

31869

PUBLIC WALKWAYS OCCUPANCY PERMIT

(WITH CANOPY)

This Public Walkways Occupancy Permit ("Permit") is granted this 15<sup>th</sup> day of September, 2010, pursuant to minute order adopted by the City Council of the City of Long Beach at its meeting held on August 24, 2010 to CONGREGATION (LONG BEACH CHAPTER) LLC, a California limited liability company ("Permittee"), whose address is 201 E. Broadway, Long Beach, California, as the operator of Congregation Ale House and lessee of premises at 201 E. Broadway, Long Beach, California.

Permission is granted to Permittee to occupy the public right-of-way with the following obstructions: **low barrier, six (6) tables, twelve (12) chairs (bench seats for each table), two (2) nine-foot heaters** at 201 E. Broadway, Long Beach, California. Dimensions and location of the area to be occupied are as shown on Exhibit "A", incorporated by reference and made a part of this Permit; provided that all obstructions are placed only within the permit area shown on Exhibit "A".

Permittee is further granted permission to occupy part or all of the area described on Exhibit "A" with a Canopy Awning, as shown on Exhibit "B", pursuant to the conditions set forth on Exhibit "E", incorporated by reference and made a part of this Permit. The canopy shall be considered part of the "obstructions" as that term is used throughout this Permit, unless otherwise specified.

This Permit is granted with reference to the following facts:

1. Permittee proposes to occupy the public right-of-way as shown on Exhibit "A"; and
2. The proposed occupancy will not now or at any time interfere with continued public use of the public street right-of-way; and
3. There is no present or foreseeable conflicting public need for the proposed use of the public street right-of-way area and its temporary withdrawal from public use will not be injurious or detrimental to the public; and

1           4.       This use of a portion of the public street right-of-way is consistent  
2 with proper and lawful street uses and the use is approved; and

3           5.       The City Engineer has determined that this use is in compliance with  
4 Chapter 14.14 of the Long Beach Municipal Code, all related to temporary use of the  
5 public rights-of-way.

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

8           1.       The minimum width of the public walkway shall be ten (10) feet, or as  
9 otherwise approved by the City Council pursuant to Chapter 14.14 of the Long Beach  
10 Municipal Code, and any obstruction must permit at least five (5) feet of unobstructed  
11 area of public walkway.

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

14          3.       The maximum height of any such obstruction shall be six (6) feet and  
15 all such obstructions shall be entirely portable, except as specifically authorized by the  
16 City Engineer. This height limit shall not apply to a Canopy, the height of which shall be  
17 determined by the City Engineer in consultation with the Fire Marshall and the Building  
18 Official in conformity with all state and local laws and regulations.

19          4.       This Permit may be immediately suspended for a designated time  
20 period at any time in the event that, in the discretion of the City Council or City Manager,  
21 such obstruction would interfere with street improvement activities, construction activities,  
22 cleaning efforts or other similar activities.

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

25          6.       Such obstructions may not be located within twenty (20) feet from an  
26 intersection (measured to the prolongation of the near curb of the intersecting street) or  
27 within ten (10) feet from a driveway or alley (measured to the near end of the fully  
28 depressed portion of an apron-type driveway or to the prolongation of the near curb of the

1 driveway) unless otherwise approved by the City Council pursuant to the considerations  
2 specified in Chapter 14.14 of the Municipal Code.

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

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

7 9. The Permittee shall place all obstructions, and any accessories or  
8 equipment located within a dining or entertainment area, in strict accordance with Fire  
9 Department and Health and Human Services Department standards and contained within  
10 Chapter 14.14 of the City of Long Beach Municipal Code, as amended from time to time.  
11 If the area that is the subject of this Permit is within a redevelopment area, Permittee  
12 must also comply with all limitations imposed by the Redevelopment Agency as part of an  
13 approved master plan or design guidelines.

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

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

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



1           A.     Except as authorized as a Canopy pursuant to the terms and  
2 conditions set forth on Exhibit "E", no tents or windbreaks may be used in, over, or  
3 around any portion of the public right-of-way, including but not limited to the area  
4 that is the subject of this Permit.

5           B.     Temporary banners, not exceeding the height of the barrier  
6 and attached to the barrier are permitted for a two (2) week period no more than  
7 four (4) times per year.

8           C.     Menu boards must be portable, located within the dining area,  
9 and must not exceed five (5) feet, six (6) inches tall. Menu boards may be either a  
10 single pole pedestal of painted metal or a board attached to the inside of the  
11 barrier, parallel to the barrier.

12           D.     The following are prohibited on the public walkway in the  
13 downtown area: television monitors, canopies and A-frame signs.

14           16.    Upon expiration, a new permit must be obtained on the basis of a  
15 new application and payment of a new fee and any security deposit amount due.  
16 Renewal of the Permit is not automatic and there is no right or entitlement to any use of  
17 the public right-of-way. Security deposits may be adjusted from year to year based on  
18 permit compliance and enforcement cost history. This Permit shall never be construed  
19 as the grant by City of any right to permanently use or occupy all or any portion of the  
20 public right-of-way; nor shall it ever be construed as a waiver on the part of City, or as an  
21 estoppel against it, which would in any manner whatsoever bar or limit, or otherwise  
22 prejudice, its right to at any time whatsoever require a discontinuance of the use or  
23 occupancy of all or any part of the public street right-of-way, the removal therefrom of all  
24 or any obstructions erected or maintained under this Permit and the restoration of such  
25 public street right-of-way to a clean condition, all at the sole cost and expense of  
26 Permittee.

27           17.    Notices of violation of any of the terms and conditions of this Permit  
28 may be issued by the City of Long Beach. Within the downtown area as defined on

1 Exhibit "C", preliminary informal notices may be issued by Downtown Long Beach  
2 Associates. The enforcement process is set forth on Exhibit "D", attached hereto, and  
3 made a part of this Permit. Notwithstanding the above, City may revoke this Permit at  
4 any time by giving thirty (30) days written notice to Permittee or cancel the Permit for  
5 noncompliance with its terms. Such notice shall be signed by the City Manager, postage  
6 pre-paid, and addressed to Permittee at its address provided above.

7 18. Permittee accepts this public right-of-way in its present condition and  
8 agrees to maintain the same in a safe, clean, and orderly condition. Any and all uses  
9 made of the public right-of-way shall be at the sole risk, cost, and expense of Permittee.  
10 Permittee, by its acceptance of this Permit, agrees to indemnify, defend, save and keep  
11 City, its officers, agents and employees free and harmless from and against any and all  
12 liability as well as from and against any and all loss, claims, demands, damages,  
13 expenses and costs of whatsoever nature arising out of or in any manner resulting,  
14 directly or indirectly, from Permittee's operations on or the condition, use or misuse of the  
15 public street right-of-way, including liability, claims or damages to or as a result of any  
16 structures or fixtures on the public street right-of-way or appurtenances to it.

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

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

26 21. The terms of this Permit shall be enforced by the procedure set forth  
27 on Exhibit "D", attached and made a part of this Permit.

28 22. In case suit shall be brought for the recovery of possession of all or

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ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1 any portion of the public right-of-way or because of the breach of any covenant contained  
2 in this Permit to be kept and performed on the part of Permittee, Permittee shall pay to  
3 City reasonable attorneys' fees which shall be fixed by the court.

4           23. Permittee shall not assign this Permit, or any interest in it, nor shall  
5 this Permit, or any interest in it, be subject to transfer or assignment by order of any  
6 court. Any such transfer or assignment shall not create any right whatsoever in the  
7 transferee or assignees and shall entitle the City Manager, at his discretion, to terminate  
8 this Permit.

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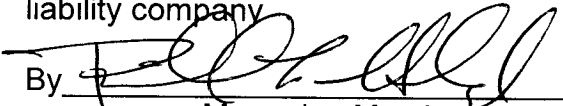
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1 The acceptance of this Permit by Permittee shall be endorsed on this  
2 Permit and shall be an acceptance by Permittee of all of the terms and conditions of this  
3 Permit and an agreement to abide and comply with it. Permittee further acknowledges  
4 that Permittee is aware of the requirements of Long Beach Municipal Code Chapter  
5 14.14, and that Permittee shall conduct all activities hereunder in compliance with such  
6 chapter.

7  
8 CONGREGATION (LONG BEACH  
CHAPTER) LLC, a California limited  
liability company

9  
10 \_\_\_\_\_, 2010 By   
Managing Member  
11 RICHARD T. HALE JR.  
Type or Print Name

12 "PERMITTEE"

13 CITY OF LONG BEACH, a municipal  
14 corporation

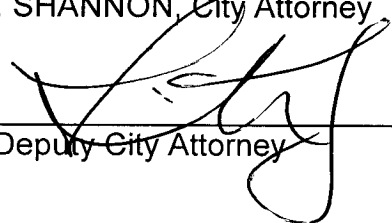
15 9.15, 2010 By   
Assistant City Manager  
City Manager

16 EXECUTED PURSUANT  
TO SECTION 301 OF  
THE CITY CHARTER.

17 "CITY"

18 Approved as to form this 30<sup>th</sup> day of August, 2010.

19  
20 ROBERT E. SHANNON, City Attorney

21 By   
22 Deputy City Attorney



# Congregation

ALE HOUSE



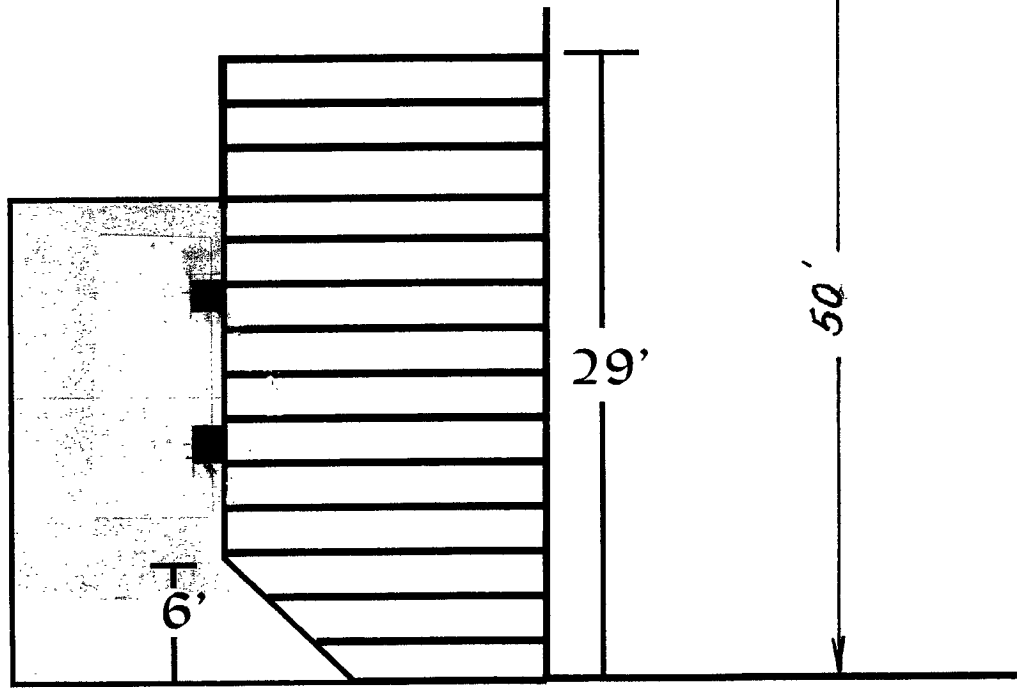
← PROPERTY LINE

BASEMENT ACCESS STAIRS  
(VACATED AREA)

201 E Broadway Ave  
Long Beach, CA 90802

Entrance

The Promenade



sidewalk

Broadway Ave



Permit Area (417 sq ft)



Column Posts



Existing Planter

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

Restaurant: Congregation <sup>Ale House</sup> Permittee: Travis Ensling

Address: 201 E Broadway Telephone: 310 710 9203

Tables number: 6

Chairs number: 12 (bench seats for each table)

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

Heater(s) height & number: 9' - 2 qty

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: existing city landscaping

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

We intend to make occasional use of the permit area for live or recorded entertainment (Note: A separate entertainment permit is required).

**The following are prohibited:**

- canopies (ground supported)
- television monitors

Permittee signature: 

Date: 15 May 2010

Print name here: TRAVIS ENSLING

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



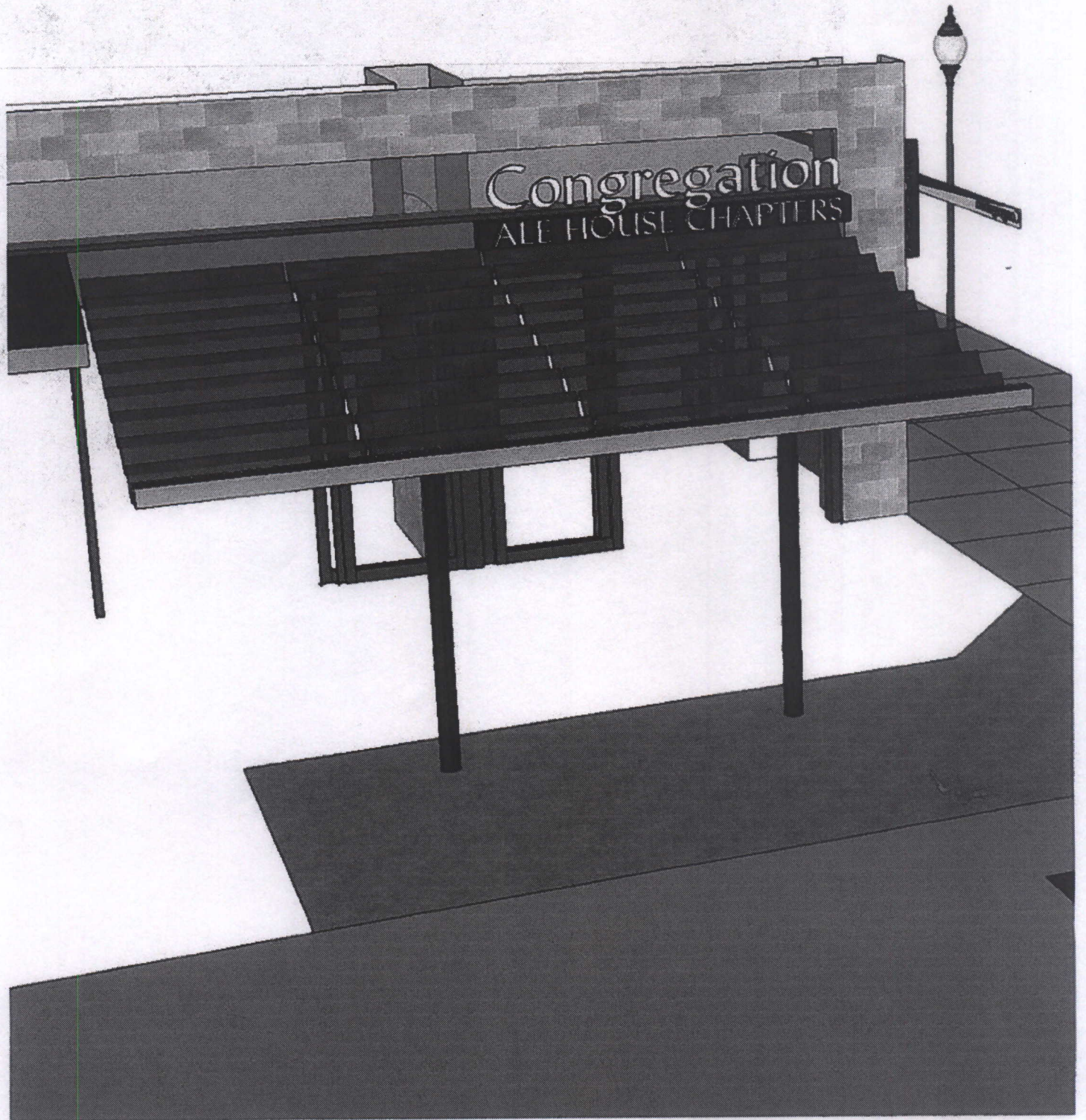


EXHIBIT B



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**EXHIBIT "C"**

"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 "D"

PUBLIC WALKWAYS OCCUPANCY PERMITS  
ENFORCEMENT PROCESS

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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 ten (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 ten (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 ten (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 ten (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 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.

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EXHIBIT "E"

REQUIREMENTS FOR PUBLIC WALKWAYS OCCUPANCY PERMIT WITH CANOPY ("CANOPY PERMIT")

1. A public walkway occupancy permit granted to a business in the Downtown area may include a permit for a canopy structure, including overhead structures and windbreaks, provided that public walkway occupancy permit is maintained in good standing. Should the business not comply fully with the terms and conditions of the public walkway occupancy permit, or fail to pay any fees associated with the permit, the Canopy Permit may be revoked.
2. Such structures must comply with all applicable laws and regulations, including but not limited to all Fire, Health, and Building Code regulations.
3. Such structures shall be a medium-toned beige or shall match the color of the adjacent building.
4. Signage on or adjacent to a canopy shall be limited to business identification signs, and shall be included in the calculation of total signage permitted pursuant to Chapter 21.44 of the Municipal Code.
5. The business, and all structures and signage, shall comply fully with the Conditions of Approval attached hereto.

# EXHIBIT E

## CONDITIONS OF APPROVAL

Address: 201 E. Broadway

Historic Landmark: Insurance Exchange Building

Application No.: HP09-0189

Date: June 14, 2010

1. This approval is for exterior improvements proposed on plans received by the Department of Development Services – Office of Historic Preservation on May 14, 2010. The approved exterior improvements include the installation of awnings, signage, and railings. These plans are on file in this office, except as amended herein.
2. The project must be completed per the plans approved by the Cultural Heritage Commission, including all conditions listed herein. Any subsequent changes to the project must be approved by the Cultural Heritage Commission or the Cultural Heritage Commission staff before implementing. Upon completion of the project, a Cultural Heritage Commission staff inspection must be requested by the Applicant to ensure that the approved plans have been executed according to approved plans and that all conditions have been implemented before OCCUPANCY hold can be released.
3. There is a ten calendar-day appeal period that will lapse at 4:30 p.m., 10 calendar days after the action by the Cultural Heritage Commission is made. Appeal of the Commission's action will not be accepted after this time. A separate fee will apply to appeal an action made by the Cultural Heritage Commission.
4. This Certificate of Appropriateness shall be in full force and effect from and after the date of the rendering of the decision by the Cultural Heritage Commission. Pursuant to the Cultural Heritage Commission Ordinance Section 2.63.070(I), this approval shall expire within one year if the authorized work has not commenced. Should the applicant be unable to comply with this restriction, an extension may be granted pursuant to Section 2.63.070(I) for an additional 12 months maximum. The applicant must request such an extension prior to expiration of this Certificate of Appropriateness. After that time, the applicant will be required to return to the Cultural Heritage Commission for approval. In addition, this Certificate of Appropriateness shall expire if the authorized work is suspended for a 180-day period after being commenced.
5. All required Building permits shall be obtained by the applicant. Building permits must be obtained prior to the implementation of any construction or rehabilitation work. Separate plan check and permit fees will apply.

6. The applicant shall obtain approval of a Public Walkway Occupancy Permit for the outdoor dining area. Contact Sherbert Jones, of Public Works, at (562) 570-6975 to obtain a permit.
7. The primary business sign on The Promenade frontage shall have internally illuminated white reverse channel letters with no other colors present on the face of the sign. The halo lighting shall be white. The raceway portion of the sign shall match the color of the storefront and have routed out letters with push through acrylic letters in white. No portion of the sign shall be mounted on the historic building façade or encroach into the building sign band area. The sign shall meet all other requirements of Chapter 21.44, On Premises Signs, of the Zoning Code.
8. The proposed blade sign on the Broadway frontage shall match the color of the storefront and have routed out letters with push through acrylic letters in white. The letters can have either direct internal illumination or halo lighting, but shall match the lighting style of the "Ale House Chapters" portion of the primary business sign. The blade sign shall be mounted on the storefront, not on the historic building façade.
9. The proposed scallop awning on the exterior of the building along The Promenade shall be constructed of a transparent material in a uniform color and transparency that complements the traditional awnings proposed for the main business entry and Broadway elevation. Per the Cultural Heritage Commission's request, the applicant shall work with staff to select the final color of the awnings. The scalloped awning shall be approximately 24 feet wide and 15 feet deep to cover the outdoor dining area. The two support posts for the scallop awning shall mimic the size and appearance of the window frames on the storefront and shall not exceed 4-inches by 4-inches square. The horizontal support beam above the two posts shall be screened by a valance that matches the color and length of the valance on the traditional awnings. No other supporting posts or structure shall be allowed for the scallop valance and no portion of the fabric awning shall extend vertically down toward the dining area with the exception of the valance to mask the supporting beam.
10. The proposed traditional awnings along Broadway and above the main entry off of The Promenade shall be constructed of a solid fabric with a 30-45 degree angle, a 6-8 inch loose valance in a contrasting color, and the sides shall be enclosed. The traditional awning over the main entry off The Promenade shall match the angle, valance length, and projection of the Broadway elevation.
11. The railing for the outdoor dining area shall be a cable design approved by the Redevelopment Agency for The Promenade. The railing color shall match the metal frame of the storefront. Furniture in the outdoor dining area shall be maintained in good repair, shall all be the same design and material, and shall not be decorated with any advertisements or other signage.



12. The applicant shall work with staff to select appropriate furniture for the outdoor dining area.
  13. Exterior security bars and roll-up doors applied to windows and pedestrian building entrances shall be prohibited.
  14. The proposed alterations should not unnecessarily destroy historic materials or architectural features that characterize the property as historic.
  15. Any damages caused to the building during any phase of the project shall be reported to the Historic Preservation Office and prepared immediately in a manner that is consistent with the Standards.
  16. Any other exterior work not specifically included in the approved scope of work reviewed herein shall require review and approval by the Cultural Heritage Commission.
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