

ORDINANCE NO. **153044**

An Ordinance amending Chapter 17.27 KIOSKS of the Code of the City of Portland by repealing said chapter and substituting therefore a new chapter, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. Chapter 17.27 KIOSKS of the Code of the City of Portland needs extensive amending so as to reflect the experience gained in the management of the kiosks.
2. That because of the number of changes, recommended Chapter 17.27 KIOSKS should be rewritten.
3. This action has been recommended by the City Engineer and approved by the Commissioner in charge and the City Attorney.

NOW, THEREFORE, the Council directs:

- a. Chapter 17.27 KIOSKS of the Code of the City of Portland hereby is repealed and the following Chapter KIOSKS is substituted, to be entitled, numbered and to read as follows:

Chapter 17.27
KIOSKS

17.27.010 Application. This chapter shall apply only to structures and enclosures designated as kiosks and located in the transit mall area.

17.27.020 Definitions. As used in this chapter, the following terms shall have the following definitions. (a) "Trip planning kiosks." Structures used and maintained by the Tri-County Metropolitan Transportation District of Oregon to disseminate information about bus schedules, routes, and related information.

(b) "Poster kiosks." Structures used to disseminate information about civic, cultural, and educational events.

(c) "Concessions kiosks." Structures designed for the sale of certain merchandise.

(d) "Bulletin board kiosk." A Structure designed for use by the general public for the dissemination of information.

(e) "Display kiosks." Structures designed for the display of merchandise by commercial enterprises within the City of Portland.

(f) "Retail information kiosks." Structures designated for use by the Association for Portland Progress in which to place business directories for the convenience of the public.

(g) "Mall area" means that area bounded by S.W. Broadway on the west, W. Burnside on the north, S.W. Fourth Avenue on the east, and S.W. Madison on the south, but not including the street and sidewalk areas on S.W. Broadway and S.W. Fourth Avenues.

17.27.025 Kiosks locations. (a) Trip planning kiosks are located as follows: East side of SW 6th Avenue between SW Main and SW Salmon Streets, SW Morrison and SW Alder Streets, SW Washington and SW Stark Streets and SW Oak and SW Pine Streets; east side of SW 5th Avenue between SW Madison and SW Main Streets, SW Yamhill and SW Morrison Streets, SW Alder and SW Washington Streets and SW Stark and SW Oak Streets.

(b) Poster kiosks are located as follows: West side of SW 6th Avenue between SW Salmon and SW Taylor Streets and SW Washington and SW Stark Streets; east side of SW 5th Avenue between SW Madison and SW Main Streets and SW Pine and SW Ankeny Streets.

(c) Concessions kiosks are located as follows: West side of SW 6th Avenue between SW Taylor and SW Yamhill Streets; east side of SW 5th Avenue between SW Taylor and SW Yamhill Streets.

(d) Bulletin board kiosk is located on the east side of SW 5th Avenue between SW Yamhill and SW Morrison Streets.

(e) Display kiosks are located as follows: East side of SW 6th Avenue between SW Alder and SW Washington Streets; east side of SW 5th Avenue between SW Alder and SW Washington Streets and SW Washington and SW Stark Streets.

(f) Retail information kiosks are located as follows: West side of SW 6th Avenue between SW Alder and SW Morrison Streets; east side of SW 5th Avenue between SW Alder and SW Morrison Streets.

17.27.030 Poster kiosks - Permitted uses. (a) Organizations or institutions sponsoring civic, cultural, educational, recreational or athletic events to be held in publicly-owned buildings, or in public rights-of-way pursuant to a permit issued by the city, may post notices of these events in poster kiosks upon filing a request with the city engineer.

(b) Non-profit organizations soliciting contributions for money or materials to provide assistance to the general public welfare and having the required solicitation permit from the bureau of licenses may post notices informing the public that their campaign is taking place with approval of the city engineer and commissioner in charge.

17.27.040 Bulletin board kiosks - Permitted uses. Any nonprofit organizations or institutions sponsoring civic, cultural, educational, recreational or athletic events anywhere within the city may post notices of those events on bulletin board kiosks upon filing a request with the city engineer. The city engineer may restrict the size of such notices to encourage the maximum possible use of the kiosks. The person posting such communications shall include on the message the date upon which it is posted. The city engineer may, within his discretion, remove from bulletin board kiosks notices which announce past events, which have become illegible, which have been posted more than one month, or which are not dated. In addition, the city engineer on the first working day of each month may remove everything posted on each bulletin board kiosk.

17.27.045 Retail information kiosks - Permitted uses. The Association for Portland Progress is restricted to providing that information necessary to enable the public to find a business or enterprise located in downtown Portland.

17.27.050 Kiosk - Insurance requirements. No permit to operate a display, concessions, trip planning or retail information kiosk shall be issued until the proposed permittee has signed a statement that it shall hold harmless the city, its officers and employees, and shall indemnify the city, its officers and employees for any claims for property damage or personal injury which may result from any activity carried on under the terms of the permit. Permittee shall furnish and maintain sufficient public liability, product liability, and property damage insurance to protect the permittee and the city from all claims for property damage or personal injury, including death, which may arise from or in connection with operations under the permit. Such insurance shall provide coverage of not less than \$100,000 for bodily injury for each person, \$300,000 for each occurrence, and \$300,000 for property damage per occurrence. This insurance shall be without prejudice to coverage otherwise existing therein, and shall name as additional insureds the city of Portland, its officers and employees, and shall further provide that the policy shall not terminate or be cancelled prior to the completion of the contract without thirty days written notice to the auditor of the city.

17.27.055 Maintenance and repairs to concessions and display kiosks by permit holder. Permit holders are responsible for all maintenance of display, concession kiosks and retail information kiosks. No permit holder shall repair a kiosk without the city engineer's approval. Permit holders are not responsible for repairs necessitated by acts of vandalism, acts of God, acts of third parties over whom the permittees have no control, or any other damages arising other than from the fault of the permittee.

17.27.060 Display or concessions kiosk - Permit requirement. No person shall conduct business or display merchandise from any kiosk without first obtaining a permit from the city engineer and paying the fee required to the city treasurer. It shall be unlawful to sell goods or services for present or future delivery from any kiosk except as provided by this chapter.

17.27.070 Application for display of concessions permit. Application for a permit to conduct business or display merchandise from a kiosk shall be made at the office of the city engineer in a form deemed appropriate by the city engineer. This application shall include but not be limited to the following information:

- (a) The name and address of applicant;
- (b) The expiration date of applicant's city business license;
- (c) A valid copy of all necessary permits required by state or local authorities.

17.27.080 Denial or revocation of permit. (a) The city engineer may deny, revoke or suspend the permit of any person to operate a concessions or display kiosk in the city upon finding:

- (1) That such person has violated any of the provisions of this chapter;
- (2) That any necessary state or local authority permit has been suspended, revoked, or cancelled;
- (3) That the permittee does not have a currently effective insurance policy in the minimum amount required by Section 17.27.050; or
- (4) That the permittee does not have a valid city business license.

(b) The city engineer shall at least once each quarter review the operations of each concessions and display kiosk for compliance with the requirements of this chapter and notify the permittee of any discrepancies observed. Failure to correct noted discrepancies is cause for revocation or suspension of the permit to operate for 30 days.

(c) The city engineer shall give written notice of a denial, revocation or suspension to the affected permittee or applicant. If the action is a revocation based upon Subsection (a)(2) or (3) of this section, it shall be effective upon giving such notice to the permittee. Otherwise, the notice shall provide that it shall become effective within ten days unless appealed to the city council by filing a written notice of appeal with the city auditor. Any revocation effective immediately may also be appealed to the council by such a filing within ten days.

17.27.090 Form and conditions of display or concessions kiosk permit. The permit issued shall be in a form deemed suitable by the city engineer. In addition to naming the permittee and other information deemed appropriate by the city engineer, the permit shall contain the following conditions:

(a) Permits for display and concessions kiosks shall be issued for a term of two years and may be extended an additional year upon written request by the permittee and approval of the city engineer. The request for extension to be in writing and to be received by the city engineer not less than 45 days prior to the permit expiration date. The provision of this chapter relating to extension of a permit by the city engineer shall become effective July 1, 1983;

(b) The permit issued shall be personal and not transferable in any manner;

(c) The permit is valid only when used at location(s) designated on the permit;

(d) The permit is subject to the further restrictions of this chapter.

17.27.100 Advertisement for bids. Prior to licensing any display or concessions kiosk user, the city engineer shall advertise in a newspaper having general circulation within the city of Portland not less than once a week for two consecutive weeks. All bids shall be in cash, sealed, and placed with the city engineer within fourteen days of the date of the second advertisement for bids. Within fifteen working days of the bid closing date, the city engineer shall announce the highest bidder.

If two or more highest bids for a kiosk are for identical amounts, the party whose bid is received first shall be deemed the highest bidder. If a tie still exists, the city engineer shall require the tied parties to rebid.

The highest bidder who has met all requirements of this chapter shall be granted a permit to operate the kiosk at the specified location upon providing evidence of having a current business license.

If only one bid is received and the bidder meets the requirements of this chapter, that bidder shall pay either \$150.00 for the two year permit period or the amount of the bid, whichever is greater.

17.27.105 Display and concessions kiosk fee payments. Permittees who have applied for and have received approval for a one year extension to their display or concessions kiosk permit shall pay within ten days of the day upon which the city engineer sends notice a fee equal to one-half their bid or \$75.00, whichever is greater.

17.27.106 Retail information kiosk fee payment. The Association for Portland Progress shall pay an annual fee of \$150.00.

17.27.110 Restrictions on display kiosks. Any commercial enterprise having its place of business within the city of Portland may place a bid with the city engineer for a permit to operate a display kiosk.

Displayed merchandise shall be changed at least ten times each twelve month period for which the permit is issued, commencing with the date of issue.

17.27.120 Restrictions on concessions kiosks. All persons conducting business from a kiosk must display in a prominent manner the permit issued by the city engineer under the provisions of this chapter.

Concession kiosks shall be used only for the sale of flowers, plants, and those items associated with such sales. Flowers, plants, and associated items will not be stored or placed outside a concessions kiosk. Regulations for delivery to businesses located adjacent to the S.W. 5th Avenue transit mall apply to these kiosks.

All persons conducting business from a kiosk must pick up any paper, cardboard, wood or plastic containers, wrappers, or any litter of any form which is deposited by any person on the sidewalk or street within 25 feet of the place of conducting business. Each person conducting business on a public sidewalk under the provisions of this chapter shall carry a suitable container for the placement of such litter by customers or other persons.

No permittee shall make any loud or unreasonable noise by any method to advertise or attract attention to his or her goods.

17.27.130 Appeal. The auditor shall place the appeal on the council calendar at the first convenient opportunity and shall notify the city engineer. At the appeal hearing, the council shall hear the city engineer or representative, who shall state the grounds for his action. The party appealing may supply oral or written testimony. The council shall hear and determine the appeal, and its decision shall be final and effective immediately.

17.27.140 Duties, responsibilities and liabilities. Nothing in this chapter shall be construed to alter or affect in any way the duties, responsibilities and liabilities created by or referred to in Sections 14.20.160, 14.20.170, 17.28.010, and 17.28.020 of the city code and Sections 1-105 and 9-507 of the Portland City Charter.

ORDINANCE No.

Section 2. The Council declares that an emergency exists because delay in the enactment of this Ordinance will result in an unnecessary hardship in informing prospective users of these kiosks of the regulations concerning their use; therefore, this Ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, APR 1 1982

Commissioner Mike Lindberg
Harlan G. Scott:mmc
March 22, 1982

Attest:


Auditor of the City of Portland

Calendar No. 849

ORDINANCE No. 153044

Title

An Ordinance amending Chapter 17.27 KIOSKS of the Code of the City of Portland by repealing said chapter and substituting therefore a new chapter, and declaring an emergency.

THURSDAY

Filed MAR 25 1982

GEORGE YERKOVICH
Auditor of the CITY OF PORTLAND

By: *Anderson*
Deputy

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
JORDAN		
LINDBERG	/	
SCHWAB	/	
STRACHAN	/	
IVANCIE	/	

FOUR-FIFTHS CALENDAR	
JORDAN	
LINDBERG	
SCHWAB	
STRACHAN	
IVANCIE	

INTRODUCED BY
Commissioner Mike Lindberg

NOTED BY THE COMMISSIONER
Affairs
Finance and Administration
Safety
Utilities
Works <i>ml/ms</i>

BUREAU APPROVAL
Bureau:
Street & Structural Engineering
Prepared By: Harlan G. Scott;mmc
Date: 3-22-82
Budget Impact Review:
<input type="checkbox"/> Completed <input checked="" type="checkbox"/> Not required
Bureau Head: <i>R.O. Schmidt</i>
Richard O. Schmidt, Chief

CALENDAR	
Consent	Regular <input checked="" type="checkbox"/>

NOTED BY
City Attorney
City Auditor
City Engineer Approved John M. Lang
By: <i>John M. Lang</i>