

Order 159-12/13

Given first reading on 3/4/13

Postponed on 3/18/13

Passage as amended on 4/22/13 8-0 (Anton absent)

Order will not take effect until January 1, 2014. In relation to time change in Deering Oaks park that time change will take immediately.

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 21 FARMERS' MARKETS*
CHAPTER 19 PEDDLERS AND SOLICITORS
CHAPTER 15 LICENSES AND PERMITS**

**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 and Article II, License of the Portland City Code is hereby amended to read as follows:*

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

The City Council may permit by lease or license agreement the use of City property for the purpose of operating a Farmer's market. The Farmers' Market may be held on Mondays and Wednesdays from 7:00 a.m. to 2:00 p.m. at Monument Square and Monument Way, and Saturdays from 7:00 a.m. to ~~noon~~1:00 p.m. at Deering Oaks Park, on Farmer's Market Road and Jenny Lane, and Saturdays from 8:00 a.m. until 2:00 p.m. in community halls located in R-6 residential zones. ~~for~~ In addition to the sale of local fruit, vegetables, flowers, seedlings and plants and other items, ~~the~~ the following items may also be sold, provided that he 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, as defined in 22 M.R.S.A. § 2511, and amendments thereto, provided that it is stored such that it remains frozen during transport to an display at the public market; pasteurized milk and milk products, as defined in 7 M.R.S.A. §2900, and any

amendments thereto, stored in compliance with state law, and unpasteurized milk and unpasteurized milk products, stored in compliance with state law. ~~In addition, these products will~~ which products must be labeled as **NOT PASTEURIZED** in accordance with 7 M.R.S.A. Sec. 2902-B, and any amendments thereto. Failure to or store in compliance with state law will result in an order to immediately cease the sale of these unpasteurized products, or suspension or revocation of the farmers market license in accordance with Section 21-18 of the City Code; 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, hard cider, as defined in 28-A M.R.S.A. § 2 and any amendments thereto, provided however that the producer has a farm winery license; malt liquor and wine~~d~~, produced subject to the provisions of 7 M.R.S.A Sec. 415, and any amendments thereto; 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.

(Code 1968, ch. 419; Ord. No. 231-80, 12-22-80; Ord. No. 369-91, § 1, 5-6-91; Ord. No. 83-93, § 2, 9-8-93; Ord. No. 161-00, 3-6-00; Ord. No. 284-05/06, 6-5-06; Ord. No. 166-06/07, 3-19-07; Ord. No. 196-07/08, 4-28-08; Ord. No. 78-10/11, 12-6-10 emergency passage; Ord. No. 102-11/12, 2-6-12)

~~**Sec. 21-2. Stalls to be assigned.**~~

~~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.~~

~~(Code 1968, Ch 419; Ord. No. 231-80, 12-22-80; Ord. No. 196-07/08, 4-28-08)~~

~~**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. The city clerk shall seek input from the~~

~~Portland Farmers' Market Association when promulgating said rules and regulations and shall consider amendments to the rules upon request by the Association. Such rules shall become final upon approval by the city manager and kept on file in the city clerk's office.~~

~~(Ord. No. 196-07/08, 4-28-08; Ord. No. 265-10/11, 6-20-11)~~

~~ARTICLE II. LICENSE*~~

~~Sec. 21-16. Required.~~

~~No person shall sell fruit, vegetables, flowers, seedlings, plants, or any other item permitted in section 21-1 in a public market without a license from the city.~~

~~(Code 1968, § 419.2; Ord. No. 231-80, 12-22-80; Ord. No. 369-91, § 2, 5-6-91)~~

~~Sec. 21-17. Application.~~

~~In addition to the requirements of chapter 15, all applicants must first procure from the city council of the city or town where he or she resides and file with the clerk a certificate of qualifications to the effect that he or she resides in the town or owns or rents in the town property capable of being cultivated. Such applicant shall also certify in writing that any products offered for sale shall be of his or her own raising or that of some other person holding a public market license or that prior to display at the public market he or she will label any fruit, vegetables, flowers, seedlings and plants that are raised by anyone other than the licensee. No more than twenty five (25) percent of the total amount of a licensee's sales at the public market shall result from the sale of any produce that is raised by someone other than the licensee. In no event shall any sales be permitted of any produce that was raised outside the state.~~

~~(Code 1968, § 419.2; Ord. No. 231-80, 12-22-80; Ord. No. 83-93, § 3, 9-8-93)~~

~~Sec. 21-17.1. Public liability insurance required.~~

~~City of Portland, Maine Public Markets~~

~~Code of Ordinances Chapter 21~~

~~Sec. 21-17 Rev. 3-6-12~~

~~21-4~~

~~No license for the sale at a public market of any item listed in section 21-1 shall be issued until the applicant has first filed with the clerk a certificate, in a form satisfactory to the corporation counsel, evidencing public liability insurance coverage in an amount not less than the maximum liability under applicable law and naming the city as an additional insured. The certificate shall also provide for notice to the clerk not less than thirty (30) days prior to any cancellation of insurance. The licensee shall maintain such insurance at all times while engaged in sales at a public market of any item listed in section 21-1.~~
(Ord. No. 369-91, § 3, 5-6-91)

~~**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 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.~~

~~(Code 1968, § 419.6; Ord. No. 231-80, 12-22-80; Ord. No. 83-93, § 4, 9-8-93; Ord. No. 196-07/08, 4-28-08)~~

~~**Sec. 21-19. General provisions to apply.**~~

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

~~(Ord. No. 231-80, 12-22-80)~~

2. *That Chapter 19, Article II, Street Vendors, 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:

(1) Maintaining an installation authorized by a street and sidewalk occupancy permit issued pursuant to section 25-26;

(2) Conducting business on city-owned property pursuant to a lease, contract, or other agreement with the City;

~~(3) Operating a licensed farmer's market stall; Any seller operating in a licensed Farmers';~~

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(4) Transporting goods or passengers for hire;

(5) Providing emergency medical or motor vehicle services; or

(6) Advertising only, on a motor vehicle.

(Ord. No. 223-01/02, § 2, 5-6-02; Ord. No. 196-07/08, 4-28-08)

3. *That Chapter 15, LICENSES AND PERMITS* cross reference, Article I, In General, Section 15-12 of the Portland City Code is hereby amended to read as follows:*

Chapter 15 LICENSES AND PERMITS*

***Cross reference(s)**--Uniform procedure for assessments, § 1-16; administration, Ch. 2; funds due to city, § 2-201 et seq.; permits for burglaralarm systems, § 2.5-17; license for bottle clubs, § 3-26 et seq.; license for amusement devices, § 4-26 et seq.; license for music, dancing and special entertainment, § 4-51 et seq.; license for gaming, § 4-81 et seq.; license for sidewalk tanks and pumps for petroleum products, § 10-116 et seq.; inspection performance requirements, § 11-37; license for food service establishments, § 11-46 et seq.; license for street vendors, § 19-29 et seq.; license for transient sales, § 19-56 et seq.; ~~license for farmers markets, § 21-16 et seq.~~; license for pawnbrokers, junk dealers, secondhand dealers and flea markets, § 23-26 et seq.; excavator license, § 25-119; license for wreckers and vehicle towing, § 28-286 et seq.; licenses for taxicabs and limousines, § 30-31 et seq.; licenses for horse-drawn cabs, § 30-42 et seq.

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:

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| Ch. 12, Art. VII | Operation of rendering facilities | 250.00 | September 30 |
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| Ch. 21 | Farmer's Market | 70.00 | March 31 |
| Ch. 10, Art. VI | Sidewalk tanks and pumps | 25.00 | December 31 |