Outdoor Dining Permit Application

Reviewed for Code Compliance
Inspections Division
Approved with Conditions
Date: 08/12/16

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

Check all that apply: ☐ **New** Application for Outdoor Dining
or ☑ **Renewal** Application for Outdoor Dining
☐ Application for dining on **Private Property**

☐ Outdoor Dining in a **Public Park** ☐ If **Renewal,** are there changes to previous permit?
☐ Outdoor Dining in a **Historic District** ☑ **Yes** ☐ **No** Yes, see seating plan
☐ **Petition** for Exception for Special Circumstances
☐ **Liquor License** required?

City Clerk signature for liquor license approval: OK'd by Melissa - bs.
OR Pending Council Date: _____

Location Name & Address: Empire 575 Congress St	**Chart** 037 **Block** A **Lot** 045
Owner Name: 571 Enterprises LLC **Owner Phone #:** 207-406-0344	**Total Square Footage of Proposed Outdoor Dining Area:**[1] 62.5 sq. ft.
Applicant *must* be owner or lessee Name: Theresa Chan / Empire Address: 575 Congress St City, State & Zip: Portland, ME 04101 E-Mail: theresa.b.chan@gmail.com	**Fee:** $80 (Public-Annual) $125 (Private 1X) Total Sq. Ft.: 62.5 Sq. Ft. Fee: (sq ft x $2) $ 125.00 (sq ft x $6 for public parks) **Total Fees:** $ 205.00 **(Permit not issued until all fees are paid)**

Current use: Restaurant
Business name: Empire
Seating area dimensions: 6.25 ft x 10 ft
How many chairs? 6 How many tables? 2
☑ **Yes** Alcohol is served.
☐ **No** Alcohol being served.

Who should we contact: Theresa Chan Phone: 207-406-0344
Address: 575 Congress St, Portland E Mail: theresa.b.chan@gmail.com

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. New applications and renewals are reviewed on an annual basis and should be submitted no later than June 1st.

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: 6/13/16

[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.*

Revised 04-02-15 **This is not a permit; you may not commence ANY work until the permit is issued.**

Department of Permitting and Inspections

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OUTDOOR DINING
Permit Application & Checklist

Permits are required for expanding food service to the outside on ***all properties***. For public properties, the annual fee for Outdoor Dining is $80.00, with an additional fee of $2.00 per square foot of dining area on ***streets, sidewalks or other public ways*** and $6.00 per square foot of dining area in ***city parks***. The total fee for private property placement is $125.00 ($25 application fee and $100 for the Certificate of Occupancy). The fee is due when you drop off your permit application. The square footage fee may be paid when you pick up your permit. ***For purposes of fee calculation, 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.***

Outdoor dining is permitted for the period April 1 - November 15. Barriers must be removed no later than November 15; however, furniture must be removed in inclement weather to allow for sidewalk snow removal. Requests to extend beyond the standard permit period require approval by the City Manager and should include explanation of installation and snow removal plan.

Outdoor dining permits located on public property are only valid for a year.
Outdoor dining permits located on private property are valid permanently with the establishment.

Application Checklist: All of the following information is required and must be submitted.

- [x] **Outdoor Dining Permit Application Form**
- [ ] **A plot plan that shows:**
  - [x] The lot lines, where the building sits on the lot, and the lot and building dimensions
  - [x] The street location, and if it's a corner lot, the intersecting streets
  - [x] The sidewalk location, width, and curbing location
  - [x] The setback dimension from the sidewalk to the building
  - [x] The location of proposed outdoor dining area and its components (tables, chairs, barriers, planters, etc.) placement, including dimensions and total outdoor dining area (in square feet)

  (**NOTE**: Under no circumstances shall an outdoor dining installation prevent a clear passageway for pedestrians. See Outdoor Dining Conditions below for dimensional requirements.)
- [x] **A drawing and/or specification of any proposed barrier solution**
- [x] **Proof of public liability insurance coverage (Not Required for Private Property):** The permit holder is required to produce at the time of submission and maintain public liability insurance coverage in an amount of not less than four hundred thousand dollars ($400,000) combined single limit for bodily injury, death and property damage, naming the City as an additional insured thereon.
- [x] **All documents provided in electronic form according to established Electric Documents Submittal Process.**

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Department of Permitting and Inspections

Electronic Signature and Fee Payment Confirmation

Notice: Your electronic signature is considered a legal signature per state law.

By digitally signing the attached document(s), you are signifying your understanding that this is a legal document and your electronic signature is considered a ***legal signature*** per Maine state law. You are also signifying your intent on paying your fees by the selections below.

1. Once the complete application package has been received by us, and entered into the system
2. You will receive an e-mailed invoice from our office which signifies that your electronic permit application and corresponding paperwork have been entered, ready for payment, to begin the process.
3. You then have the following four (4) payment options:

☐ provide an on-line electronic check or credit/debit card (we accept American Express, Discover, VISA, and MasterCard) payment

☐ call the Inspections Office at (207) 874-8703 and speak to an administrative representative to provide a credit/debit card payment over the phone

☑ hand-deliver a payment method to the Inspections Office, Room 315, Portland City Hall

☐ deliver a payment method through the U.S. Postal Service, at the following address:

City of Portland
Department of Permitting and Inspections
389 Congress Street, Room 315
Portland, Maine 04101

By signing below, I understand the review process starts only once my payment has been received. After all approvals have been met and completed, I will then be issued my permit and it will be sent via e-mail. ***No work shall be started until I have received my permit.***

Applicant Signature: _____ Date: 6/14/16

I have provided digital copies and sent them on: Date: _____

NOTE: All electronic paperwork must be delivered to buildinginspections@portlandmaine.gov or by physical means ie; a thumb drive or CD to the office.

Outdoor Dining Conditions:
All permits for outdoor dining are issued subject to the following conditions.

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Design and Construction:

Sidewalk Layout Dimensional Table

Existing Sidewalk Width (measured from property line to curb)	**Sidewalk Dining Allowed?**	
< 8'0"	No, but see option for petition subject to Planning Authority approval*	
≥ 8'0"	Yes – up to 60% of sidewalk width	
Sidewalk Passage Type	**Sidewalk Passage Required – clear and unobstructed:***	
	Width (minimum)	Height (minimum)
Standard sidewalk	4'0"	6'8"
Street corner	5'0"	6'8"

☑ Outdoor dining area shall not exceed 60% of the sidewalk width. For example, on a 15'0" wide sidewalk, width of dining area may not exceed 9'0".

☑ A continuous, unobstructed sidewalk passage from the outer boundary of the seating area to the curb must be maintained according to the dimensional table above. This width must always contain a continuous unobstructed passage width of at least four feet (4'-0"). In cases where the passage is not straight due to existing obstacles, additional width may be required to ensure that turns can be safely maneuvered. Any request to place outdoor seating in a way that requires existing straight passage to change is discouraged and entirely at the discretion of the City. Requests to relocate moveable street furniture will be considered.

☑ Egress from the building must be maintained free of obstruction per the building code and NFPA Life Safety Code.

☑ Permanent fixtures (such as, but not limited to, awnings, permanent lighting, decks or platforms) – require a building permit separate from the Outdoor Dining permit and are subject to approval by Planning Authority (see below "Additional Review and Regulation").

☑ Umbrellas are permitted without a permit. Umbrellas must be secured or weighted and must maintain the 6'8" minimum height clearance for sidewalk passage.

Barriers:

☑ Are preferred to be free-standing. Physical attachments to a building are subject to administrative review, especially in historic districts.
☑ Consisting of stanchions and ropes/chains are encourage. Sectional fencing is allowed, provided it exhibits a high degree of visual transparency (at least 50% open). Solid or opaque barriers are not allowed.
☑ Shall not exceed 42" in height.
☑ May not include commercial signage (such as advertisements).

*Petition for Exception for Special Circumstances:

If one or more Outdoor Dining Conditions cannot be met because of special circumstances, applicant may petition for an exception. Applicant should indicate on application form whether such a petition is being requested and provide explanation of need for exception. For example, if outdoor dining cannot be accommodated on the sidewalk, the business may petition the City to occupy public right-of-way near their establishment as an alternative location for outdoor dining purposes. In these cases, the applicant may have to compensate the City for the right to occupy that space. Requests shall be reviewed and approved by the Planning Authority on a case-by-case basis and shall take into consideration competing demands in the area.

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Maintenance and Operations:

- ☑ Outdoor dining components must be placed within the permitted area on the sidewalk in such a manner as to allow the free and safe passage of pedestrian traffic. If the tables and chairs are moved and located outside of the permitted outdoor seating area, they must be relocated to within the permitted area. Failure to contain outdoor dining components to the permitted area may result in a reduced permitted area or a revocation of the permit.
- ☑ The permit holder is responsible for keeping the outdoor seating area clean. The sidewalk area where the outdoor dining area is located must be kept neat and free from liter and debris.
- ☑ No food shall be prepared in the designated outdoor dining area.
- ☑ If alcohol is to be served, the permit holder must first be approved for outdoor dining by the City Council. To initiate that process, 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 outdoor dining components 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.

Additional Review and Regulations:

- ☑ If your business is located within a historic district, the outdoor dining permit application must be reviewed and approved by Historic Preservation staff for conformance with these requirements and any additional design standards applicable in historic districts. (For example, specific design standards apply to outdoor dining installations on Wharf Street).
- ☑ Applications for outdoor dining installations within public parks require review and approval by the Planning Authority.
- ☑ Permanent fixtures (such as awnings, permanent lighting, or platforms) planned as part of an outdoor dining installation requires a building permit and are subject to separate review and approval.
- ☑ Petition for use of adjacent on-street parking space for outdoor dining requires review by the Parking Office and approval by the Planning Authority.
- ☑ The permit must be renewed each year. New applications and renewals are reviewed on an annual basis and should be submitted to the City no later than June 1st of each year. late. Sorry.
- ☑ Outdoor dining areas must also meet applicable ADA regulations. ADA accessible seating is required to be provided in outdoor dining scenarios.
- ☑ The permit holder shall comply with all applicable rules and regulations implemented by the City regarding outdoor dining. Refer to Chapter 25 Streets, Sidewalks, and Other Public Places in the City Code of Ordinances for additional regulations on the use of sidewalks.

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

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I/We fully understand that the City of Portland, its agents, officers and employees accept no responsil 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 hereby agree to assume all risk of injury, harm or damage to my/our person or property (including bu 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: 6/13/16

Printed name Theresa Chan

Establishment Empire

Location 575 Congress St. Portland, ME

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