

Order 93-07/08  
Given first reading 11/5/07  
Referred to Public Safety Committee 11/19/07  
Public Hearing, Amended & Passed 3-3-08 9-0

EDWARD J. SUSLOVIC (MAYOR)  
KEVIN J. DONOGHUE (1)  
DAVID A. MARSHALL (2)  
DANIEL S. SKOLNIK (3)  
CHERYL A. LEEMAN (4)

**CITY OF PORTLAND**  
IN THE CITY COUNCIL

JAMES I. COHEN (5)  
JOHN M. ANTON (A/L)  
JILL C. DUSON (A/L)  
NICHOLAS M. MAVODONES (A/L)

**AMENDMENT TO PORTLAND CITY CODE**  
**CHAPTER 25 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES**  
**ARTICLE II. OBSTRUCTIONS, ENCUMBRANCES, AND AUTHORIZED**  
**EVENTS**  
**SECTIONS 25-26 THROUGH 25-30**  
**CHAPTER 18 PARKS, RECREATION AND PUBLIC BUILDINGS AND**  
**GROUND**  
**ARTICLE II. REGULATIONS FOR PARKS AND PUBLIC GROUNDS**  
**SECTION 18-50**

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

- 1. 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. 25-26. Required.**

(a) No person shall place or cause to be placed in or on, or shall suspend over any street, way or public place in the city any article or thing whatsoever, including but not limited to portable sidewalk signs, except under a duly authorized permit therefor issued pursuant to the provisions of this division.

Except during declared festivals or other approved events that require a sidewalk occupancy permit under this section, this section shall not apply to a table or other structures used by (1) street artists to create or sell works of art or (2) individuals who set up a table and/or chairs in compliance with chapter 19, article II, sec. 19-24 subparagraph (a)(1),(2),(5) and (6), to engage in an activity other than commercial speech, protected by the first amendment to the United States and Maine Constitution including but not limited to the distribution of political or religious literature, or the gatherings of signatures on petitions.

(b) No person shall expand a food service establishment to the outside on any street, way or public place in the city except under a duly authorized outdoor dining permit issued pursuant to the provisions of this division.

**Sec. 25-27. Fees.**

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

- (1) Objects other than portable signs, including but not limited to tables, chairs, barricades and bollards, eighty dollars (\$80.00) for one (1) fiscal year or any portion thereof;
- (2) Portable signs, twenty-five dollars (\$25.00) plus twenty cents (\$0.20) per square foot of signage. Square footage is calculated pursuant to section 14-369(b) of the Land Use Ordinance. Permits remain valid until there is a change:
  - a. In the sign dimensions; or
  - b. In the use, lessee or ownership of the business causing a change in the business name, design or dimensions.
- (3) Vehicles, equipment, or construction materials, ten dollars (\$10.00) per day or any portion thereof;
- (4) Use of city property (including but not limited to festivals, events, promotions, demonstrations, parades, marches, road races, walkathons, fundraisers, press conferences, rallies, protests, sampling, poll taking, banners and public displays), fee as provided by annual order of the city council;
- (5) Use of streets, ways or public places by street goods vendors as defined in Section 19-16 for purposes of vending, thirty dollars (\$30.00) per day or any portion thereof;

(6) Permit to Portland's Downtown District or similar organization/business to hold events on not less than twenty-four (24) hours' notice to the city manager, within area or areas designated in permit, one hundred dollars (\$100.00) per fiscal year or any portion thereof;

~~(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;~~

(7) 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.

(b) The following fees are hereby established for the issuance of a revocable outdoor dining permit:

(1) Outdoor dining on streets, sidewalks or other public ways, eighty dollars (\$80.00) plus two dollars (\$2.00) per square foot of dining area per fiscal year or any portion thereof.

(2) Outdoor dining in parks, eighty dollars (\$80.00) plus six dollars (\$6.00) per square foot of dining area per fiscal year or any portion thereof. In no instance shall the total square footage of dining area equal more than 10% of park space, unless the applicant receives a waiver from the Director of Parks and Recreation or his or her designee. For purposes of this section, the area abutting the buildings which border Monument Square and extending ten (10) feet from the facade of said buildings shall be considered a sidewalk. The ten (10) foot area shall be measured from that portion of the facade that protrudes furthest into the sidewalk. The area beyond the ten (10) foot sidewalk shall be

considered park space.

**Sec. 25-28. Issuance after approval by city manager; regulations.**

The city manager or his or her designee is hereby authorized to issue revocable permits for the location, protection, maintenance and use of structures, trees, and other installations placed in, on, above, or beneath public ways or other property, and for outdoor dining on any street, way or public place upon receipt of proof of insurance in a form and in an amount satisfactory to the city. The Director of Parks and Recreation or his or her designee is hereby authorized to issue revocable permits for outdoor dining in city parks. The city manager is also hereby authorized to promulgate from time to time such reasonable rules and regulations governing the design, construction, size and location of portable sidewalk signs as may be consistent with this division and in furtherance of the public interest, such rules and regulations to be submitted to the city council for approval. The city manager is further authorized to promulgate such other regulations as may be required for the location of other installations or structures in or use of the public ways, and for outdoor dining on streets, ways or other public places.

**Sec. 25-29. Content.**

The permit issued under this division shall contain such terms, conditions and restrictions as the city manager shall require.

**Sec. 25-30. Revocation; removal of installation.**

The permit issued under this division shall be revocable by the city manager by written notice to the holder of such permit. Any such structure, tree or other installation, or furniture utilized for outdoor dining not removed or relocated, or otherwise disposed of, in the manner and within the time specified in the notice shall be considered a defect in the public way or other public property and may be removed by the city without further notice and without any liability on the city's part whatsoever to the holder of the permit, his or her successors and assigns, and in the event the city shall be required to remove such

installations, the costs of removal shall be borne by the permit holder.

2. *That Chapter 18, Article II, Regulations for Parks and Public Grounds, Section 18-50 of the Portland City Code is hereby amended to read as follows:*

**Sec. 18-50. Outdoor dining in city parks.**

Any person who desires to utilize city park space for the purposes of conducting outdoor dining operations, including, but not limited to the placement of tables and chairs in park space for purposes of such dining operations, must obtain a lease permit from the Department of Parks and Recreation for purpose of such operations in accordance with chapter 25, article II, division 2, sections 25-26 et seq. ~~Leases shall be negotiated with the Parks and Recreation authority. Leases shall not require City Council approval providing that they are month to month leases, or can be terminated at the convenience of the City upon no more than thirty (30) days notice without further obligation of City.~~