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IN THE CITY COUNCIL

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AMENDMENT TO PORTLAND CITY CODE
CHAPTER 18 (PARKS, RECREATION AND PUBLIC BUILDINGS AND GROUNDS)
SECTIONS 18-40 THRU 18-49

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. *That Sections 18-40 thru 18-49 of the Portland City Code is hereby amended to read as follows:*

Sec. 18-40. Permit required.

(a) Any person who desires to conduct or sponsor an event at a park or public ground of the city in which it could reasonably be assumed that twenty-five (25) or more persons might gather or participate shall first apply for and obtain a permit from the permitting authority as defined in section 18-41. The application for a permit shall be filed with the appropriate permitting authority no later than thirty (30) days prior to the proposed event.

(b) An application for a permit shall be accepted by the permitting authority no earlier than eighteen (18) months prior to the proposed event.

(c) Applications for permits filed less than thirty (30) days prior to the proposed event shall be subject to a late fee which shall be established by order of the city council.

(d) Events sponsored or conducted by the city shall be exempt from permitting requirements.

(e) Athletic events regulated by the recreation department are exempt from this requirement.

(f) The council shall define by order the parks and public grounds to which this permit requirement shall apply, and such order shall be kept on file in the office of recreation.*
(Ord. No. 203-91, 1-23-91)

*Editor's note - The list referred to was passed as Council Order 257-91, passed on 2-20-91.

Sec. 18-41. Permitting authority; regulations.

(a) The director of parks and recreation or his designee shall be the permitting authority for events in which it could reasonably be assumed that twenty-five (25) or more persons might gather or participate.

(b) The city council shall be the permitting authority for events in which it could reasonably be assumed that two thousand (2,000) or more persons might gather or participate; or any event which is proposed to last longer than three (3) consecutive days, regardless of the number of persons anticipated to gather or participate.

(c) The parks and recreation department may promulgate from time to time such reasonable rules and regulations as may be required to implement this ordinance.

(d) The rules shall be enacted in the same manner as the rules for solid waste disposal are promulgated, prescribed in section 12-105(b) and (b.1) of this Code, with the exception that the rules will go into effect twenty (20) days after enactment by the director unless stayed by action of the city council. Proposed rules shall be delivered to the council as a communication prior to the enactment.
(Ord. No. 203-91, 1-23-91)

Sec. 18-42. Permit application.

A person seeking issuance of a permit hereunder shall file an application with the parks and recreation department. The application shall state:

- (a) The name and address of the applicant;
- (b) The name and address of the person, corporation or association sponsoring and/or conducting the activity;
- (c) The day and hours for which the permit is desired;
- (d) The park or portion thereof for which such a permit is desired;

- (e) An estimate of the anticipated attendance or patronage; and
- (f) Any other information which the superintendent shall find reasonably necessary to a fair determination as to whether a permit should issue hereunder.

(Ord. No. 203-91, 1-23-91)

Sec. 18-43. Friends of the park commission review.

Within five (5) days of receipt of the complete application for a permit, the permitting authority shall provide a copy of the complete application to the chairperson of the friends of the park commission for review. The commission shall have the opportunity to render an opinion within seven (7) days of the receipt of the complete application on the issuance of the permit, which opinion shall be advisory in nature. A copy of the advisory opinion of the commission shall be provided to the applicant.

(Ord. No. 203-91, 1-23-91)

Sec. 18-44. Standards for issuance.

(a) The permitting authority shall issue a permit if it finds:

- (1) The proposed event or activity shall not endanger the health and safety of all persons who visit the park;
- (2) Adequate parking facilities exist and are available to accommodate the proposed event or activity in the park;
- (3) Adequate sanitary facilities exist and are available to accommodate the proposed event;
- (4) The event or activity shall not cause damage from destruction or overuse to or overuse of the grounds, equipment, vegetation, buildings, fences or other amenities in the park;
- (5) The proposed event or activity would not unreasonably disturb persons who occupy land which is adjacent to such park; and
- (6) The park or portion thereof desired has not been reserved for other use at the day and hour required in the application.

(b) When issuing the permit, the permitting authority may designate the specific area within the park or the park system where the event shall be permitted to take place, based upon the foregoing criteria.

(Ord. No. 203-91, 1-23-91)

Sec. 18-45. Duties of permittee.

(a) The permittee shall be responsible for designating a person who shall be in charge of the conduct of the event or activity and who shall be on the park grounds while the event or activity is being conducted.

(b) The permittee shall be responsible for keeping the park clean and free from debris.

(c) Where structures are to be erected in the park, the permittee shall be responsible for complying with building code requirements including, but not limited to, section 626.0 of the building code dealing with temporary structures.

(d) For events where more than two thousand (2,000) individuals are anticipated to gather or participate in the event or activity in the park, the permittee shall provide a bond in the form of cash, certified check or surety bond from a surety company qualified to do business in the State of Maine in an amount of not less than two thousand dollars (\$2,000.00). Such bond shall be utilized to guarantee cleanup of the area and shall be applied against claims by the city for excessive damage to real or personal property in the park.

Activities protected by the first amendment to the United States or Maine Constitution, other than commercial speech, are exempt from subparagraph (d) if the permit for the activity allows the activity to use park space for eight (8) hours or less in one calendar day.

The foregoing exemption shall not apply to an event or activity intended or scheduled to occur more than fourteen (14) cumulative hours in a period of seven (7) consecutive days during which its permit allows exclusive use of park space. For the purpose of this subparagraph an event or activity shall be considered to be using park space during the time in which a permit allows the exclusive use of the space, whether or not the event or activity is actually occurring during that entire time, and whether or not the applicant allows other uses to occur

during that time. The department's determination of the need for exclusive use shall be final.

(e) The permittee shall procure and furnish evidence to the city of public liability insurance and automobile liability insurance coverage in amounts not less than four hundred thousand dollars (\$400,000.00) per person, for bodily injury, death, and property damage, protecting the permittee and the city from such claims.

Activities protected by the first amendment to the United States or Maine Constitution, other than commercial speech, are exempt from subparagraph (e) if the permit for the activity allows the activity to use park space for eight (8) hours or less in one calendar day.

The foregoing exemption shall not apply to an event or activity intended or scheduled to occur more than fourteen (14) cumulative hours in a period of seven (7) consecutive days during which its permit allows exclusive use of park space. For the purpose of this subparagraph an event or activity shall be considered to be using park space during the time in which a permit allows the exclusive use of the space, whether or not the event or activity is actually occurring during that entire time, and whether or not the applicant allows other uses to occur during that time. The department's determination of the need for exclusive use shall be final.

(Ord. No. 203-91, 1-23-91; Ord. No. 308-01/02, 7-15-02)

Sec. 18-46. Deposit to cover cost to the city.

In addition to the bond required under section 18-45, upon notification from the director of parks and recreation, the applicant shall deposit with the director of finance a cash deposit sufficient to cover the cost to the city, as estimated by the director of parks and recreation and/or director of public works, for repair of damages to the park and for its restoration, and sufficient to pay the expense, as estimated by the director of parks and recreation, of any city employees required to supervise, inspect, setup and cleanup related to the conduct of the event or activity.

(Ord. No. 203-91, 1-23-91)

Sec. 18-47. Repair and restoration of park by the city.

In the event of damage to real or personal property in the park, the city shall cause the repair and restoration of the

park to be skillfully and properly done in a timely manner and shall keep an account of the expense thereof, and in such case, the permittee shall pay the city an amount equal to the whole of the expense incurred by the city.

(Ord. No. 203-91, 1-23-91)

Sec. 18-48. Permit fees.

Fees for the issuance of permits authorized under section 18-40 shall be established by order of the city council and kept on file in the office of recreation.

The fees established pursuant to this section or any other fees for city services shall not apply to activities protected by the first amendment to the United States or Maine Constitution, other than commercial speech, if the permit for the activity allows the activity to use park space for eight (8) hours or less in one calendar day.

The foregoing exemption shall not apply to an event or activity intended or scheduled to occur more than fourteen (14) cumulative hours in a period of seven (7) consecutive days during which its permit allows exclusive use of park space. For the purpose of this subparagraph an event or activity shall be considered to be using park space during the time in which a permit allows the event or activity exclusive use of the space, whether or not the is actually occurring during that entire time, and whether or not the applicant allows other uses to occur during that time. The department's determination of the need for exclusive use shall be final.

(Ord. No. 203-91, 1-23-91)

Sec. 18-49. Appeals.

(a) Any person who is aggrieved by the failure of the director of parks and recreation or his designee to issue a permit may appeal the same to the city manager by written request filed with the office of the city manager within five (5) days from the receipt of the decision of the permitting authority. The city manager shall designate himself or any agent or employee to act as a hearing officer in the appeal. The hearing officer shall provide the applicant the opportunity to be heard regarding the issuance of the permit. The hearing officer shall issue a written decision within five (5) days of the close of the hearing.

(b) Any person who is aggrieved by the decision of a hearing officer or the failure of the city council to issue a

permit may appeal to superior court, pursuant to the provisions of Rule 80B of the Maine Rules of Civil Procedure. (Ord. No. 203-91, 1-23-91)

O:/Amend/18-indemnification requirements