

DISPLAY THIS CARD ON PRINCIPAL FRONTAGE OF WORK CITY OF PORTLAND

BUILDING INSPECTION

PERMIT

Please Read Application And Notes, If Any, Attached

Permit Number: 080832

PERMIT ISSUED
JUL 10 2008
CITY OF PORTLAND

This is to certify that TOP OF EXCHANGE LLC

has permission to outside seating 4 tables & 12 chairs, 14 sq. ft. mark

AT .85 EXCHANGE ST 032 D004001

provided that the person or persons who perform or supervise the construction accepting this permit shall comply with all of the provisions of the Statutes of the State and of the Ordinances of the City of Portland regulating the construction, maintenance and use of buildings and structures, and of the application on file in this department.

Apply to Public Works for street line and grade if nature of work requires such information.

Notification of inspection must be given and when permission is procured before this building or part thereof is occupied or service is closed-in. 24 HOUR NOTICE REQUIRED.

A certificate of occupancy must be procured by owner before this building or part thereof is occupied.

OTHER REQUIRED APPROVALS

Fire Dept. _____
Health Dept. _____
Appeal Board _____
Other _____
Department Name

Janie Bonker 7/10/08
Director - Building & Inspection Services

PENALTY FOR REMOVING THIS CARD

City of Portland, Maine - Building or Use Permit

389 Congress Street, 04101 Tel: (207) 874-8703, Fax: (207) 874-8716

| | | |
|------------------------------|--|----------------------------|
| Permit No: 08-0832 | Date Applied For: 07/08/2008 | CBL: 032 D004001 |
|------------------------------|--|----------------------------|

| | | | |
|--|---|--|---------------|
| Location of Construction: 85 EXCHANGE ST | Owner Name: TOP OF EXCHANGE LLC | Owner Address: 42 MARKET ST | Phone: |
| Business Name: | Contractor Name: | Contractor Address: | Phone: |
| Lessee/Buyer's Name | Phone: | Permit Type: Outdoor Seating | |

| | |
|---|--|
| Proposed Use: O'Natural's - outside seating 4 tables & 12 chairs, 144 sq.ft in Park | Proposed Project Description: outside seating 4 tables & 12 chairs, 144 sq.ft. In Park |
|---|--|

| | | | |
|--|---|---------------------------------|---|
| Dept: Zoning | Status: Approved with Conditions | Reviewer: Ann Machado | Approval Date: 07/10/2008 |
| Note: | | | Ok to Issue: <input checked="" type="checkbox"/> |
| 1) All outdoor seating is subject to adjustment at any time from the City's traffic engineer who ensures that the City sidewalk is open and cleared for pedestrian use. | | | |
| Dept: Building | Status: Approved with Conditions | Reviewer: Jeanine Bourke | Approval Date: 07/10/2008 |
| Note: | | | Ok to Issue: <input checked="" type="checkbox"/> |
| 1) The outside dining permit is approved for the area delineated at the inspection and stated on the permit, and must be kept on site. THIS PERMIT MUST BE RENEWED ANNUALLY | | | |
| 2) This permit approves outside seating only. Any food, alcohol or entertainment in this space requires licensing approvals from the City Clerk. | | | |
| 3) The tables and chairs must not block any means of egress of any building, even during storage. | | | |

| |
|--|
| Comments: 7/10/2008-amachado: Gave permit to Jeanie. |
|--|

City of Portland, Maine - Building or Use Permit Application

389 Congress Street, 04101 Tel: (207) 874-8703, Fax: (207) 874-8716

| | | |
|-----------------------|-------------|---------------------|
| Permit No: 08-0832 | Issue Date: | CBL: 032 D004001 |
|-----------------------|-------------|---------------------|

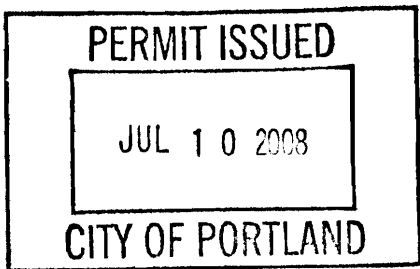
| | | | |
|---|------------------------------------|---------------------------------|--------------|
| Location of Construction: 85 EXCHANGE ST | Owner Name: TOP OF EXCHANGE LLC | Owner Address: 42 MARKET ST | Phone: |
| Business Name: | Contractor Name: | Contractor Address: | Phone: |
| Lessee/Buyer's Name | Phone: | Permit Type: Outdoor Seating | Zone: B-3 |

| | | | | |
|--------------------------|--|--|--|--------------------|
| Past Use: O'Natural's | Proposed Use: O'Natural's - outside seating 4 tables & 12 chairs, 144 sq.ft in Park | Permit Fee: \$944.00 | Cost of Work: \$0.00 | CEO District: 1 |
| | | FIRE DEPT: <input type="checkbox"/> Approved <input type="checkbox"/> Denied | INSPECTION: Use Group: <i>A2</i> Type: <i>outside dining</i> | |

| | | |
|--|------------|-------------------------------|
| Proposed Project Description: outside seating 4 tables & 12 chairs, 144 sq.ft. In Park | Signature: | Signature: <i>JMB 7/10/08</i> |
| PEDESTRIAN ACTIVITIES DISTRICT (P.A.D.) | | |
| Action: <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Conditions <input type="checkbox"/> Denied | | |
| Signature: _____ Date: _____ | | |

| | | |
|-----------------------------|---------------------------------|------------------------|
| Permit Taken By: Idobson | Date Applied For: 07/08/2008 | Zoning Approval |
|-----------------------------|---------------------------------|------------------------|

| | | | |
|---|--|---|--|
| <p>1. This permit application does not preclude the Applicant(s) from meeting applicable State and Federal Rules.</p> <p>2. Building permits do not include plumbing, septic or electrical work.</p> <p>3. Building permits are void if work is not started within six (6) months of the date of issuance. False information may invalidate a building permit and stop all work..</p> | <p>Special Zone or Reviews</p> <input type="checkbox"/> Shoreland <input type="checkbox"/> Wetland <input type="checkbox"/> Flood Zone <input type="checkbox"/> Subdivision <input type="checkbox"/> Site Plan Maj <input type="checkbox"/> Minor <input type="checkbox"/> MM <input type="checkbox"/> <i>OK w/ conditions</i> Date: <i>7/10/08</i> <i>APB</i> | <p>Zoning Appeal</p> <input type="checkbox"/> Variance <input type="checkbox"/> Miscellaneous <input type="checkbox"/> Conditional Use <input type="checkbox"/> Interpretation <input type="checkbox"/> Approved <input type="checkbox"/> Denied Date: _____ | <p>Historic Preservation</p> <input type="checkbox"/> Not in District or Landmark <input checked="" type="checkbox"/> Does Not Require Review <input type="checkbox"/> Requires Review <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Conditions <input type="checkbox"/> Denied <i>APB</i> Date: _____ |
|---|--|---|--|



CERTIFICATION

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in the application is issued, I certify that the code official's authorized representative shall have the authority to enter all areas covered by such permit at any reasonable hour to enforce the provision of the code(s) applicable to such permit.

| | | | |
|---|---------|------|-------|
| SIGNATURE OF APPLICANT | ADDRESS | DATE | PHONE |
| RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE | | DATE | PHONE |

O'Nabreals Outdoor Seating

Per sq @

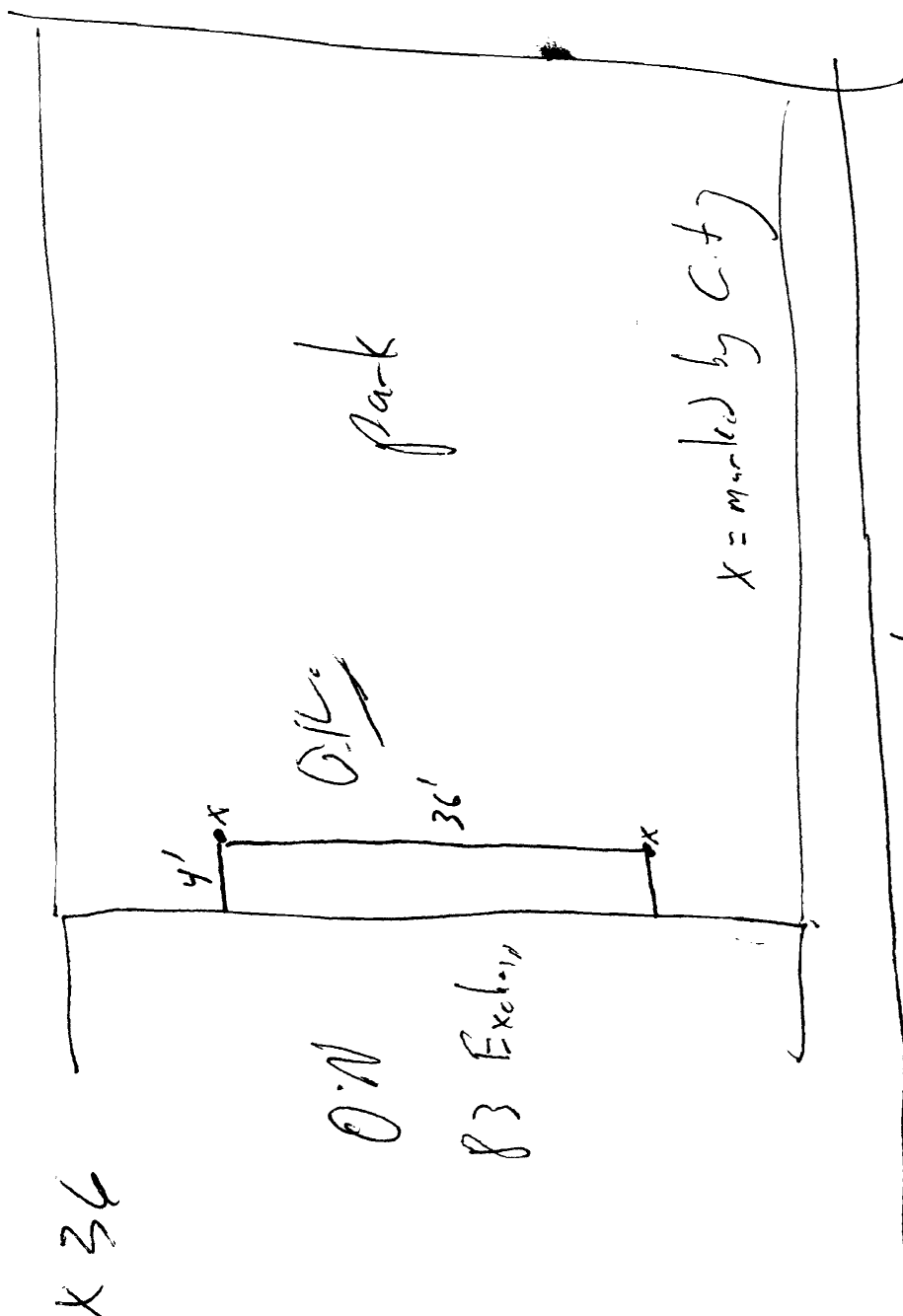
$$= 9' \times 36 = 144$$

@ Park rate
SMH

7/09/08

4' 6 Market

x 36



Exchange St

ACORD™ CERTIFICATE OF LIABILITY INSURANCE DATE (MM/DD/YYYY)
7/8/2008

PRODUCER (914)761-9000 FAX: (914)761-3749
SKCG Group, Inc.
123 Main St., 14th FL

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

White Plains NY 10601
INSURED
O'Natural's Inc.
44 Exchange Street, Suite 305
Portland ME 04101

| INSURERS AFFORDING COVERAGE | NAIC # |
|--|--------|
| INSURER A: Contintental Casualty | 20443C |
| INSURER B: Transportation Insurance | 20494C |
| INSURER C: | |
| INSURER D: | |
| INSURER E: | |

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR ADD'L LTR | INSRD | TYPE OF INSURANCE | POLICY NUMBER | POLICY EFFECTIVE DATE (MM/DD/YY) | POLICY EXPIRATION DATE (MM/DD/YY) | LIMITS |
|----------------|-------|--|---------------|----------------------------------|-----------------------------------|---|
| A | | GENERAL LIABILITY | P1098613699 | 11/21/2007 | 11/21/2008 | EACH OCCURRENCE \$ 1,000,000 |
| | | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 |
| | | <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR | | | | MED EXP (Any one person) \$ 5,000 |
| | | | | | | PERSONAL & ADV INJURY \$ 1,000,000 |
| | | | | | | GENERAL AGGREGATE \$ 2,000,000 |
| | | | | | | PRODUCTS - COMP/OP AGG \$ 2,000,000 |
| | | | | | | GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC |
| | | AUTOMOBILE LIABILITY | | | | COMBINED SINGLE LIMIT (Ea accident) \$ |
| | | <input type="checkbox"/> ANY AUTO | | | | BODILY INJURY (Per person) \$ |
| | | <input type="checkbox"/> ALL OWNED AUTOS | | | | BODILY INJURY (Per accident) \$ |
| | | <input type="checkbox"/> SCHEDULED AUTOS | | | | PROPERTY DAMAGE (Per accident) \$ |
| | | <input type="checkbox"/> HIRED AUTOS | | | | |
| | | GARAGE LIABILITY | | | | AUTO ONLY - EA ACCIDENT \$ |
| | | <input type="checkbox"/> ANY AUTO | | | | OTHER THAN EA ACC \$ |
| | | | | | | AUTO ONLY: AGG \$ |
| B | | EXCESS/UMBRELLA LIABILITY | P1095613718 | 11/21/2007 | 11/21/2008 | EACH OCCURRENCE \$ 4,000,000 |
| | | <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE | | | | AGGREGATE \$ 4,000,000 |
| | | <input type="checkbox"/> DEDUCTIBLE | | | | |
| | | <input checked="" type="checkbox"/> RETENTION \$ 10,000 | | | | |
| | | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | | | | <input type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER |
| | | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? | | | | E.L. EACH ACCIDENT \$ |
| | | If yes, describe under SPECIAL PROVISIONS below | | | | E.L. DISEASE - EA EMPLOYEE \$ |
| | | | | | | E.L. DISEASE - POLICY LIMIT \$ |
| | | OTHER | | | | |

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS
City of Portland is named as additional insured as respects to the permit for outdoor seating at 83 Exchange Street, Portland, ME.
Additional insured status is granted for general liability only per policy terms and conditions, when required by written contract or agreement. Notice of cancellation for non-payment is 10 days plus mailing time.

CERTIFICATE HOLDER

City of Portland
389 Congress Street
Portland, ME 04101

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE
Thomas Kozera/DANI *Thomas R. Kozera*

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

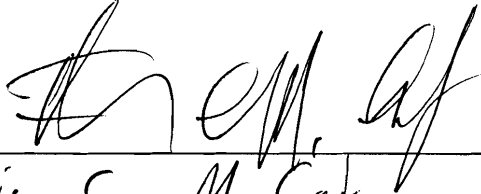
DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

- If alcohol is to be served, the permit holder must notify the City's Business Licensing Office in room 203 of City Hall or by telephone at 874-8557 and obtain approval for the service of alcohol outdoors. Additionally, State law requires that any outdoor area serving alcohol be segregated from the rest of the public.
- All tables and chairs shall be removed prior to a predicted snowfall and while any snow or ice exists within the designated outdoor seating area or within four feet from the boundaries thereof. The City will not be responsible for damage to any tables, chairs or other property that is not properly removed when the City is engaged in sidewalk maintenance activities.
- The permit holder shall comply with all applicable rules and regulations implemented by the city regarding outdoor dining.

Failure to comply with any of the above conditions will result in revocation or non-renewal of the permit.

I/We fully understand that the City of Portland, its agents, officers and employees accept no responsibility and will not be liable for any injury, harm or damage to my/our person or property arising out of the establishment's occupancy of the sidewalk or park space. To the fullest extent permitted by law, I/We do hereby agree to assume all risk of injury, harm or damage to my/our person or property (including but not limited to all risk of injury, harm or damage to my/our property cause by the negligence of the City of Portland, its agents, officers or employees) arising out of the establishment's occupancy of the sidewalk or park space. I/We hereby agree, to the fullest extent permitted by law, to defend, indemnify and hold harmless the City of Portland, its agents, officers and employees, from and against all claims, damages, losses and expenses, just or unjust, including, but not limited to costs of defense and attorney's fees, arising out of the establishment's occupancy of the sidewalk or park space, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use there from, and (2) is caused in whole or in part by any negligent act or omission of the establishment, anyone directly or indirectly employed by it, or anyone for whose act it may be liable.

Signed and acknowledged:  Date: 7/8/08
 Printed name Frederic C. McCall
 Establishment O'Neil's
 Location 83 Exchange St.



Outdoor Dining Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

| | | |
|---|---|---|
| Location/Address of Outdoor Seating: <u>Patio outside 83 Exchange St</u> | | |
| Total Square Footage of Proposed Seating Area ¹ <u>144</u> | | Square Footage of Lot <u> </u> |
| Tax Assessor's Chart, Block & Lot Chart# Block# Lot# | Owner: <u>Top of Exchange, LLC</u> | Telephone: <u>874-4911</u> |
| Lessee/Buyer's Name (If Applicable) <u>O'Neals, Inc</u> | Applicant * must be owner or Lessee Name <u>O'Neals, Inc</u> Address <u>44 Exchange St</u> City, State & Zip <u>Portland ME</u> | Annual Fee: <u>\$80</u> Sq Ft Fee: \$ _____ Total Fee: \$ _____ |
| Current use: _____ | | |
| Business name: _____ | | |
| Seating area dimensions: _____ | | |
| How many chairs? <u>12</u> How many tables? <u>4</u> | | |
| Alcohol to be served outside? circle one : YES <input type="radio"/> NO <input checked="" type="radio"/> | | |
| Who should we contact for the pre-inspection: <u>Mac McCabe</u> <u>McCabe</u> <u>Already inspected</u> | | |
| Mailing address: <u>44 Exchange St</u> Phone: <u>450-0760</u> | | |

Please submit all of the information outlined in the Outdoor Dining Application Checklist. Failure to do so will result in the automatic denial of your permit.

In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information visit us on-line at www.portlandmaine.gov, stop by the Building Inspections office, room 315 City Hall or call 874-8703.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature of Applicant

Date

7/8/08

This is not a permit; you may not commence ANY work until the permit is issued.

¹ 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.

Administrative Regulation

OUTDOOR DINING PERMITS

I. **Purpose**

It is the purpose of this regulation to establish the policy of the City and the procedures to be used for the issuance of outdoor dining permits pursuant to City Code section 25-26 et seq.

II. **Policy**

It is the policy of the City to permit food service establishments to expand their businesses to the outdoors on city sidewalks, public ways and other public places, including parks. Such expansions onto city property shall be permitted on a case-by-case basis, upon application to the city and payment of a fee, in accordance with certain conditions.

It is the policy of the City that due to the high value of downtown park space, expansion of a private business into such areas shall require a higher fee than expansion into a sidewalk or other public way. Further, in no instance shall the total square footage of dining area equal more than 10% of park space, unless the applicant obtains a waiver from the Director of Parks and Recreation or his or her designee.

The following procedures are to be followed in the issuance of outdoor dining permits.

III. **Procedures**

A. **Application and Permit**

1. A food service establishment shall submit an application and fees to the Inspections Division for an outdoor dining permit.
2. The application shall contain a drawing of the dining area that the applicant intends to occupy that includes the location of the street, the sidewalk width and curbing location, and the location of chair and table placement.
3. Upon receipt of a new application, city staff will conduct a site visit to ensure that the measurements provided are correct and that there is sufficient open sidewalk area remaining in accordance with the Americans with Disabilities Act. The permit area will be permanently delineated to ensure compliance.

B. **Permit Conditions**

1. There must be a minimum of four feet of open sidewalk from the outer boundary of the seating area to the curb, and a minimum of five feet on a corner, per the Americans with Disabilities Act, and egress from the building must be maintained free of obstruction