

Order 196-07/08
Tab 27 4-7-08

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CITY OF PORTLAND
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AMENDMENT TO PORTLAND CITY CODE
CHAPTER 21 PUBLIC MARKETS
CHAPTER 25 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES
CHAPTER 19 PEDDLERS AND SOLICITORS
CHAPTER 15 LICENSES AND PERMITS
(RE: FARMERS MARKETS)

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

1. That Chapter 21, Article I, In General, Sections 21-1 through 21-3 of the Portland City Code are hereby amended to read as follows:

Chapter 21 PUBLIC FARMER'S MARKETS

Article I. IN GENERAL.

Sec. 21-1. Designation Days, locations and products sold.

Farmer's Markets for the sale of local fruit, vegetables, flowers, seedlings and plants may be held on Mondays and Wednesdays from 7:00 am to 2:00 pm at Monument Square and Monument Way, and Saturdays from 7:00 am to Noon at Deering Oaks Park, on Farmer's Market Road and Jenny Lane. ~~The city council may designate by order the times and days during which certain public property may be used as a public market for the sale of fruit, vegetables, flowers, seedlings and plants.~~ The following items may also be sold, provided that the product is produced, processed or manufactured in an establishment licensed by the department of agriculture to produce the item and that the seller has produced, processed or manufactured the item: raw fiber and spun fiber; fresh meat and meat products and fresh poultry and poultry products provided that they are stored at or below forty (40) degrees Fahrenheit during transport to and display at the public market and frozen meat and meat products, and frozen poultry and poultry products, provided that it is stored such that it remains frozen during transport to an display at the public market¹; pasteurized milk and milk products² stored in

1 As defined in 22 M.R.S.A. § 2511

Given first reading on 4/7/08
Public Hearing & Passage 4/28/08 9-0

compliance with state law, farm-fresh eggs, provided that they are stored at or below forty-five (45) degrees Fahrenheit during transport to and display at the public market; cheese provided that it is stored at or below forty (40) degrees Fahrenheit during transport to and display at the public market, honey, jams, jellies, pickles, relishes, maple syrup, apple cider, packaged herbs or herb blend mixtures and pesto. The following items may be sold, provided that the total amount of sales from all such items does not exceed forty-nine (49) percent of the total amount of sales made by the licensee at the public market: any other edible product that is a derivative of plants or produce grown by the licensee, provided that the licensee also has a license from the department of agriculture to produce the item. Any baked goods sold at a public market must be individually or collectively wrapped while displayed and sold. In no event shall any licensee sell at a public market any potentially hazardous foods, which includes any perishable food or food product not processed or stored in compliance with state law.

Sec. 21-2. Stalls to be assigned.

~~If stalls are marked at the location designated by the council, the clerk~~ The Farmer's Market Coordinator shall assign a stall to each licensee for his or her exclusive use and the licensee shall use such stall and no other.

Sec. 21-3. Rules and regulations.

The City Clerk is hereby authorized to promulgate from time to time such reasonable rules and regulations as may be required to implement this ordinance. Such rules shall become final upon approval by the City Manager and kept on file in the City Clerk's office.

2. *That Chapter 21, Article II, License, Section 21-18 of the Portland City Code is hereby amended to read as follows:*

Sec. 21-18. Revocation or suspension.

The clerk shall revoke the license of any person who has combined with any other licensee in the fixing or

2 As defined in 7 M.R.S.A. § 2901-A

maintaining of a price, fraudulent use of weights or measures, or who intentionally and knowingly deprives another licensee of the use of the latter's designated stall in the market. In addition, the clerk may suspend or revoke the license of any person who violates any other section of this chapter or of chapter 15, or who violates the Farmer's Market rules and regulations promulgated by the City Clerk in accordance with this chapter.

3. That Chapter 21, Article III, On Private Property, Sections 21-20 through 21-23 of the Portland City Code are hereby amended to read as follows:

~~ARTICLE III. ON PRIVATE PROPERTY~~

~~Sec. 21-20. Definitions.~~

~~Daystalls shall mean space within the Portland Public Market structure which is available for rent on a daily basis and from day to day. The hours of operation of daystalls shall be limited to the hours of operation of the Portland Public Market.~~

~~Farm related products shall mean any agricultural, horticultural, forest or other product of the soil or water, including, but not limited to, fruits, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, grain and grain products, honey, nuts, maple syrup, apple cider, and fruit juice.~~

~~Marine related products shall mean any fish and fish products, edible sea plants or other agricultural items derived from the sea, seafood, shellfish, and sea salts.~~

~~Portland Public Market is a private corporation which provides and manages the market building at the intersection of Preble Street and Cumberland Avenue in Portland.~~

~~Potentially hazardous food shall mean any perishable food which consists in whole or in part of milk or milk products, eggs, custards, whole or ground meat, poultry, fish, shellfish, edible crustacea or other ingredients, including synthetic ingredients capable of supporting rapid~~

~~and progressive growth of infection or toxigenic microorganisms.~~

~~Recurrent vendor shall mean any individual or entity that rents a daystall for more than six (6) days during any calendar quarter at the Portland Public Market.~~

~~Temporary vendor shall mean any individual or entity that rents a daystall for six (6) days or fewer, during any calendar quarter at the Portland Public Market.~~

~~Sec. 21-21. Daystalls.~~

~~A temporary vendor renting a daystall at the Portland Public Market shall not be required to obtain a municipal license so long as the following requirements are met:~~

- ~~a. No food item may be displayed for sale, or sold, at a daystall absent an appropriate license from the city unless the temporary vendor is selling fresh fruits or vegetables or has obtained a valid food license from the Maine Department of Agriculture.~~
- ~~b. No potentially hazardous food may be displayed for sale, or sold, at a daystall at the Portland Public Market unless it shall remain refrigerated at a temperature of forty five (45) degrees Fahrenheit or below. Frozen foods shall remain at a temperature required by state rule or regulation.~~
- ~~c. The Portland Public Market shall provide to the city clerk information necessary to enable the city to track temporary vendor participation at the Portland Public Market. The Portland Public Market shall certify that temporary vendors have obtained valid and current commercial liability insurance in an amount not less than three hundred thousand dollars (\$300,000.00).~~
- ~~d. The Portland Public Market shall not knowingly permit any temporary vendor who has rented a daystall six (6) times in the preceding calendar quarter to rent any daystall absent the requisite municipal licenses. Recurrent vendors of farm or marine related products and who otherwise meet~~

~~the requirements of section 21-1 must obtain a public market license as defined in section 21-6. Recurrent vendors of food items must obtain the appropriate food service establishment license in accordance with chapters 11 and 15 of the City Code. Recurrent vendors of nonfood items are not required to obtain a municipal license.~~

- ~~e. The Portland Public Market shall allow any city inspector who is on duty to access the premises at the Portland Public Market, at any and all times, for the purpose of inspecting the premises, which shall include daystalls, in order to determine compliance with the provisions of the Portland City Code. It shall be a violation of these regulations for anyone to interfere with or prevent such inspection.~~

~~The city manager is hereby authorized to enter into contracts with the Portland Public Market, and to promulgate rules and regulations with regard to temporary vendors, as is consistent with the intent of this article.~~

~~Sec. 21-22. General provisions to apply.~~

~~Except to the extent this article contains a contrary provision, all provisions of chapter 15 shall be additional to the provisions of this article.~~

~~(Ord. No. 62-98, 8-3-98)~~

4. *That Chapter 25, Article II, Obstructions, Encumbrances, and Authorized Events, Sections 25-26 through 25-30 of the Portland City Code are hereby amended to read as follows:*

~~Sec. 25-27. Fees.~~

The following fees are hereby established for the issuance of a revocable street and sidewalk occupancy permit:

- ~~(g) Permit to the Portland Public Market to hold entertainment events on public sidewalks adjacent to its building at the corner of Cumberland Avenue, Elm Street, and Preble Street or as otherwise designated in the permit. Not less than twenty four (24) hours' notice to the Portland~~

~~Parks and Recreation Department or the city manager shall be given for any entertainment events. One hundred dollars (\$100.00) per fiscal year;~~

(hg) Location of dumpster on city-owned property, except as part of a street festival or other special event declared by the city council, two hundred twenty-five dollars (\$225.00) per fiscal year or any portion thereof.

5. That Chapter 19, Article II, Peddlers and Solicitors, Section 19-20 of the Portland City Code is hereby amended to read as follows:

Sec. 19-20. Exceptions for license required.

(a) No street vendor's license shall be required for:

(3) Operating a licensed ~~public~~ farmer's market stall;

6. That Chapter 15, Article I, In General, Section 15-12 of the Portland City Code is hereby amended to read as follows:

Sec. 15-12. Fees and expiration dates.

(a) Unless specified elsewhere in this Code, fees for licenses issued pursuant to this Code and the expiration date of each license shall be as follows:

Location in Code	Description	Fee	Expiration Date
Ch. 21	Public <u>Farmer's</u> markets	65.00	March 31