



Downtown Outdoor Dining and Retail Program Guidelines

The City of Martinez Downtown Outdoor Dining and Retail Program (“Program”) was initially developed to help business owners bring their dining and retail operation outdoors during the COVID-19 pandemic to comply with County health guidelines. Based on the Program’s popularity, the City Council elected to consider a longer-term approach to outdoor dining and retail, which includes ongoing evaluation of the program to support local businesses.

The Program is designed to permit restaurants and retail establishments in Downtown Martinez to locate outdoor restaurant seating and outdoor merchandise displays within the public right-of-way in designated areas of Downtown Martinez, including areas parallel to and along their business frontage; parallel to or along another business frontage(s) on the same block (with business-owner and property-owner permission); or, in a parking lot adjacent to their business.

Such activity will be allowed by permit only on Fridays and Saturdays between 5:00 p.m. and 10:00 p.m. Note all outdoor live or amplified music must end by 9:30 p.m.

The Program is active from April through September. Please note, the program will undergo an extensive evaluation and update prior to the 2025 season.

To expedite your business’ eligibility to participate in the Program, please submit a complete application to the City for review and approval.

Encroachment Permits implementing the Program will be issued in accordance with Martinez Municipal Code Title 12 (City Real Property). Noise Exception Permits allowing for limited live and/or amplified outdoor music will be issued in accordance with Martinez Municipal Code Chapter 8.34 (Noise Control).

ENCROACHMENT PERMIT STANDARD CONDITIONS OF APPROVAL

The following standard conditions of approval apply to the issuance of an encroachment permit for the operation of the Outdoor Dining and Retail Program.

1. **Permitted Uses:** Allowed uses of the outdoor dining/retail display spaces, include:
 - For restaurants: seating can be temporarily provided for patrons within the area designated in the permit. Food and drinks must be prepared on-site within the building premises. Food preparation must be done on the building premises or in a licensed food facility in accordance with Contra Costa County Environmental Health regulations.

- For retail establishments: merchandise can be temporarily placed on tables or on the ground in the designated area identified in the permit.
2. **Permitted Streets**: Designated streets which may be used for the outdoor dining/retail displays, include:
 - Main Street, between Alhambra Avenue and Court Street
 - Estudillo Street, between Marina Vista Avenue and Escobar Street
 - Other streets within Downtown Martinez as determined by the Community and Economic Development Director or designee
 3. **Permitted Areas**: Designated area where the outdoor dining/retail display spaces may be located and maximum size of each area:
 - On the street (as designated below) up to the maximum width of the frontage of the business, unless collaborating with adjacent businesses.
 - Note: Permittees are required to maintain at least one accessible route from a passenger loading zone, public street, or accessible parking area. Walking surfaces should have a clear width of at least 36 inches, per Americans with Disabilities Act (“ADA”) standards.
 - A 20-foot clear drive isle shall be maintained at all times within the closure limits for Fire District emergency access.
 - On the sidewalk or walkway up to the maximum width of the frontage of the business, provided that at least four feet of width for access is maintained as a clear path of travel at all times. The four feet must be free of any obstructions, such as but not limited to: trees, poles, parking meters, trash containers, tables, chairs, merchandise, and display areas. For outdoor seating, the four-foot space must be located on the curb side of the sidewalk.
 - In addition to the street and/or sidewalk/walkway of the frontage of the business, the applicant business may use the sidewalk/walkway or street space(s) within the frontage of a business on the same block subject to that business owner(s) and property owner(s) approval and signature on the application form.
 4. **Program Hours**: Operation of outdoor dining and retail displays are limited to Fridays and Saturdays between 5:00 p.m. and 10:00 p.m. The City may grant exceptions to allow a business to start before 5:00 p.m. on a case-by-case basis with proper notifications made to nearby businesses.
 5. **Live or Amplified Music**: Outdoor live or amplified outdoor music is allowed between the hours of **5:00 p.m. and 9:30 p.m.** If such music is proposed by a business, a business must include that information on their Outdoor Dining Application. A Noise Exception Permit will be issued concurrently with an Encroachment Permit for the purpose of implementing this program. Music

volume shall be played at a comfortable volume for patrons and shall not play music that negatively impacts or otherwise competes with other participating businesses or other events authorized by the City.

6. **Applicant Provides Outdoor Furnishings:** The applicant is responsible for providing their own tables, chairs, canopies/tents (which must be properly weighed down/secured), umbrellas, and any other dining and retail display items (hereafter referred to as "outdoor furnishings").
7. **Outdoor Storage:** No outdoor storage of outdoor furnishings is permitted.
8. **Setup and Take Down:** The applicant is responsible for setting up and removing all outdoor furnishings daily, and ensuring that no items are left outside except during Program hours. The right-of-way must be cleared within one hour following the Program closing. No outdoor furnishings may block access otherwise required to be maintained pursuant to these Guidelines or be stored in such a manner as to cause a hazard of any kind. Notwithstanding any provision hereof, the City is not responsible for any damaged or stolen items. No physical alterations or permanent placement of any object is permitted in the right-of-way. It is encouraged for multiple permit holders to coordinate set-up and take-down efforts to ensure all barricades, furnishings, and other belongings are not in the public right-of-way before or after granted hours.
9. **Duration of Permit:** Once a permit is issued, the permit will remain in place during the program defined months, and the permit holder must remain in compliance with the Downtown Outdoor Dining and Retail Program Guidelines and conditions of approval. The permit holder may request to update or revise their permit throughout the designated season as needed, subject to approval by the City. The City may revoke or revise the Permit at any time should the applicant not adhere to the conditions of approval.
10. **Outdoor Heaters:** Outdoor heaters with exposed heating elements (like gas-powered patio heaters or electric heaters with exposed metal coils) are only allowed in areas without an overhead covering. In areas with an overhead covering, floor fans are the only allowed outdoor heating apparatus.
11. **Promotion:** Program participants shall promote the City and the positive actions to assist local businesses via social media or other communication channel approved by the City. Sample language to be provided by the City.
12. **Other Requirements:** The applicant is responsible for adhering to Federal, State, and other local requirements applicable to their specific business type.

ALCOHOL SALES REQUIREMENTS

13. **Alcohol License:** Alcohol sales are subject to specific regulations not controlled by the City. Authorization to sell alcohol outdoors in conjunction with this encroachment permit application is subject to approval of the California Department of Alcohol and Beverage Control ("ABC"). Each ABC licensee that intends to participate in the event(s) will need to complete an ABC 218, ABC 253 and submit all required payment(s) to ABC. All alcohol sales must be conducted in strict compliance with the most current regulations of the Contra Costa Health Services Department and the ABC.
14. **Age-Restricted Sales:** Other than on-premises alcohol sales, the applicant will not sell anything in the right-of-way that requires a government-issued identification card to verify age prior to purchase.

LIABILITY AND INSURANCE

15. **Indemnification:** The application shall be in accordance with the Martinez Municipal Code and other applicable codes, policies, and procedures. Except for City's sole negligence, willful misconduct or active negligence, the applicant agrees to indemnify, defend, release and save harmless City, its officials, officers, agents, and employees from and against any and all claims, liabilities, actions, damages or penalties by any person including the applicant, their employees and agents for any personal injury, death, or damage to property from any cause whatsoever arising out of or in connection with the issuance of this permit, the activities of Permittee, their employees, officers, officials, guests, contractors, invitees, and agents and/or work and/or activities permitted pursuant to this permit. The applicant shall indemnify the City regardless of: City's approval of plans or inspection, any limitation on the amount or type of damages or compensation payable by or for applicant under workers compensation, disability, or other employee benefit acts, or the terms, applicability, or limitations of any insurance held by the applicant.
16. **Insurance:** The applicant shall file with the City certificates of required insurance coverage and endorsements in the City's acceptable forms as set forth below, prior to the effective date of the Permit. The City, its officials, officers, agents, and employees shall be included as additional insured by endorsements as set forth above.

Certificate(s) of insurance and endorsements as follows:

- Commercial General Liability of at least \$2 million per occurrence and

naming the City as additional insured for all liability arising out of the operations of the named insured and the issuance of the permit. Coverage shall be at least as broad as ISO forms, CG 20 10 10 01, CG 20 01 04 13, CG 24 04 and CG 20 12 04 13.

- Liquor Liability, if applicable, in the amount of \$1 million per occurrence.
- Workers Compensation Coverage as required by the State of California including a waiver of subrogation endorsement in favor of the City.

REVOCATION OF PERMIT

The City reserves the right to immediately revoke, without notice, any permit for the Outdoor Dining and Retail Program in case of non-compliance with the Program guidelines or conditions of approval; requirements for the immediate preservation of public health, safety, or welfare; in the event of an emergency; or for any other reason.

Guidelines established: April 4, 2022

Guidelines revised: March 15, 2024