the committee deals with the initial application for the serving of alcohol and the Council is the appellate body).

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**D.**  
All applications approved by the City Council shall be reviewed by the ~~above-described~~ committee for compliance at a six-month timeframe from the issuance. ~~If the committee denies the continuance of the permit their decision is subject to appeal to the City Council.~~

**Commented [ST4]:** I am not sure what purpose this sentence serves? Section C says no permit is to last longer than a one-year period. If the committee is being granted revocation authority, upon findings from the six-month review, then the legislation should state that rather than, call it a "continuance" as that is contrary to the one-year permit (in those specific situations).

**E.**  
Any alcohol stored on city property needs to be properly secured per the approval of the committee.

§ 222-5 **Permit required for use after hours.**

Any person wishing to use the park or beach before or after hours of operation may apply to the Franklin Police Department no less than 24 hours prior to the proposed use. Any person applying for a permit shall comply with all requests and requirements of either the Franklin Police Department or its individual officers with regard to flow of traffic or use of premises. Permits shall be placed on a form so designated by the Franklin Police Department.