

**Remote HHS and Public Safety
Meeting Agenda**
April 11, 2023 at 5:30 PM
Remote Meeting



MEMBERS
Councilor April Fournier, At-Large, Chair
Councilor Anna Trevorrow, District 1
Councilor Victoria Pelletier, District 2

To submit written public comment on an agenda item, email HHSPS@portlandmaine.gov. Submissions must be received by 12:00 pm the day before the Health & Human Services and Public Safety meeting to guarantee their inclusion in the agenda packet. All submissions must include the commenter's name and legal address. To help ensure your comment is submitted for the correct item, please include the name of the agenda item (see below).

The Health & Human Services and Public Safety Committee will conduct this meeting remotely via Zoom pursuant to the Remote Meeting Policy adopted by the Portland City Council. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live either in person or via Zoom, a recording will be available in the [Agenda Center](#) following the meeting.

Hi there,

You are invited to a Zoom webinar.

When: Apr 11, 2023 05:30 PM Eastern Time (US and Canada)

Topic: Remote HHS and Public Safety Meeting

Please click the link below to join the webinar:

<https://portlandmaine-gov.zoom.us/j/89598566186?pwd=RlcVUFFwcDg5UVpIUzZ4ekZNVWRnZz09>

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1. Announcements
2. Review and Approval of Minutes from March 16, 2023
 - a. March 16, 2023 Draft Minutes

3. Homeless Services Center & Expo Update
4. Public Safety Response at Rallies Overview
5. Staff Review of Encampment Policy
 - a. Enforcement and Removal Policies and Procedures Relating to Unauthorized Campsites on City Properties
6. Pregnancy Crisis Centers Ordinance Discussion
7. Next Meeting: May 9, 2023



Health & Human Services and Public Safety Committee Minutes

Thursday March 16, 2023, 5:30pm, Remote Meeting

Committee Attendance: April Fournier, Chair (At-large), Anna Trevorrow (District 1), & Victoria Pelletier (District 2).

City Staff:

Kristen Dow, Director of HHS; Adam Harr, Executive Assistant for Social Services; Heath Gorham, Interim Police Chief; Aaron Geyer, Director of Social Services; Amy McNally, Associate Corporation Counsel

Meeting called to order at 5:30 PM.

Announcements and Approval of Minutes

- Councilor Pelletier moved to approve the minutes and Councilor Trevorrow seconded and the motion passed 3 – 0.

Pregnancy Crisis Centers

- Corporation Counsel looked at ordinances and provided an overview of the memo describing what courts have done in relation to protected speech.
- Restricting message based speech would likely run afoul of the 1st amendment and restricting content neutral speech/objectively deceptive would be less likely to run afoul of the first amendment.
- Case 3, Evergreen Ass'n v. City of New York, exemplified the three areas:
 - Found OK:
 - “Status Disclosure” was found not unconstitutional; whether they have a licensed medical provider on staff that provides the services.

- Found not OK
 - “Government Message:” that “NYC Department of Health encourages women who are or who may be pregnant to consult with a license provider;” and
 - “Services Disclosure:” whether or not the centers provide abortion services or provide referrals for abortion, emergency contraception or prenatal care. Judged that the government was putting its message in place of the private entities.
- Courts appear to be getting more protective of private entities.
- State law prohibits deceptive practices in trade or commerce.
- Law should apply to everyone not just one or two entities.
- Councilor Pelletier said that narrowing from deceptive practices in commerce should be across the board, but this issue post Roe needs specific attention as this impacts vulnerable people, people of color, and low income individuals.
 - If we can’t be specific, what can we do?
 - Commercial speech would normally be if a service is offered or not but abortion permeates through that to be considered messaging.
 - Needs to be objective with yes or no answers such as looking at credentialing like is there a doctor on staff or not.
- Councilor Pelletier does not want to do something symbolic; what can we do with specific language?
 - We view these centers as luring and pressuring people into making decision they do not want to do. We view their information as harmful and inaccurate but the people running the centers sincerely believe what they say to be true.
 - Saying that you will see a Dr. and you don’t, that would be something to explore.
- Councilor Trevorrow asked if we know if they have Doctors on site or not?
 - Why couldn’t we ban them on the basis we can decide what kind of entities are in operation in Portland?
 - That would likely need a rationalization that would be challenged as infringing on their message.
 - Is there a specific law that allows them to exist, similar to cannabis permitting and licensure requirements?
 - Not sure, but permitting and proper zoning are part of standard business procedures within the City.
 - Likely would not survive a legal challenge.
 - Have other municipalities tried to limit advertising?
 - Sommerville and Cambridge haven’t had legal challenges and are likely not being enforced since there are no pregnancy crisis centers there.
 - CT law faced immediate legal challenge to unknown results; may not have standing because CT hasn’t enforced the law so they never got to the merits of the law.

- Councilor Fournier is only aware of one center operating within Portland.
 - The first step is confirming you are pregnant and then discuss options.
 - When it gets to options, the language they use is suspect:
 - Claims to be no judgement zone but is abortion listed as an option as they list negative side effects telling people to “expect” side effects instead of possible side effects.
 - Is this a place to look as fact versus deception?
 - This could fall in the government message that was deemed impermissible.
 - Would permitting or Public Health check these against factual definitions?
- Councilor Pelletier is committed to moving forward even if it is just to define terms. It makes her uncomfortable that as a City Councilor that one or more of these businesses exist in the city and we can read their websites and the harm they can do.
- Councilor Trevorrow wants to take action and stick to our convictions as representatives of our constituents.
- Councilor Fournier asked what the next steps could be?
 - To request example ordinance similar to Sommerville, would we need to define what part of our city code this would fall and which department would be responsible for enforcement?
 - A proclamation is nice but without action, they are just words.
 - Would they be standard civil violations and if there are appeal rights would need to be considered.
- A link to the center will be included in the minutes.
 - This will be available in the April meeting.
 - NOTED: <https://abbapregnancychoice.org/>

HSC Update

- Updating the web page with client information, including the FAQs, step by step instructions.
- HCS Advisory Committee will do a walkthrough next week.
- Councilor Trevorrow asked if we have filled all the seats on the HSC Advisory Committee and if it includes shelter guests?
 - Yes, there was a selection committee that scored applications who selected and notified and there will be at least two clients on the advisory committee.
- What are the checks and balance for seeing how things are working like metro services, food services, etc.
 - There will be a constant checking on a regular basis to make sure it is working for staff, clients, and the general public?

- The Shelter Director/Program Manager position was split into two. There will be an operations program manager position for the day to day and housing and community services program manager. These are in addition to the their two existing assistant directors, allowing for near 24/7 manager coverage.
- We will be nimble in addressing concerns
 - Shuttle was imagined to just go to Portland service providers but the population has shifted with asylum seekers who will need to go to immigration in Scarborough.
- Weekly provider calls.
- Councilor Pelletier asked if the shuttle times are extending in the summer when it gets darker later, past 8PM?
 - No conversations yet but we will have them if we see that need.
 - Keeping a spreadsheet of the trips and where they go to adjust on the fly.
 - There is a neighborhood concerns email.
 - Metro passes are available for confirmed appointments.

Emergency Shelter Update

- 789 asylum seekers since January 1, 2023.
 - 145 Families for 475 individuals.
 - 315 are single asylum seekers.
- 60% of asylum seekers crossing the border are singles which is a shift away from families.
- OSS is now 70% asylum seekers. We are seeing people not being able to access shelter as a result.
- Director Dow spoke with the State about being concerned that it is not just with our shelters over capacity, but our hospital system is having to discharge pregnant women to a warming center where they only have access to shelter at night with nowhere to go during the day. Our shelter and hospital systems are on the brink. FQHC has a 6 month waiting list. Schools are also approaching capacity.
- NLC conference starts a week from Tuesday but most arrive Saturday and there is an opportunity for dialogue on the weekend. Councilor Fournier requested research on strategies other communities for conversations with our delegation.
 - Looking for federal dollars.
 - Our per capita numbers are as great or greater than New York City.

Cold Weather Planning

- Looking to move forward a comprehensive plan between now and next year.
- Emergency warming centers responded to the potentially major storm.

- What have we learned after implementing emergency shelters that could inform ordinance that would have funding attached?
- Chief Gautreau was not able to be here rtonight and is important for this.
- Director Dow has been in contact with Pastor Jeff od First Parish to make sure they have what they need.
 - This past time they needed blankets which HHS was able to find but putting a system in place so they have resources they need; we should work toward a a system so people are not scrambling in the days before a storm.
 - Create a model other churches and spaces could replicate.
- Councilor Fournier is supportive of that and would like funding attached to have the money and resources in place in order to respond.

April 11, 2023 Meeting

- Draft ordinance addressing Pregnancy Crisis Centers.
- Look at the camping policy and if there are recommendations the committee would want to bring to the full Council.
- Potential revisions to chapter 35.
- Ask for early guidance from Corporation Counsel on model language decriminalizing therapeutic plants and fungi that Decriminalize Maine presented.

The meeting adjourned at approximately 6:47 PM.

City of Portland | Executive Department
Danielle West, *Interim City Manager*



Administrative Policy

Enforcement and Removal Policies and Procedures Relating to Unauthorized Campsites on City Properties

1. Background

The City of Portland, like many communities around the nation, is experiencing crisis levels of individuals experiencing homelessness, including a growing number of unauthorized campsites on public property. Such campsites pose safety and health concerns for people living in them and around them, as they create challenges related to human waste, garbage, exposure to communicable diseases, exposure to violence and other human health concerns. At the same time, the City is mindful that any enforcement activity must be rooted in respect for the people we serve, and that the delivery of social services is an essential part of this policy's effectiveness.

2. Purpose

The City of Portland seeks to provide a standardized procedure governing the enforcement of State and local laws prohibiting loitering and/or camping on public property. It also seeks to establish a clear and standardized procedure for the cleanup of public property being used unlawfully for the purpose of shelter and/or temporary residence and for the disposition of property discovered within those camps.

In establishing this policy, the City also recognizes that enforcement activity is most effective when social services and resources are offered in conjunction with that activity, and reflect fundamental principles for addressing encampments, as identified by the U.S. Interagency Council on Homelessness (USICH). These principles include establishing a multi-sector response, conducting comprehensive and coordinated outreach, and addressing basic needs and providing storage.

3. Policy Statement

When City-run emergency shelters are at capacity, City of Portland staff shall take a general non-involvement approach to any found unauthorized campsites, viewing those campsites through the lens of not criminalizing people creating shelter due to a lack of housing.

When, however, emergency shelter is available or when campsites or other activity constitute “obstructions” (as defined herein), present immediate hazards, or are found in “emphasis areas” that meet specific criteria as outlined in this policy, unauthorized campsites and obstructions will be removed.

Where applicable, personal property removed from unauthorized campsites will be temporarily stored in a manner that is in harmony with other local, state and federal laws;

Whenever practical, City staff will collaborate with community partners to ensure that enforcement activity is accompanied by direct service delivery and engagement.

4. Purpose

The goals of this policy are to:

- Provide consistent processes and procedures for removing campsites from City of Portland property;
- Where applicable, temporarily store personal property in a manner that is in harmony with other local, state and federal laws;
- Whenever practical, collaborate with community partners to ensure that enforcement activity is accompanied by direct service delivery and engagement.

5. Definitions

- 5.1. "City" means the City of Portland, including its officers, employees, agents, or any contractors and sub-contractors.
- 5.2. "Emphasis Area" means an area or location where homeless campsites have become a repeated or consistent problem. When designating an Emphasis Area, the City shall make a determination based on the totality of the circumstances of a particular location. The City shall follow the guidelines outlined in Section 14.
- 5.3. "Campsite" means one or more tent, lean-to, structure, tarpaulin, pallet, or makeshift structure used for purposes of habitation located in an identifiable area within the City of Portland. Habitation is evidenced by the presence of bedding materials, campfires, cooking materials, storage of clothing and other personal belongings or items, gathered together in a manner where it appears to a reasonable person that the site is being used for habitation purposes. Campsites do not include sites a reasonable person would conclude are no longer in use, because any remaining materials are garbage, debris, or waste.
- 5.4. "Immediate hazard" means a campsite where people camping outdoors are at risk of serious injury or death beyond that caused by increased exposure to the

elements, or their presence creates a risk of serious injury or death to others, or the campsite presence is causing imminent compromise to the structural integrity of the surrounding location. Immediate hazard campsites include but are not limited to areas exposed to moving vehicles, areas that can only be accessed by crossing driving lanes outside of a legal crosswalk, or other critical areas, where the lack of sanitation facilities results in human solid or liquid waste being discharged therein.

- 5.5. "Obstruction" means people, tents, personal property, garbage, debris or other objects related to a campsite that: are on a public sidewalk; interfere with the pedestrian or purposes of public rights-of-way; or interfere with areas that are necessary for or essential to the intended use of a public property or facility.
- 5.6. "Personal Property" means an item that: is reasonably recognizable as belonging to a person; has apparent utility in its present condition and circumstances; and is not hazardous.
- 5.7. Examples of personal property include but are not limited to identification documents, personal papers and/or legal documents, tents or tarps, collapsible chairs, bicycles, strollers, radios and other electronic equipment, eyeglasses, prescription medications, photographs, jewelry, and medical devices such as crutches or wheelchairs.
- 5.8. Personal property does not include building materials such as wood products, shopping carts, metal, pallets, or rigid plastic, nor does it include other large and/or bulky items such as furniture (sofas, dressers, etc.). The relevant staff member will determine whether an item is personal property, and in cases when the status of an item cannot reasonably be determined in the staff member's good faith and best judgment based on the totality of the circumstances, the staff member will treat the item as personal property under this rule.

6. Removing Obstructions and Immediate Hazard Campsites

- 6.1. Those circumstances arising to obstructions and immediate hazard campsites may be cause for immediate removal according to applicable laws and rules. The provisions of Sections 7, 8, 9, and 10 of this policy do not apply to removing obstructions and immediate hazard campsites. While the provisions of this Section 5 apply to obstructions and immediate hazard campsites, for purposes of simplicity, the provisions outlined herein in Section 5 shall refer to these collectively as "obstructions."
- 6.2. If an obstruction is observed and is to be immediately removed by City personnel observing the obstruction, a notice is not required to be affixed to the obstruction before its removal.

- 6.3. If the obstruction is determined to be under control of an individual present where the obstruction is observed, oral notice to immediately remove the obstruction shall, if reasonably possible, be given to the individual.
- 6.4. Physical obstructions that are personal property shall be removed and stored by the City as provided for in Section 12 and may be recovered as provided for in Section 13.
- 6.5. Garbage, debris, litter and waste may be immediately removed and disposed of.
- 6.6. Upon removing an obstructing campsite, the City shall post a notice as provided for in Section 12.

7. Campsite Removal Prioritization

- 7.1. The removal of campsites may be prioritized after an inspection of campsite locations by park rangers or community police officers. The inspection shall be documented in a format acceptable by the City. The prioritization may be revised at any time as a result of new campsites being identified, additional campsites being inspected, or as new information about a campsite's condition becomes available.
- 7.2. The following criteria, which have no relative priority, shall be considered when prioritizing campsites for removal: (1) objective hazards such as moving vehicles and steep slopes; (2) criminal activity; (3) quantities of garbage, debris, or waste; (4) other active health hazards to occupants or the surrounding neighborhood; (5) difficulty in extending emergency services to the site; (6) imminent work scheduled at the site for which the campsite will pose an obstruction; (7) damage to the natural environment or environmentally critical areas, and (8) the proximity of individuals experiencing homelessness to uses of special concern including schools, playgrounds, or facilities for the elderly.
 - 7.2.1. In the event that area emergency shelters are at capacity, City personnel will not notice any campsites for removal.
 - 7.2.2. The Social Services Administrator will notify the Police Department, Department of Parks & Recreation, and Office of the City Manager when area emergency shelters are at capacity, and when they are no longer at capacity.

8. Campsite Removal and Notice Requirements

- 8.1. For campsites other than “Immediate Hazard Campsites” or Obstructions, notices shall be prominently posted at the campsite no fewer than 24 hours before a campsite removal.
- 8.2. The notice shall contain the following: (1) the date and time the notice was posted; (2) a warning that garbage, debris, waste, litter and abandoned property

will be disposed of immediately; (4) the location where any personal property remaining may be stored by the City if removed; (5) information on how personal property may be claimed by its owner; (6) a warning that failure to claim within one (1) week may result in the destruction of said property, and (7) contact information for emergency shelter resources.

- 8.3. Removal notices shall be posted at the campsite in a manner reasonably calculated to be seen, preferably in multiple locations.
- 8.4. Notices shall also be posted on, or as close as reasonably practicable, to each tent or structure which is subject to removal. Notices so posted on or near each tent or structure shall contain the same information as outlined in Section 7.1.
- 8.5. If individuals are present at the campsite, oral notice shall, if reasonably possible, be given to the individuals that the campsite is subject to removal as provided for in the posted notice.
- 8.6. Nothing in this section shall prohibit the City from posting notice that the removal of a large campsite will occur over a period of several days, until completion, so long as removal operations commence within the time frame identified in the notice.
- 8.7. City personnel overseeing a campsite removal should document the notices posted at a campsite site. Photographic documentation is recommended.
9. **Identifying or Providing Alternative Shelter Options Before Removal of a Non-Obstructing or Immediate Hazard campsite**
 - 9.1. Prior to removing a campsite, City personnel shall offer alternative shelter locations for individuals in the campsite. Except as provided in section 8.2 below, the alternatives must be available to the campsite occupant starting on the date a campsite removal notice is posted and continue to be available until the campsite removal is completed.
10. **Outreach for Campsite Removals**
 - 10.1. The City of Portland Social Services Administrator will coordinate with community partners to ensure that City personnel are accompanied by outreach staff during the removal of inhabited campsites whenever practical.
11. **Campsite Cleanup**
 - 11.1. All designated City personnel, vendors, and other personnel necessary for a campsite removal and cleanup shall be present at the start of an campsite removal.
 - 11.2. Whenever practical, City personnel must be accompanied by outreach staff at the removal of any inhabited campsite.

- 11.3. If there are any individuals remaining on site, a final warning and reasonable opportunity to leave shall be given prior to further enforcement.
- 11.4. The City shall take reasonable steps to segregate personal property from material that is not personal property, provided the segregation does not pose a danger to the individual segregating the personal property from the other material.
- 11.5. Tents and/or structures that were not previously posted with a notice but are in the immediate area of tents or structures that were posted with a notice may be removed, if the tents or structures were placed in the immediate area after notices were posted.
- 11.6. Personal property shall be stored as provided for in Section 12 and may be recovered as provided for in Section 13.
- 11.7. The City may remove and dispose of garbage, debris, waste, hazardous items, and other like material. Items of personal property which may present a health and safety hazard either immediately or during storage due to contamination by blood, liquid waste, solid waste, dirt, filth or other potentially infectious agent shall be removed and disposed of.
- 11.8. If, during the removal process, an individual on site is protesting removal of a personal property item, as that term is defined herein, the City shall provide a reasonable opportunity for the individual to remove it. However, the individual shall be advised that campsite removal work at the site shall continue and that if the individual fails to remove the personal property item before cleanup is complete, such item may be retrieved from storage. The individual shall be provided with the contact information for the storage facility identified in Section 12.
- 11.9. If the individual has an item that does not meet the definition of personal property, as defined herein, the person shall be provided a reasonable opportunity to remove the item. However, the individual shall be advised that campsite removal work at the site shall continue and that if the individual fails to remove the item before cleanup is complete, such item may be deemed abandoned and disposed of.
- 11.10. City personnel should thoroughly document their actions during the removal process to adequately corroborate that personal property which is being disposed of is either hazardous or has no apparent remaining utility.
- 11.11. When called to the scene, Portland Police Department members will identify, seize, and securely store any weapons found at the campsite site.
- 11.12. Property attributable to a crime (e.g. weapons, items that have been reported to be stolen, etc.) will be handled in accordance with the Police Department's established evidentiary policy and practice.

12. Post-campsite Removal Notice

- 12.1.** A notice shall be prominently posted at the site where an campsite has been removed and the site cleaned up.
- 12.2.** The notice shall state: (1) the date the cleanup was performed; (2) whether personal property was stored by the City; (3) where the personal property is stored; (4) how any stored personal property may be claimed by its owner; (5) that property not claimed will be destroyed after one (1) week, and (6) contact information for outreach personnel who can assist individuals with shelter alternatives and other services. This notice shall not be removed by the City for a minimum of one (1) week.

13. Storage of Personal Property Removed from Campsite

- 13.1.** The City shall store all personal property encountered when removing obstructions and immediate hazards, or when removing campsites, provided the City has no obligation to store personal property that is hazardous (for example, a needle-strewn tent) or is reasonably expected to become a hazard during storage (for example, wet bedding materials).
- 13.2.** Personal property shall be stored at a location accessible by public transportation.
- 13.3.** The campsite site shall be posted with a notice if personal property is removed from the site.
- 13.4.** The notice shall contain the same information as referenced in Section 11.2 and shall not be removed from the site by the City for a minimum of one (1) week.
- 13.5.** The City shall maintain a log of personal property removed from a campsite. Each item logged shall be kept until the personal property is recovered by its owner, or the property is discarded as permitted under these rules. The log shall indicate:
 - 13.5.1.** Camp location and date of camp cleanup.
 - 13.5.2.** Description of each item of property, including the type of item, color, brand name (if known), and marks thereon identifying the owner.
 - 13.5.3.** To whom the property was released and the date of release, or, in the event the property is not recovered, the date of destruction or disposal.
 - 13.5.4.** Containers, backpacks, boxes, etc. that contain personal property can be sealed at the site, and inventoried as a single item. City personnel will conduct a visual inspection of the bag to determine if valuables, hazardous materials or perishable items are enclosed. Valuables will be inventoried separately. Hazardous materials or perishable items will be disposed of.

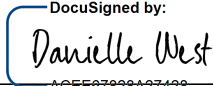
- 13.6. Personal property that is not recovered after one (1) week, excluding the date the property was stored, may be destroyed or disposed of by the City.

14. Recovering Stored Property

- 14.1. Individuals claiming personal property that has been removed from a campsite may contact the Social Services Administrator or designated community partner who will inform the individual how the property may be recovered.
- 14.2. Personal property may be recovered by the individual at the location where the property is stored.
- 14.3. The individual shall describe the personal property sought with particularity. No formal legal identification, such as displaying a valid driver's license, will be required as a predicate before an individual can recover the property. The log of personal property, as referenced in section 13.5, shall indicate the name as provided by the individual who received the recovered property. If there are no circumstances indicating a competing claim of ownership, the property shall be released to the individual seeking its recovery. Storage of personal property shall be at no cost to the individual.

15. Campsite Removal from an Emphasis Area

- 15.1. The City may identify a specific area as an Emphasis Area.
- 15.2. An area may not be identified as an Emphasis Area, and enforcement of an Emphasis Area shall not commence until: a campsite or obstruction removal has occurred; the area is otherwise free of campsites; and the area has been posted with signage as an Emphasis Area.
- 15.3. If an area has been designated as an Emphasis Area, the area shall be inspected and monitored by the City on a regular basis. The area shall be signed, and may be fenced. The signage shall identify: (1) the location of the Emphasis Area; (2) that camping is prohibited in the Emphasis Area; (3) that any material found in the Emphasis Area may be removed without further notice; (4) where any personal property removed is stored; and (5) how any stored personal property may be claimed by its owner.
- 15.4. Individuals camping in an Emphasis Area and their campsite-associated personal property may be removed as an obstruction.

DocuSigned by:

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Danielle P. West
Interim City Manager

7/1/2022

Date