



FLEX-SPACE USE POLICIES, JUNE 2012 **APPLICATION and AGREEMENT**

ADDRESS: _____ **BUSINESS NAME:** _____

The Flex-Space Program was developed to create additional interest in downtown Martinez by expanding and enhancing outdoor dining opportunities to all food service businesses. The objective of the program over time is to draw additional people to the downtown that will shop and eat locally.

A Flex-Space is a high quality platform with railings that provide a safe and friendly outdoor eating experience. The platforms will be installed by the City and placed in one or two parallel parking spaces along the eating establishment's frontage.

COSTS: \$1,200 APPLICATION/BUY-IN FEE, WHICH MAY BE PAID IN QUARTERLY INSTALLMENTS, OVER A THREE YEAR PERIOD, and \$60 PARKING SPACE USE FEE, PER MONTH, PER PARKING SPACE USED, PAID QUARTERLY IN ADVANCE

❖ What can a Flex-Space be used for?

- Only for on-site prepared food service businesses (e.g. restaurant, deli, ice cream parlor, wine bar with appetizer/tapas service and/or "bar and grill"). Food preparation shall not be permitted in the Flex-Space, without prior City and Contra Costa County Environmental Health Department approvals.

❖ On what streets can Flex-Spaces be located?

- Flex-Space platforms may be located on the following streets:
 - Main and Escobar Streets, between Alhambra Avenue and Court Streets
 - Ferry Street, between Green Street and Railroad ROW
 - Castro, Estudillo, Las Juntas and Court Streets, between Ward and Escobar Streets

❖ What parking spaces may be converted to Flex-Space use?

- The parking space(s) to be used as a dining Flex-Space must be 50%, or more, within the frontage of requesting food service business, and **business owner** may sign application for use of parking space(s) to be used as dining Flex-Space, AND/OR.
- A parking space that is less than 50% with the frontage of a food service business requesting a dining Flex-Space, may also be used for, and/or as an extension of, the dining Flex-Space subject to the adjacent **landlord's approval and signature of the business owner application's**. Such "adjacent" added spaces must be fully contained within that landlord's frontage. The food service business permission to use such "adjacent spaces" as dining Flex-Space shall be at the discretion of the landlord, so future tenants of the "adjacent" space cannot force the removal of the dining Flex-Space without both landlord's and food service business owner(s)' permission.

❖ How big can one food services businesses' Flex-Space be?

- The typical "single" dining Flex-Space platform is 7' wide and 16' long, fitting within one parallel parking space. Maximum length of a dining Flex-Space is 32' (a "double" platform within two adjoining parking spaces).
- A portion of the sidewalk adjacent to dining Flex-Space platform may be used as an additional part of the flex-dining area, **providing that a minimum 5' clear path is maintained from the building face to the dining area**. The edge of the dining area alongside the sidewalk's clear path may be defined by the use of planters (typically at the corners) and the dining tables, or with a railing which matches the type used around the Flex-Space dining platform. Approved planters or railings used to define the dining area along the sidewalk would be at the applicant's expense. NOTE: The State Department of Alcoholic Beverage Control ("ABC") requires that beverage service be in a "*clearly defined*" space when ever alcoholic beverages are served outdoors. It is the applicant's responsibility to meet ABC's requirements.

❖ How many food service businesses' can have Flex-Spaces?

- The number of Flex-Space platforms an individual business can have will be determined by the City. A general guideline is that no more than ½ of all parking spaces on one blockface (approximately 4 of the 9 spaces on one side of the street) may be used for dining Flex-Spaces. Should the City find that parking impacts of additional Flex-Spaces in a particular block can be offset with available nearby parking; additional Flex-Spaces may be approved.

❖ **Furniture and Signs: All furniture and accessories are to be provided by business owner, and shall be high quality, commercial grade, and is subject to City review and approval at time of encroachment agreement approval for dining Flex-Space use.**

- All furniture must be metal, painted black, dark green or similar. Plastic, wood, aluminum and similar materials are not to be allowed. Storage of such furniture responsibility of business owner.
- Umbrellas, of canvas material (or similar) are permitted. Solid colors are recommended, but umbrellas with more varied decoration and/or LIMITED product endorsements may be permitted with City approval.
- Permanent structures (such as gazebos) and solid fencing are not permitted. Ornamental low screens and planters (generally 3½ or less in height) may be permitted with City approval on a case-by-case basis.
- Flex-Spaces are not to be used for supplemental advertizing signage/banners etc., but “menu boards” may be allowed with City approval.

❖ **Agreement process and insurance requirements**

- Applicant shall execute an Agreement and obtain an encroachment permit for use of a Flex-Space platform.
- Applicants shall provide a sketch and/or written description of accessories such as umbrellas, furniture, planters that will be placed in the Flex-Space, for City review and approval.
- Applicant shall maintain a current Business License.
- Insurance:
 - As part of the required agreement, all business shall carry liability insurance to indemnify and hold the City and tenant’s landlord harmless for potential claims. Coverage will be for not less than \$1,000,000.
 - Business shall provide annual documentation of insurance coverage to the City.

❖ Period of Use and Removal

- The intent of the Program is to have the Flex-Space platforms usable year round.
- The City has the discretion to remove the Flex-Space platform(s) at any time for any reason. Fees paid will be refunded for months paid after platform removal.
- The Flex-Space platforms will also be removed at either: the request of the Applicant, or termination of the Applicant's business. Should the Applicant - or a new business - request the platforms be reinstalled a later date, the labor cost associated with the reinstallation will be paid for by the Applicant.
- Use of Flex-Space platform may be transferred when the business is sold, subject to the new business owner's entry to its own agreement with the City.

❖ COSTS AND PAYMENTS: Application fee and month parking space use fee policies

- The applicant shall pay \$60 per month per parking space used, paid quarterly in advance, to offset lost meter revenues. Beginning July 1, 2014 and every July 1st subsequently the rate shall be adjusted proportionally to any increase in parking meter rates.
- \$1,200 *application/buy-in* fee, which may be paid in quarterly installments, over a three year period. If the applicant chooses to pay the *application/buy-in* fee in installments, and subsequently becomes delinquent on the quarterly payments, any outstanding balance will become due in full.
- Business will be invoiced quarterly for the parking space rent (and installment for *application/buy-in* fee, if applicable). Payments become delinquent if not paid within 30 days of invoice date.
- The City may remove the Flex-Space platform(s) of businesses which become delinquent. Should the City remove such Flex-Space platform(s), the business must first make all delinquent payments, plus an addition \$400 payment for setup labor costs, should the business want the Flex-Space platform(s) re-installed.

NOTE: The City reserves the right to periodically update the above polices, and revise the above application, fee and payment requirements accordingly.

ADDRESS: _____ **BUSINESS NAME:** _____

I have read the Dining-Flex space policies and requirements above and hereby understand that non-compliance with any of these will result in enforcement action by the City of Martinez. The City reserves the right to remove the Flex-Space platform in cases of continuing non-compliance or emergencies.

Applicant/Business Owner: _____ **Signature:** _____ **Date:** _____

(If applicable, to permit use of parking space that's less than 50% contained within applicant's frontage)

Property Owner: _____ **Signature:** _____ **Date:** _____

(If applicable, to permit use of parking space that's less than 50% contained within applicant's frontage)

Adjacent Property Owner _____ **property address** _____

Signature: _____ **Date:** _____

Approved by: _____ **Date:** _____

Application Fee of \$1,200; PAID: _____ IN FULL or _____ IN INSTALLMENTS

Monthly Parking Space Use Fee of \$60 per space, for ___ spaces; \$ _____ per month

Current Business License Number: _____ **Expires:** _____

(Attach copy of approved Certificate of Liability Insurance and Additionally Insured Endorsement)