

BY AUTHORITY

ORDINANCE NO.  
SERIES OF 2001

878

COUNCIL BILL NO. 839  
COMMITTEE OF REFERENCE:

A BILL

Public Works

For an ordinance granting a revocable permit subject to certain terms and conditions, to Peerless Apartments, LLC, their successors and assigns, to encroach with various items into an alley lying between 24<sup>th</sup> Street, Park Avenue West, Champa Street, and Curtis Street in Block 115, Stiles Addition to Denver.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

**Section 1.** The City and County of Denver hereby grants to Peerless Apartments, LLC, their successors and assigns ("Permittee"), a revocable permit to encroach with over-hangs into right-of-way 2 inches and light fixture encroaching one foot or less ("Encroachments") in the following described area ("Encroachment Areas"):

A one foot wide parcel of land, being a portion of the alley contiguous to the northwesterly side of lots 31 and 32, Block 115, Stiles Addition to the City and County of Denver, as originally recorded in the Book of Plats, page 30 in Arapahoe County, said parcel also lying within the Northeast Quarter of Section 34, Township 3, Range 68 West, of the sixth Principle Meridian, City and County of Denver, State of Colorado, being more particularly described as follows:

The Southeasterly 1.0' of the alley contiguous to Lots 31 and 32, in Block 115, Stiles Addition to the City of Denver, City and County of Denver, State of Colorado.

The above parcel contains 50 square feet (0.0012 acres), more or less.

1       **Section 2.** The revocable permit ("Permit") granted by this ordinance is expressly  
2 granted upon and subject to each and all of the following terms and conditions:

3       (a) Permittee shall obtain a street occupancy permit from the Public Works Permitting at  
4 2000 West 3<sup>rd</sup> Avenue, 303-446-3759, prior to commencing construction.

5       (b) Permittee shall be responsible for obtaining all other permits and shall pay all costs  
6 that are necessary for installation and construction of items permitted herein.

7       (c) Permittee shall join the Statewide Notification Association of Owners and  
8 Operators of Underground Facilities by contacting the Utility Notification Center of Colorado,  
9 12600 West Colfax Avenue, Suite B-310, Lakewood, Colorado 80215.

10       (d) Permittee is fully responsible for any and all damages incurred to facilities of the Water  
11 Department and/or drainage facilities for water and sewage of the City and County of Denver due  
12 to activities authorized by the permit. Any and all replacement or repair of facilities of the Water  
13 Department and/or drainage facilities for water and sewage of the City and County of Denver  
14 attributed to the Permittee shall be made by the Water Department and/or the City and County of  
15 Denver at the sole expense of the Permittee. In the event Permittee's facilities are damaged or  
16 destroyed due to the Water Department's or the City and County of Denver's repair, replacement  
17 and/or operation of its facilities, repairs will be made by the Permittee at its sole expense.

18       (e) Permittee shall comply with all requirements of affected utility companies and pay for  
19 all costs of removal, relocation, replacement or rearrangement of utility company facilities. Existing  
20 telephone facilities shall not be utilized, obstructed or disturbed.

21       (f) All construction in, under, on or over the Encroachment Area shall be accomplished  
22 in accordance with the Building Code of the City and County of Denver. Plans and Specifications  
23 governing the construction of the Encroachments shall be approved by the Manager of Public Works  
24 and the Director of Building Inspection Division prior to construction. Upon completion, a  
25 reproducible copy of the exact location and dimensions of the Encroachments shall be filed with the  
26 Manager of Public Works.

27       (g) The sidewalk and street/alley over the Encroachment Area shall be capable of  
28 withstanding an HS-20 loading in accordance with the latest AASHTO Specifications. The  
29 installations within the Encroachment Area shall be constructed so that the paved section of the  
30 street/alley can be widened without requiring additional structural modifications. The sidewalk shall  
31 be constructed so that it can be removed and replaced without affecting structures within the

1   Encroachment Area.

2           (h)    Permittee shall pay all costs of construction and maintenance of the Encroachment.  
3   Upon revocation of the permit or upon abandonment Permittee shall pay all costs of removing the  
4   Encroachment from the Encroachment Area and return the Encroachment Area to its original  
5   condition under the supervision of the City Engineer.

6           (i)    Permittee shall remove and replace any and all street/alley paving, sidewalks, and  
7   curb and gutter, both inside the Encroachment Area and in the rights-of-way adjacent thereto, that  
8   become broken, damaged or unsightly during the course of construction. In the future, Permittee  
9   shall also remove, replace or repair any street/alley paving, sidewalks, and curb and gutter that  
10   become broken or damaged when, in the opinion of the City Engineer, the damage has been  
11   caused by the activity of the Permittee within the Encroachment Area. All repair work shall be  
12   accomplished without cost to the City and under the supervision of the City Engineer.

13          (j)    The City reserves the right to make an inspection of the Encroachments contained  
14   within the Encroachment Area. An annual fee of \$100.00 shall be assessed.

15          (k)    This revocable permit shall not operate or be construed to abridge, limit or restrict the  
16   City and County of Denver in exercising its right to make full use of the Encroachment Area and  
17   adjacent rights-of-way as public thoroughfares nor shall it operate to restrict the utility companies  
18   in exercising their rights to construct, remove, operate and maintain their facilities within the  
19   Encroachment Area and adjacent rights-of-way.

20          (l)    During the existence of the Encroachments and this permit, Permittee, its successors  
21   and assigns, at its expense, and without cost to the City and County of Denver, shall procure and  
22   maintain a single limit comprehensive general liability insurance policy with a limit of not less than  
23   \$500,000.00. All coverages are to be arranged on an occurrence basis and include coverage for  
24   those hazards normally identified as X.C.U. during construction. The insurance coverage required  
25   herein constitutes a minimum requirement and such enumeration shall in no way be deemed to limit  
26   or lessen the liability of the Permittee, its successors or assigns, under the terms of this permit. All  
27   insurance coverage required herein shall be written in a form and by a company or companies  
28   approved by the Risk Manager of the City and County of Denver and authorized to do business in  
29   the State of Colorado. A certified copy of all such insurance policies shall be filed with the Manager  
30   of Public Works, and each such policy shall contain a statement therein or endorsement thereon  
31   that it will not be canceled or materially changed without written notice, by registered mail, to the

1 Manager of Public Works at least thirty (30) days prior to the effective date of the cancellation or  
2 material change. All such insurance policies shall be specifically endorsed to include all liability  
3 assumed by the Licensee hereunder and shall name the City and County of Denver as an additional  
4 insured.

5 (m) Permittee shall comply with the provisions of Article IV (Prohibition of Discrimination  
6 in Employment, Housing and Commercial Space, Public Accommodations, Educational Institutions  
7 and Health and Welfare Services) of Chapter 28 (Human Rights) of the Revised Municipal Code of  
8 the City and County of Denver. The failure to comply with any such provision shall be a proper basis  
9 for revocation of this permit.

10 (n) The right to revoke this permit is expressly reserved to the City and County of Denver.

11 (o) Permittee shall agree to indemnify and always save the City and County of Denver  
12 harmless from all costs, claims or damages arising, either directly or indirectly, out of the rights and  
13 privileges granted by this permit.

14 **Section 3.** That the Permit hereby granted shall be revocable at any time that the Council  
15 of the City and County of Denver shall determine that the public convenience and necessity or the  
16 public health, safety or general welfare require such revocation, and the right to revoke the same  
17 is hereby expressly reserved to the City and County of Denver; provided however, at a reasonable  
18 time prior to Council action upon such revocation or proposed revocation, opportunity shall be  
19 afforded to Licensee, its successors and assigns, to be present at a hearing to be conducted by the  
20 Council upon such matters and thereat to present its views and opinions thereof and to present for  
21 consideration action or actions alternative to the revocation of such Permit.

22 **Section 4.** That this Permit shall be of no force or effect until the following things have  
23 been done and performed:

24 (a) Licensee shall have filed with the Manager of Public Works a written  
25 acceptance of the terms and conditions of this ordinance together with a fee for filing with the Clerk  
26 and Recorder in and for the City and County of Denver. The acceptance shall be in substantially the  
27 following form:

28 Date: \_\_\_\_\_

29  
30 We, the undersigned do hereby accept all of the terms and conditions recited  
31 in Ordinance No. \_\_\_\_\_, Series of 20\_\_\_\_.

32  
33 Signed by: \_\_\_\_\_  
34 (Licensee)

1  
2 By: \_\_\_\_\_  
3 (Name of Officer)  
4

5 (b) Licensee shall have filed with the Manager of Public Works all insurance  
6 policies and certificates required herein; and

7 (c) The Manager of Public Works shall have certified in writing that the foregoing  
8 requirements have been performed.

9 PASSED BY THE COUNCIL October 15 2001

10 Open Unanimous - PRESIDENT PRO-TEM

11 APPROVED: [Signature] - MAYOR Oct. 16 2001

12 ATTEST: [Signature] - CLERK AND RECORDER,  
13 EX-OFFICIO CLERK OF THE  
14 CITY AND COUNTY OF DENVER  
15

16 PUBLISHED IN THE DAILY JOURNAL Oct. 12, 2001 Oct. 19, 2001

17 PREPARED BY: PATRICK A. WHEELER, ASSISTANT CITY ATTORNEY 10/3/01

18 REVIEWED BY [Signature] - CITY ATTORNEY 10/4 2001

19 SPONSORED BY COUNCIL MEMBER(S) \_\_\_\_\_

