

ORDINANCE No. 188836

*Grant revocable permit to Portland Saturday Market, Inc. to use portions of SW Ankeny St and portions of SW 1st Ave for market operations and to close portions of SW Ankeny St, SW Naito Pkwy and NW Naito Pkwy during certain hours (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. The City of Portland (the "City") through the Bureau of Transportation ("PBOT") granted a revocable permit to Portland Saturday Market, Inc., 108 West Burnside Street, Portland, Oregon 97209-4091 ("PSM" or "Permittee"), in Ordinance No. 186361, passed by Portland City Council (the "Council") on December 4, 2013 for use and closure of portions of SW Ankeny Street, SW 1st Avenue, and NW/SW Naito Parkway for market operations (the "Market").
2. It has become necessary to issue a new permit in order to extend the dates of operation and expand the use and closure areas for the Market as follows (this "Permit"):
 - a. Use of certain designated areas of SW Ankeny Street for traffic control purposes only from 12:01 a.m. on Saturdays to 8:00 p.m. on Sundays. This area more particularly described as that portion of SW Ankeny Street lying between the east right of way line of SW 2nd Avenue (being variable in width) and the west right of way line of SW 1st Avenue (being variable in width) labeled as **Parcel 1** and depicted on **Exhibit A** attached and incorporated by reference.
 - b. Use of certain designated areas of SW 1st Avenue and SW Ankeny Street for placement of the Market booths, stands, platforms, etc., and for vehicle loading and unloading from 12:01 a.m. on Saturdays to 8:00 p.m. on Sundays. The area is more particularly described as follows:

Commencing at the southwest corner of Block 34 in the duly recorded Plat of the City of Portland, recorded on March 6, 1869 in Plat Book 2, Page 2, Multnomah County Plat Records; thence northerly along the westerly line of said Block, a distance of 180.00 feet to the Point of Beginning; thence westerly and perpendicular to the westerly line of said Block, an approximate distance of 32.00 feet, said point being to the light rail tracks within SW 1st Avenue; thence northwesterly continuing along said light rail tracks for an approximate distance of 104.00 feet, said point being on the westerly extension of the north right-of-way line of SW Ankeny Street (being 30 feet wide); thence easterly along said right-of-way line to the west right-of-way line of SW Naito Parkway (being 100 feet wide); thence south along said Naito Parkway right-of-way line, a distance of 30.00 feet to the south right-of-way line of said SW Ankeny Street; thence westerly along said south right-of-way line, an approximate distance of 124.00 feet,

said point being on the west line of said Block; thence southerly along said west line, an approximate distance of 88.00 feet to the Point of Beginning, excluding therefrom Skidmore Fountain within SW 1st Avenue and Labeled as **Parcel 2** on said **Exhibit A**.

c. Use and closure of the most westerly southbound travel lane of SW/NW Naito Parkway lying between the south right-of-way line of NW Couch Street (being 60.00 feet wide) and a line drawn approximately 30.00 feet north of the southeast corner of Block 34 of Said City of Portland Plat extended easterly, labeled as **Parcel 3** on said **Exhibit A**. Use and closure of Parcel 3 is from 6:00 a.m. Saturday through 7:00 p.m. Sunday each weekend that the Market is operational.

d. Use and closure of the most easterly northbound travel lane of SW/NW Naito Parkway lying between the south right-of-way line of NW Couch Street (being 60.00 feet wide) and a line drawn approximately 51.00 feet north of southwest corner of Block 83 of said City of Portland Plat, extended westerly, labeled as **Parcel 4** on said **Exhibit A**. Use and closure of Parcel 4 is limited to 6:00 a.m. Saturday through 7:00 p.m. Sunday each weekend that the Market is operational, except between May 1st and September 30th of each year when Better Naito (a multi-use path) is installed within the closure area described above. During these dates, loading and unloading may occur only between the hours of 6:00 a.m. to 10:00 a.m. and 5:00 p.m. to 7:00 p.m. Saturday and 6:00 a.m. to 10:00 a.m. and 4:30 p.m. to 6:30 p.m. Sunday. During those hours, all vehicles loading and unloading must be parked within one (1) foot of the curb to allow for two-way bicycle travel west of the vehicles within Better Naito. Vehicles in violation to the loading times and/or vehicle locations will be subject to citation by PBOT Parking Enforcement.

e. The following events require lane closures on SW/NW Naito Parkway. Loading and unloading, as referred to in Section 1.c and 1.d. will not be allowed while these events are underway on SW/NW Naito Parkway. The hours of use on SW/NW Naito Parkway will be specific to each event. PBOT will provide traffic control plans to PSM and the event organizer indicating which lanes will be closed for the event and what, if any lanes, can be utilized by PSM during these events.

Shamrock Run, typically one Sunday in March
 Race for the Roses, typically one Sunday in April
 Bridge to Bridge, typically one Sunday in April
 Doggie Dash, typically one Saturday in May
 Cinco Run, typically one Sunday in May
 Pride Parade, typically one Sunday in June
 Bridge Pedal, typically one Sunday in August (also both southbound lanes)
 Race for the Cure, typically one Sunday in September
 Portland Marathon, typically one Sunday in October (also both southbound lanes)
 RLH ½ Marathon, typically one Sunday in October

Jingle Bell Run, typically one Sunday in December

3. That the Portland Police Bureau, the Fire Bureau, and PBOT have approved the proposed revisions to the street closure and street use.
 - a. The Permittee shall be responsible for submitting a traffic control plan for approval by the City annually as a condition of this Permit and shall be responsible for implementing all traffic control requirements.
4. That the granting of this Permit, under certain conditions, will not be detrimental to the public interest.

NOW, THEREFORE, the Council directs:

- a. That the Commissioner-in-Charge and the Auditor are authorized to grant this Permit to PSM; Permittee, to close and use during the times prescribed in Section 1.2 above, those streets and avenues as shown on the plan of said **Exhibit A**, from February 28, 2018 through December 31, 2020, subject to the following conditions:
 - (1) This Permit is revocable at any time by the Council in the event the public's need requires it and is also contingent on there being a minimum disturbance to the public. If adequate sanitary facilities are not provided, cleanliness is not maintained, or for any reason the Director of the Bureau of Transportation, the City Engineer, the City Traffic Engineer, or the Bureau of Police feels that it is not in the best interest of the public to continue, the Permittee shall cease the operations authorized by this Permit and may, if they wish, appeal the Director of the Bureau of Transportation's, the City Engineer's, the City Traffic Engineer's, or the Police Bureau's decision to the Council and no expenditure of money or lapse of time or other act or thing shall operate as an estoppel against the City or be held to give the Permittee any vested or other right upon such revocation.
 - (2) During the term of this Permit, an abutting property owner may petition the Council to modify or revoke this Permit if there is a change in ownership of the abutting property, a significant change in the use of the abutting property, or major renovation of the abutting property.
 - (3) No vehicles will be allowed within the Parcel 1 and/or Parcel 2 at any time when closed for the Market except emergency vehicles and vehicles unloading and loading for the Market.
 - (4) The Permittee shall, at their own expense, provide necessary signs, barricades and illumination, as required by PBOT and further, the Permittee shall reimburse the City for any additional cost of enforcing traffic and parking regulations resulting from activities of the Market.
 - (5) That pedestrian walkways be maintained within Parcel 2 at all times.

- (6) The Permittee shall comply with all requirements of PBOT.
- (7) This Permittee shall be responsible for maintenance and clean up of any paper, cardboard, wood or plastic containers, wrappers, or glass, or any litter in any form which is deposited by any person on the sidewalk or street within the right-of-way specified for use and closure.
- (8) Portland City Code Section 14.A.50.010 is waived for the duration of this Permit to allow alcohol in the closure area during Market hours.
- (9) That permission is hereby given to the Permittee to utilize on-street metered parking on SW Ankeny Street during the Market. The Permittee will pay PBOT a fee of \$12.00 per metered parking space per day of operation to off-set lost meter revenue. The City Engineer may revoke Permittees permission to use the metered parking spaces after due notice, if the Permittee's continued use of metered parking is not in the best interest of the public. The fee will be adjusted annually on July 1st pursuant to the Transportation Fee Schedule.
- (10) That the Portland Police Bureau, Portland Fire & Rescue, Portland Parks & Recreation, Maintenance Operations and PBOT will submit to the City Engineer, by January 31st of each year, a list of the additional costs beyond normal service to PSM that are incurred as a result of the Market. These costs shall be reimbursed to the City based on the actual costs to each Bureau providing services. These calendar year costs for City services must be paid no later than the day prior to the opening of the Market following the year the costs were incurred.
- (11) PSM will pay the City a fee of \$150.00 per day of operation between February 28, 2018 and December 31, 2020. The fee shall be adjusted annually on the anniversary of the commencement date of this Permit as long as this Permit shall remain in effect. The fee shall be adjusted based on the Consumer Price Index (CPI) for all Urban Consumers (1982-84 equals 100), Portland, Oregon, for All Items, or a comparable Index published by the United States Bureau of Labor Statistics if such Consumer Price Index be discontinued. The redetermination of the fee for each period shall be based on the most recently available CPI, which precedes the adjustment date.
- (12) 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 additional insured with an endorsement to the policy. 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

anceled, or for any other reason becomes inoperative.

(13) The Permittee shall hold the City, its officers, agents, and employees free and harmless from any claims for damages to persons or property, including legal fees and cost of defending any actions or suits, including any appeals which may result from the use of the street area under this Permit.

(14) This Permit 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.

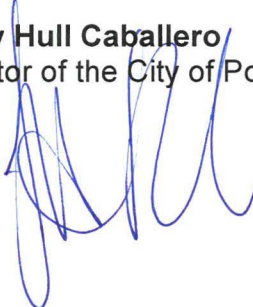
Section 2. This Ordinance will not become effective until the Permittee has filed a document with the City Auditor, which has been approved by the City Attorney, accepting the terms and conditions hereof. This Ordinance shall be automatically revoked without further consideration by the Council if the acceptance together with documents, insurance and fees required are not on file with the City Auditor within two 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 Permittee 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, FEB 28 2018

Commissioner Dan Saltzman
Prepared by: Rich Eisenhauer
Date Prepared: January 30, 2018

Mary Hull Caballero
Auditor of the City of Portland
By



Deputy

Agenda No. **188836**
Ordinance NO. 188836
 Title

*Grant revocable permit to Portland Saturday Market, Inc. to use portions of SW Ankeny St and portions of SW 1st Ave for market operations and to close portions of SW Ankeny St, SW Naito Pkwy and NW Naito Pkwy during certain hours (Ordinance)

<p>INTRODUCED BY Commissioner/Auditor: Commissioner Dan Saltzman</p> <p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance & Administration – Wheeler</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman <i>Don Saltzman</i></p> <p>Position 4/Safety - Eudaly</p> <p>BUREAU APPROVAL</p> <p>Bureau: PBOT Group Manager: Christine Leon <i>Christine Leon</i> Asst. Director: Chris Warner <i>Chris Warner</i></p> <p>Prepared by: Rich Eisenhauer <i>RAE</i> Supervisor: Jody Yates <i>JY</i> Date Prepared: January 30, 2018</p> <p>Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>City Auditor Office Approval: required for Code Ordinances</p> <p>City Attorney Approval: required for contract, code, easement, franchise, charter, Comp Plan <i>GA</i></p> <p>Council Meeting Date February 28, 2018</p>	<p>CLERK USE: DATE FILED FEB 20 2018</p> <p>Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p> <p>ACTION TAKEN:</p>
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AGENDA
<p>TIME CERTAIN <input type="checkbox"/></p> <p>Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion)</p>
<p>CONSENT <input checked="" type="checkbox"/></p>
<p>REGULAR <input type="checkbox"/></p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>

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