

ORDINANCE No. 184925

*Extend revocable permit to Perierra Creperie on behalf of Ankeny Street businesses to close SW Ankeny St between SW 2nd Ave and SW 3rd Ave through January 31, 2012. (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. June 20, 2011 Council passed Ordinance 184690 authorizing closure of SW Ankeny Street between SW 2nd and SW 3rd from 7:00 a.m. June 20, 2011 through 11:00 a.m. November 1, 2011 for the purposes of converting the street area to cafe seating as a pilot program.
2. On behalf of Ankeny Street businesses Perierra Creperie, 220 SW Ankeny Street, Portland, Oregon 97204, through Dustin Knox, requests to extend the pilot closure through January 31, 2012.
3. The business owners agree that the summer pilot program has been good for business; however, they are striving to make changes to provide a more interesting and interactive feel to the space. To achieve their goals and to fully evaluate the program, they request the opportunity to extend the pilot dates to include three winter months.
4. The abutting property owners have agreed in writing to extension of the initial pilot program.
5. Applicant has agreed to pay the cost of lost meter revenue to the City of Portland during the closure to ensure the extended program is cost neutral to the City.
6. Applicant has provided an Insurance Certificate, which has been approved by the City Attorney, with limits of coverage that will meet the minimum requirements for liability of a public body as set forth in ORS 30.260 through 30.300 which names the City, its officers, agents and employees as an additional insured.
7. Observations and comments made about the pilot program resulted in updated wording under conditions, item numbers 5, 12, 13, and 14 of this ordinance.
8. The Traffic Engineer, Fire Marshal, Office of Neighborhood Involvement and Portland Police Bureau have no objection to the closure for the purposes of the extended pilot program.
9. Granting said permission, under certain conditions, will not be detrimental to the public interest.

NOW, THEREFORE, the Council directs:

- a. The Mayor and Auditor are authorized to grant extension of the revocable permit to Perierra Creperie on behalf of Ankeny Street businesses authorizing closure of SW Ankeny Street between 2nd and 3rd through January 31, 2012 for the continuation of the pilot program.

The provisions of Section 14A.50.10 related to possession, sale and consumption of alcoholic beverages, for the purpose of this permit only, are hereby waived for the purpose of serving customers in the seated area subject to the following conditions:

- (1) This permit is for the use of the street area only, and shall not exempt the permittee from obtaining any license or permit required by the City Code or Ordinances for any act to be performed under this permit, nor shall this permit waive the provisions of any City Code, Ordinance, or the City Charter, except as herein stated.
- (2) The area west of SW 2nd and east of SW 3rd avenues from the south curb line of SW Ankeny to the north curb line of SW Ankeny shall be permitted for cafe seating for the duration of this ordinance. Each abutting business shall obtain a Sidewalk Cafe permit for their section and shall have insurance on file listing the City of Portland as additionally insured.
- (3) The permittee shall obtain from the City Noise Officer any requirements or permits regarding noise levels past 10:00 p.m. for the duration of the closure. In any case service to the outdoor seating shall not extend past 2:00 a.m.
- (4) The street area shall be used for customer seating and service from abutting businesses on SW Ankeny between 2nd and 3rd. The permittee or other businesses on the closed street shall not sublet any portion of the street area to businesses that do not currently operate a business on SW Ankeny between 2nd and 3rd avenues.
- (5) Sidewalks are permitted to the extent that they are used as a pass through for service to and from each abutting business to the outdoor seating area but otherwise shall remain unobstructed and open for pedestrian through passage all hours, all days and shall be ADA accessible. Entrances to each outdoor seating area shall have ADA accessible ramps from elevated curb to seating area.
- (6) This permit is for use of the street area only and the street shall be subject to necessary use by emergency vehicles.
- (7) The permittee shall provide immediate access to utility facilities for emergency repair and with 48 hours advance written notice access for routine maintenance.

- (8) The permittee shall hold the City of Portland, its officers, agents, and employees free and harmless from any claims for damages to persons or property, including legal fees and costs of defending any actions or suits, including any appeals which may result from the use of the street area under this permit.
- (9) This permit is revocable at any time at the pleasure of the City Council and no expenditure of money hereunder, lapse of time, or other act or thing shall operate as an estoppel against the City of Portland, or be held to give the permittee any vested or other right.
- (10) Nothing contained herein shall limit the authority of the Bureau of Police and the Bureau of Transportation in maintaining the public peace and safety and upon a request of said Bureaus, the permittee shall immediately reopen the street to its normal use.
- (11) The permittee shall obtain required Oregon Liquor Control Commission permits and shall comply with all provisions of said permits. Failure to obtain or comply with OLCC regulations shall result in immediate revocation of this permit.
- (12) The permittee shall, at their own expense, be responsible for cleaning the area within and around the closure for the duration of the permitted time and prior to opening the street to vehicular traffic on January 31, 2012.
- (13) The permittee shall attend monthly meetings with representatives from PBOT, ONI Crime Prevention and Liquor Licensing managers, Police, and OLCC to discuss safety, alcohol use, neighborhood noise and other livability concerns to ensure a responsible use of the space.
- (14) The permittee shall hire uniformed security between the hours of 9:00 p.m. and 3:00 a.m. or per the parameters established in the monthly meetings as per item 13 above.
- (15) This permit is personal to the permittee and may not be transferred, assigned or otherwise conveyed, and will require insurance with limits of coverage that will meet the maximum requirements for liability of a public body as set forth in ORS 30.260 through 30.300 or as it may be required by subsequent amendment and naming the City, its officers, agents and employees as an additional insured. Said insurance is to be kept in full force and effect at all times. This permit is automatically revoked without further action by the Council if this insurance is permitted to lapse, is canceled, or for any other reason becomes inoperative.

2801

184925

184925

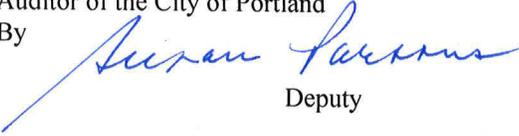
Section 2. This Ordinance will not become effective until the permittee has filed with the City Auditor a document accepting the terms and conditions hereof which has been approved by the City Attorney. This Ordinance shall be automatically revoked without further consideration by the Council if the acceptance is not on file with the City Auditor within 10 calendar days of the passage of this Ordinance.

Section 3. The Council declares that an emergency exists because delay in the enactment of this Ordinance will result in an unnecessary hardship on the part of the applicant as to the status of the requested permit; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council, OCT 12 2011

Mayor Sam Adams
Prepared by: Jeri Jenkins; slg
Date Prepared: September 21, 2011

LaVonne Griffin-Valade
Auditor of the City of Portland

By  Deputy

388181

Agenda No.
ORDINANCE NO. 184925
 Title

*Extend revocable permit to Perierra Creperie on behalf of Ankeny Street businesses to close SW Ankeny St between SW 2nd Ave and SW 3rd Ave through January 31, 2012. (Ordinance)

INTRODUCED BY Commissioner/Auditor: MAYOR SAM ADAMS	CLERK USE: DATE FILED <u>OCT 07 2011</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Adams	LaVonne Griffin-Valade Auditor of the City of Portland By: <u>[Signature]</u> Deputy
Position 1/Utilities - Fritz	
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Leonard	
BUREAU APPROVAL Bureau: Bureau of Transportation Group Manager: Greg Jones Development & Capital Program Other: <u>[Signature]</u> Prepared by: Jeri Jenkins:slg Date Prepared: 9-21-11	ACTION TAKEN:
Financial Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Council Meeting Date October 12, 2011	
City Attorney Approval	

AGENDA
TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion)
CONSENT <input checked="" type="checkbox"/>
REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	✓	
2. Fish	✓	
3. Saltzman	✓	
4. Leonard	✓	
Adams	✓	