

Order 231-20/21
Passage as an Emergency: 9-0 on 5/3/2021

Effective 5/3/2021

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CITY OF PORTLAND
IN THE CITY COUNCIL

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ORDER EXTENDING
THE EMERGENCY PROCLAMATION TO NOVEMBER 1 2021

ORDERED , that the Proclamation Declaring the Continued State of Emergency and Requirement to Stay at Home, issued by the City Manager Jon P. Jennings on March 24, 2020, and renewed, extended, and amended by the Portland City Council on March 30th, April 13th and April 27th, 2020, repealed with certain provisions retained on May 4, 2020, amended and extended as Order 177-19/20, amended and extended as Order 10-20/21 to September 9, 2020, amended and extended as Order 85-20/21 on September 9, 2020 to October 19, 2020, amended and extended to January 4, 2021 by Order 114-20/21, and amended and extended to May 10, 2021 by Order 191-20/21 is hereby amended to extend the State of Emergency to November 1, 2021; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or her designee to execute any related documents necessary or convenient to carry out the intent of this Order.

EMERGENCY PROCLAMATION

WHEREAS, the outbreak of novel coronavirus disease 2019 (“COVID-19”), a respiratory illness, first detected in Wuhan City, Hubei Province, China, continues to spread among to individuals in a a growing number of international locations, including the United States; and

WHEREAS, on January 31, 2020, the United States Secretary of Health and Human Services announced a nationwide public health emergency to respond to COVID- 19; and

WHEREAS, on March 11, 2020, the World Health Organization (the “WHO”) declared that global health crisis involving COVID-19 is a pandemic; and

WHEREAS, on March 12, 2020, the State of Maine identified and confirmed its first case of COVID-19; and

WHEREAS, on March 13, 2020, the City of Portland, Maine identified and confirmed its first case of COVID-19; and

WHEREAS, on March 16, 2020, the City of Portland declared an emergency and issued an emergency proclamation wherein in, among other things, restaurants and bars were to be closed for in-person gatherings and only open for take-out dining; and

WHEREAS, COVID-19 has been detected in millions of people worldwide and is primarily spread from person to person; and

WHEREAS, COVID-19 is easily transmitted, especially in group settings, and it is essential that the spread of the virus be slowed to protect the ability of public and private health care providers to handle the influx of new patients and safeguard public health and safety; and

WHEREAS, on April 14, 2021 Governor Mills extended the Maine Proclamation of the State of Emergency for another 30 days through to May 13, 2021, when it is likely that the State of Emergency will be extended;

WHEREAS, the Portland City Council deems it proper and necessary to temporarily suspend certain provisions of the Portland City Code of Ordinances relating to traffic, outdoor dining and retail service, and parking in City streets for the purposes of allowing businesses to reopen or continue operating without undue hardship while also maximizing physical distancing;

NOW THEREFORE, BE IT ORDERED, that the Mayor and City Council of the City of Portland, do hereby declare and order as follows:

1. A civil state of emergency continues to exist within the City of Portland.
2. This Proclamation is issued in accordance with, and hereby incorporates by reference, Governor Mills' FY 19/20 Executive Order Numbers 14, 19, 28, 34, 49, 50, 53, 55, 56, and 57, and FY 20/21 Executive Orders 1 to 19, as amended from time to time, and any other Executive Orders hereinafter issued by the Governor relating to Covid-19 and that, by their terms, are applicable to individuals and businesses within the City of Portland, and any interpretive guidance issued by the State regarding those Orders including, but not limited to, the implementation of the State's Restarting Plan, which are all also hereby incorporated into this Order by this reference.
3. The laws and rules outlined in the Land Use Code, including, but not limited to, the Site Plan, Subdivision, Historic Preservation Ordinance, and other procedures applicable to the City planning and land use application and review processes contained in Chapter 14, to the extent they impose limitations on the amount of time permitted for the holding of public hearings, the certification of applications, the holding of neighborhood meetings, the submission of recommendations, any required or necessary voting, the taking of final actions, and the issuance of determinations, are suspended, and any such time limitations are tolled for the duration of this Proclamation.
4. The neighborhood meetings required in Chapter 14 of the City Code may be conducted by an applicant remotely through telephonic, video, electronic or other similar means of remote participation under the following conditions:
 - A. Notice of the neighborhood meeting has been widely given to the parties required by the City's code to receive notice by electronic, telephonic, or other means and includes the method by which the public and interested parties may attend;
 - B. The applicant and all individuals speaking on behalf of the applicant in the remote meeting are able to hear and speak during the meeting and members of the public attending the remote meeting are able to hear the applicant and its representatives; and
 - C. Members of the public attending the remote meeting are able to participate through telephonic, video, electronic or other similar means of remote participation.

5. For the duration of this Proclamation, unless earlier rescinded by the City Council, the City Manager may suspend, by written agreement with a person, entity, or service provider providing emergency and essential services, suspend the rules and laws relating to Buildings and Building Regulations (Chapter 6), Licenses and Permits (Chapter 15), and Fire Prevention and Protection (Chapter 10) for all projects or properties undertaking temporary emergency and essential services during the duration of the declared State and City State of Emergency. Any agreement shall outline programmatic details and demonstrate, to the Manager's satisfaction, that the property and land use being undertaken meets minimum life safety requirements and that the suspension of the rules and laws suspended hereunder and otherwise applicable will not unduly impact the health and safety of the public.
6. No City-issued permit, license, application, or appeal shall be considered granted, approved or denied, constructively or otherwise, due to a failure of the permit granting authority to act within the time required by a City ordinance, bylaw, rule or regulation; provided, however, that the permit granting authority acts within 45 days of the termination of this Proclamation; provided, however, that the applicant and Permit Granting Authority may agree to alternative timing in writing.
7. This Order is enacted as an emergency, and shall remain in effect through November 1, 2021.
8. The City Manager in consultation with the City's Traffic Engineer is hereby authorized to temporarily close certain non-arterial streets to through traffic as necessary to protect the health and safety of pedestrians, employees and patrons of local businesses, and other members of the public, including by promoting effective physical distancing. The City Manager or his designee may promulgate rules and regulations relating to these temporary street closures as necessary to protect public health and safety.
9. Beginning on June 1, 2020 and continuing through the termination of this Emergency Proclamation, whichever comes first, City ordinances and regulations related to the operation and licensing of dining and retail services shall be temporarily suspended in order to allow display, storage, or sale of merchandise and sale, service, and consumption of food and/or drinks, including alcoholic beverages, in certain temporary outdoor areas on public and/or private property subject to the following:
 - All retail or food establishment operations must be in accordance with existing ordinances and licensing requirements unless the Department of Permitting and Inspections has issued a temporary permit or extension of existing permit pursuant to the authority granted herein.
 - Food service establishments with frontage on City streets closed to through traffic by the City Manager may be authorized to add or expand their premises with outdoor dining in sidewalks, portions of street rights-of-way, or other public spaces by obtaining a Temporary Extension of Premise and/or

Temporary Outdoor Dining Permit in accordance with temporary rules and regulations adopted by the Department of Permitting and Inspections.

- Any food service establishment may apply for a Temporary Extension of Premise and/or Temporary Outdoor Dining Permit authorizing outdoor dining on City sidewalks, parks, or in privately owned parking lots in accordance with temporary rules and regulations adopted by the Department of Permitting and Inspections.
 - The number, and location, and permitting fees for dining facilities in dedicated City parking spaces (“Parklets”) will be governed by rules and regulations promulgated by the City Manager.
 - The City Manager is hereby temporarily authorized to modify the City’s Traffic Schedule in order to change designated “parking” spaces to “no parking” spaces as he, in consultation with the City’s Traffic Engineer, deems necessary and appropriate to protect the public health and safety, including in order to allow the operation of additional Parklets throughout the City.
 - Access required under the Americans with Disabilities Act shall be maintained.
 - In order to allow retail establishments to improve physical distancing capabilities after resuming operations, retailers may apply for a Temporary Sidewalk/Street Sale Permit authorizing outdoor display and sale of retail items in accordance with temporary rules and regulations adopted by the Department of Permitting and Inspections.
 - No street artists shall be permitted on any City street closed to through traffic under the authority granted herein. The City Manager may modify regulations governing street artists, including placing limits on location and operation, as he may deem necessary in order to maximize appropriate physical distancing in compliance with guidance from the Maine CDC, and to protect public health and safety.
 - The Permitting and Inspections Department may grant permits for temporary structures on City property in connection with a permit issued pursuant to this order and regulations thereunder. Structures must comply with all applicable, building, life safety, and other requirements.
10. The City Manager or his designee is authorized to temporarily modify or limit public access to City parks or other grounds as deemed necessary to protect the public health and safety. The City Manager is further authorized to modify existing rules and regulations relating to the sale of food and the operation of food trucks.
11. Violation of or failure to comply with this Order is punishable by a fine of \$500.00

per occurrence plus the costs of prosecution.

12. If any provision of this Proclamation or its application to any person or circumstance is held to be invalid, then the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Proclamation are severable.