

## **PUBLIC WALKWAYS OCCUPANCY PERMIT**

30151

This Public Walkways Occupancy Permit ("Permit") is granted this 26th day of March, 2006, pursuant to minute order adopted by the City Council of the City of Long Beach at its meeting held on February 6, 2006, to **ECCO'S PIZZA, INC.**, ("Permittee"), whose address is 2125 Bellflower Boulevard, Long Beach, California 90815, as the operator of the "**Ecco's Broasted Chicken**" restaurant and lessee of premises at 2125 Bellflower Boulevard, Long Beach, California.

9                   Permission is granted to Permittee to occupy the public right-of-way with the  
10 following obstruction: **low barrier, two (2) tables and eight (8) chairs** at 2125 Bellflower  
11 Boulevard, Long Beach, California. Dimensions and location of the area to be occupied  
12 are as shown on Exhibit "A", incorporated by reference and made a part of this Permit;  
13 provided that all obstructions are placed only within the permit area shown on Exhibit "A".

14 This Permit is granted with reference to the following facts:

15                   1.    Permittee proposes to occupy the public right-of-way as shown on  
16                   Exhibit "A"; and  
17                   2.    The proposed occupancy will not now or at any time interfere with  
18                   continued public use of the public street right-of-way; and  
19                   3.    That there is no present or foreseeable conflicting public need for the  
20                   proposed use of the public street right-of-way area and its temporary withdrawal from  
21                   public use will not be injurious or detrimental to the public; and  
22                   4.    That this use of a portion of the public street right-of-way is consistent  
23                   with proper and lawful street uses and the use is approved; and  
24                   5.    The City Engineer has determined that this use is in compliance with  
25                   Chapter 14.14 of the Long Beach Municipal Code, all related to temporary use of the public  
26                   rights-of-way.

27 The use of the public street right-of-way is granted upon and subject to the  
28 following terms and conditions:

1           1.     The minimum width of the public walkway shall be ten feet, or as  
2 otherwise approved by the City Council pursuant to Chapter 14.14 of the Long Beach  
3 Municipal Code, and any obstruction must permit at least five feet of unobstructed area of  
4 public walkway.

5           2.     The obstruction shall abut the property and not be located in a manner  
6 which interferes with the flow of pedestrian or other traffic.

7           3.     The maximum height of any such obstruction shall be six feet and all  
8 such obstructions shall be entirely portable, except as specifically authorized by the City  
9 Engineer.

10          4.     This permit may be immediately suspended for a designated time  
11 period at any time in the event that, in the discretion of the City Council or City Manager,  
12 such obstruction would interfere with street improvement activities, construction activities,  
13 cleaning efforts or other similar activities.

14          5.     The obstruction shall be kept in a good state of repair and in a safe,  
15 sanitary and attractive condition.

16          6.     Such obstruction may not be located within twenty feet from an  
17 intersection (measured to the prolongation of the near curb of the intersecting street) or  
18 within ten feet from a driveway or alley (measured to the near end of the fully depressed  
19 portion of an apron-type driveway or to the prolongation of the near curb of the driveway)  
20 unless otherwise approved by the City Council pursuant to the considerations specified in  
21 Chapter 14.14 of the Municipal Code.

22          7.     The public street right-of-way shall be used by Permittee only for the  
23 obstruction described above and in the area shown on Exhibit "A".

24          8.     The area in front of the entrance to the business shall not be  
25 obstructed by barricades, chairs, tables or other furniture.

26          9.     The Permittee shall place all obstructions, and any accessories or  
27 equipment located within a dining or entertainment area, in strict accordance with Fire  
28 Department and Health and Human Services Department standards and contained within

1 Chapter 14.14 of the City of Long Beach Municipal Code.

2           10. No surface improvements, included but not limited to special paving  
3 surfaces, may be removed or altered by the Permittee unless approved in advance in  
4 writing by the City Engineer.

5           11. The Permittee shall not allow cleaning chemicals, or other foreign  
6 matter to flow into the parkway tree well, and shall otherwise protect the health of adjacent  
7 street trees, and shall likewise prevent the discharge of litter, cleaning chemicals and all  
8 other foreign matter to the storm drain system.

9           12. The Permittee shall protect any parkway trees in the immediate vicinity  
10 of the permit area from damage due to the Permittee's cleaning or other activities on the  
11 public walkway. The Permittee shall not interfere with the City's access to parkway trees  
12 for maintenance purposes. Any special maintenance of the parkway trees is the  
13 responsibility of the Permittee and must be performed by a qualified landscape contractor  
14 acting under a permit from the City's Street Landscaping Division. The City shall not be  
15 held financially responsible for damage to Permittee's sidewalk furniture or awnings  
16 occurring in the course of regular street tree maintenance.

17           13. Upon any termination of this Permit, whether by revocation or  
18 otherwise, Permittee shall remove the obstructions authorized by this Permit at the sole  
19 discretion of the City Engineer and shall otherwise restore the public street right-of-way to  
20 a condition substantially the same as existed immediately prior to the occupancy provided  
21 for by this Permit. Should Permittee fail or refuse to remove the obstructions, the City may  
22 do so and, in such event, the security deposit paid by Permittee shall be applied to the  
23 City's costs. Permittee shall reimburse the City for any costs in excess of the security  
24 deposit. In the event of removal by the City of all or any portion of the obstructions, City  
25 shall not be liable for any damage to or loss of any property of Permittee.

26           14. The following additional conditions shall apply to public walkway  
27 occupancy permits for dining or entertainment areas:

28           A. Any dining or entertainment area shall be defined by placement

1 of sturdy fencing or other suitable barriers, not to exceed 48 inches in height, as approved  
2 by the city engineer. Such barriers may only be affixed to public property with the prior  
3 approval of the city engineer;

8 C. All dining and entertainment which takes place on the public  
9 right of way shall conform to the requirements of Chapter 8.80 of the municipal code  
10 regarding noise. Complaints regarding noise shall be logged by city staff and may be the  
11 basis for suspension, cancellation, or non-renewal of a permit.

14                   15. Any permit issued within the downtown area as defined on Exhibit "B"  
15 and made a part of this permit shall comply with all of the foregoing requirements and the  
16 following additional requirements:

17                           A.    No tents or windbreaks may be used in, over, or around dining  
18 or entertainment areas.

22 C. Menu boards must be portable, located within the dining area,  
23 and must not exceed five feet, six inches tall. Menu boards may be either a single pole  
24 pedestal of painted metal or a board attached to the inside of the barrier, parallel to the  
25 barrier

Upon expiration, a new permit must be obtained on the basis of a new

1 application and payment of a new fee and any security deposit amount due. Renewal of  
2 the permit is not automatic and there is no right or entitlement to any use of the public right-  
3 of-way. Security deposits may be adjusted from year to year based on permit compliance  
4 and enforcement cost history. This Permit shall never be construed as the grant by the  
5 City of any right to permanently use or occupy all or any portion of the public right-of-way;  
6 nor shall it ever be construed as a waiver on the part of the City, or as an estoppel against  
7 it, which would in any manner whatsoever bar or limit, or otherwise prejudice, its right to  
8 at any time whatsoever require a discontinuance of the use or occupancy of all or any part  
9 of the public street right-of-way, the removal therefrom of all or any obstructions erected  
10 or maintained under this Permit and the restoration of such public street right-of-way to a  
11 clean condition, all at the sole cost and expense of Permittee.

12                   Notices of violation of any of the terms and conditions of this permit may be  
13 issued by the City of Long Beach. Within the downtown area as defined on Exhibit "B",  
14 preliminary informal notices may be issued by Downtown Long Beach Associates. The  
15 enforcement process is set forth on Exhibit "C", attached hereto, and made a part of this  
16 permit. Notwithstanding the above, the City may revoke this Permit at any time by giving  
17 thirty (30) days written notice to Permittee or cancel the permit for noncompliance with its  
18 terms. Such notice shall be signed by the City Manager, postage pre-paid, and addressed  
19 to Permittee at its address provided above.

20                   Permittee accepts this public right-of-way in its present condition and agrees  
21 to maintain the same in a safe, clean and orderly condition. Any and all uses made of the  
22 public right-of-way shall be at the sole risk, cost and expense of Permittee. Permittee, by  
23 its acceptance of this Permit, agrees to indemnify, defend, save and keep the City, its  
24 officers, agents and employees free and harmless from and against any and all liability as  
25 well as from and against any and all loss, claims, demands, damages, expenses and costs  
26 of whatsoever nature arising out of or in any manner resulting, directly or indirectly, from  
27 Permittee's operations on or the condition, use or misuse of the public street right-of-way,  
28 including liability, claims or damages to or as a result of any structures or fixtures on the

1 public street right-of-way or appurtenances to it.

2                   In partial performance of this obligation, Permittee shall obtain and keep in  
3 full force and effect such public liability insurance and property damage insurance as  
4 required by the Long Beach Municipal Code.

5                   Nothing in this Permit shall be construed to excuse compliance by Permittee  
6 with any and all of the laws and ordinances of the City and State; neither shall this Permit  
7 be deemed to obviate the necessity of Permittee's obtaining such other permits or licenses  
8 as are required to conduct specific activities within the area, including but not limited to  
9 entertainment or the sale, service or consumption of alcoholic beverages.

10                  16.       The terms of this permit shall be enforced by the procedure set forth  
11 on Exhibit "C", attached and made a part of this permit.

12                  In case suit shall be brought for the recovery of possession of all or any  
13 portion of the public right-of-way or because of the breach of any covenant contained in  
14 this Permit to be kept and performed on the part of Permittee, Permittee shall pay to the  
15 City reasonable attorneys' fees which shall be fixed by the court.

16                  Permittee shall not assign this Permit, or any interest in it, nor shall this  
17 Permit, or any interest in it, be subject to transfer or assignment by order of any court. Any  
18 such transfer or assignment shall not create any right whatsoever in the transferee or  
19 assignees and shall entitle the City Manager, at his discretion, to terminate this Permit.

20                  The acceptance of this Permit by Permittee shall be endorsed on this Permit  
21 and shall be an acceptance by Permittee of all of the terms and conditions of this Permit  
22 and an agreement to abide and comply with it. Permittee further acknowledges that  
23 Permittee is aware of the requirements of Long Beach Municipal Code Chapter 14.14, and

24                  ///

25                  ///

26                  ///

27                  ///

28                  ///

Robert E. Shannon  
City Attorney of Long Beach  
333 West Ocean Boulevard  
Long Beach, California 90802-4664  
Telephone (562) 570-2200

1 that Permittee shall conduct all activities hereunder in compliance with such chapter.

2  
3 DATED this 26th day of March, 2006. 7

4  
5 **CITY OF LONG BEACH**, a municipal corporation

6 By Robert E. Shannon  
7 City Manager

8 "CITY"

9 ACCEPTED this 11th day of January, 2006. 7

10  
11 **ECCO'S PIZZA, INC.**

12 By: Robert E. Shannon  
13 Title: President

14 By: John P. Peck  
15 Title: President

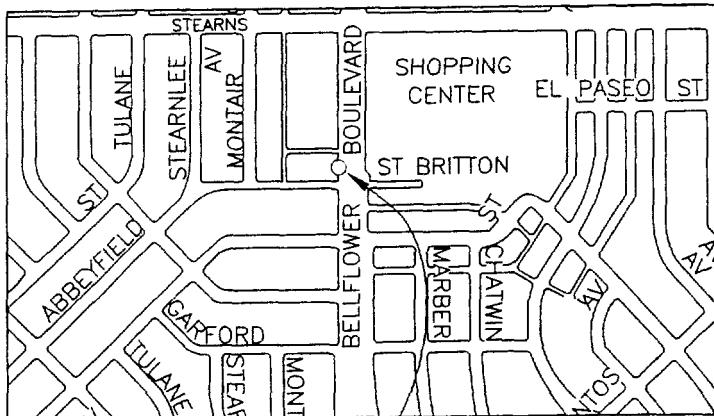
16 "PERMITTEE"

17  
18 Approved as to form this 5th day of March, 2006. 7

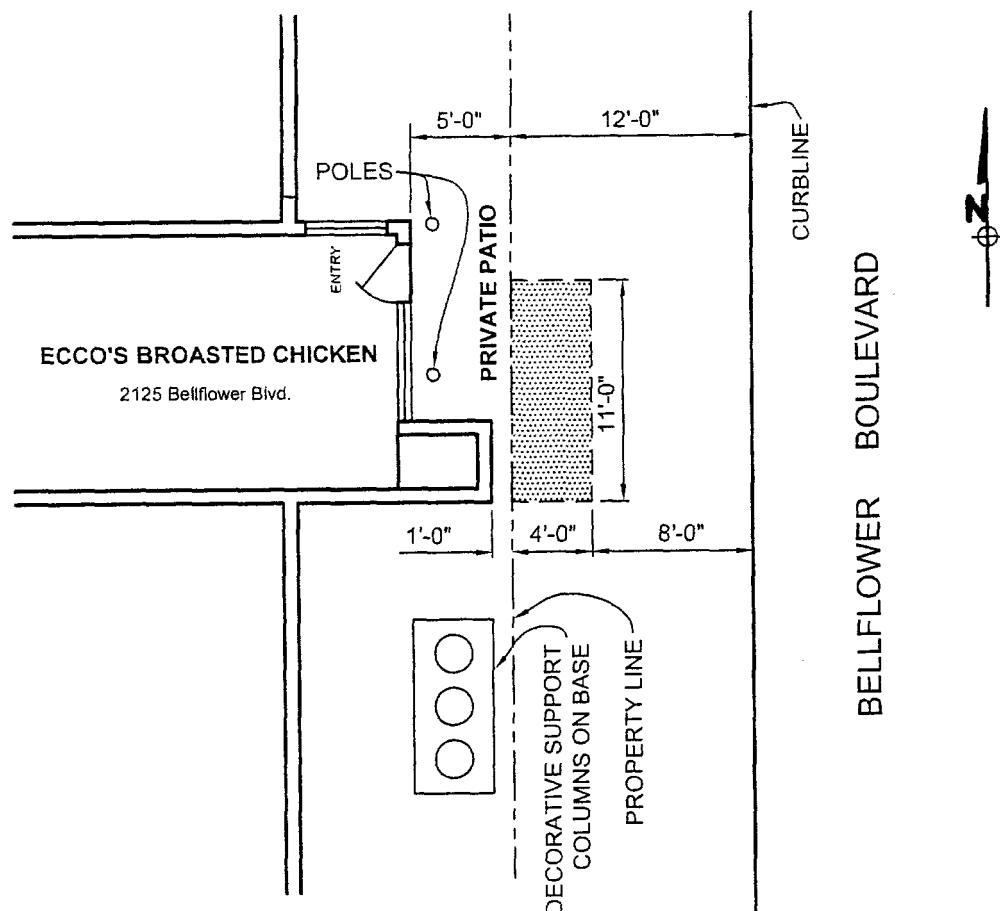
19 ROBERT E. SHANNON, City Attorney

20  
21 By Howard Conway  
22 Deputy

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24  
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**ECCO'S BROASTED  
CHICKEN**



SHOWS AREA OF PERMIT

CITY OF LONG BEACH - CALIFORNIA  
DEPARTMENT OF PUBLIC WORKS, ENGINEERING BUREAU

**PUBLIC WALKWAYS OCCUPANCY  
PERMIT**  
**ECCO'S BROASTED CHICKEN**  
**2125 North Bellflower Blvd.**

**EXHIBIT A**

SHEET 1 OF 2

**List of Approved Furnishings and Accessories**  
(Attachment to Public Walkways Occupancy Permit for Sidewalk Dining Purposes)

Restaurant: Ecco's Bistro (Hawaiian) Permittee: James Xanthas

Address: 2126 Bellarine Dr Telephone: 562 597-3357

Tables  
number: 12

Chairs  
number: 8

Umbrella(s)  
height & number: \_\_\_\_\_

Heater(s)  
height & number: \_\_\_\_\_

Menu board  
note: maximum height of 5 ft 6 in, maximum width of 2 ft  
& none permitted in the coastal zone

Waiter station  
size: \_\_\_\_\_

Planters for trees or other greenscaping  
describe: \_\_\_\_\_

Other: \_\_\_\_\_

We intend to make occasional use of the permit area for live or recorded entertainment  
(Note: 1) A separate entertainment permit is required  
2) Television monitors are prohibited)

Permittee signature: J. Xanthas

Date: 05-09-06

Print name here: James Xanthas



This list of furnishings and accessories is effective only when attached to a completed Public Walkways Occupancy Permit.

EXHIBIT "B"

"Downtown area" means the area bounded northerly by the centerline of Tenth Street; westerly by the centerline of Maine Avenue north of First Street, and the centerline of Golden Avenue south of First Street and the centerline of Golden Shore and its southerly prolongation; easterly by the centerline of Lime Avenue north of First Street and the centerline of Alamitos Avenue and its southerly prolongation south of First Street; southerly by the mean high tide line of the Pacific Ocean and its prolongation across the entrance to Pacific Terrace Harbor and Queen's Way Landing Boat Basin.

EXHIBIT "C"

PUBLIC WALKWAYS OCCUPANCY PERMITS  
ENFORCEMENT PROCESS

1. Letter of information sent to permittee regarding Municipal Code requirements and requested to correct an observed violation of permit conditions.
  - If not remedied in 10 working days, send official Notice of Violation.
2. Notice of Violation
  - Indicates that permittee can be found in default for failure to comply with permit conditions per Municipal Code Section 14.14.090.
  - Notes that uncorrected violations will be reported to the City Council at the next permit application.
  - Alerts permittee that the Alcoholic Beverage Control (ABC) will be notified of all permits declared in default.
  - If violation of permit conditions is not corrected within 10 working days, send Second Notice of Violation by certified mail.
  - Copies of Notice of Violation to be sent to the City Manager, Downtown Long Beach Associates (DLBA) and the Redevelopment Agency.
3. Second Notice of Violation
  - Inform permittee that "On (date 10 working days hence) you will receive a Notice of Default if permit violations not corrected."
  - If permit violations not corrected within 10 working days, send Notice of Default by certified mail.
  - Copies of Second Notice of Violation to be sent to the City Manager, DLBA and the Redevelopment Agency.
4. Notice of Default by Department of Public Work
  - Provides permittee 10 working days to remedy violation.
  - "If permittee fails or refuses to remedy the default within the time specified, the right of the permittee to use the public walkway shall cease and the City shall have the right to remove the public walkway obstruction at permittee's expense"(LBMC 14.14.090).
  - If a Notice of Default is issued, the security deposit that was paid with the permit application will be forfeited.
  - Second ABC notice of permit status upon actual default.
  - City Manager, DLBA and Redevelopment Agency informed when final default occurs.
5. City pick-up of obstructions at permittee's expense and/or possible legal action to restrain use of sidewalk by the City Prosecutor.
6. Prior to New Permit Issuance:
  - Payment of new permit processing fee and security deposit.
  - Payment of any fees, damages, or City costs assessed for prior code enforcement actions.