



OPERATIONAL CERTIFICATION FOR TEMPORARY OUTDOOR USES ON PRIVATE PROPERTY

BUSINESS ADDRESS: _____ BUSINESS NAME: _____

BUSINESS OWNER: _____

ADDRESS: _____

CITY, STATE, AND ZIP CODE: _____

PHONE: _____ FAX: _____ EMAIL: _____

BACKGROUND

On July 13, 2020, Governor Newsom announced new closure orders applying statewide to various indoor personal care service businesses, such as hair salons, barber shops, gyms, and nail salons. On July 29, 2020, the State of California Department of Public Health (CDPH) released updated guidance for such personal care service business providing that some activities can be provided outdoors. Additionally, on July 17, 2020, Santa Clara County Public Health Department (SCCPH) released a list of closed indoor services (“What’s Closed Under the State or Local Health Orders?”).

INTENT

The City of Sunnyvale has prepared this self-certification form to facilitate use of outdoor areas on **private property**¹ for legally permitted uses and services (as outlined below) within the City of Sunnyvale, so long as the services offered comply with all applicable state, county, and city orders or regulations, as may be amended, as well as the requirements included in this document.

TEMPORARY OUTDOOR USES

This operational certification applies to the following uses on private property:

Permitted Uses	Prohibited Uses²
1. Hair salons/barbershops	1. Adult entertainment uses
2. Nail salons	2. Large gatherings
3. Outside retail (except sales of food)	3. Entertainment uses or establishments
4. Gyms and fitness centers (group fitness classes only)	4. Tattoo/piercing parlors
5. Massage establishments ³	5. Pet/dog grooming
	6. Automobile/vehicle repair

¹ Proposed outdoor uses on **public property** require a separate [Encroachment Permit for public streets](#), and a separate [self-certification form for public sidewalks](#), both issued by the Department of Public Works.

² This list is not exhaustive and is subject to change.

³ Permits for massage establishments are issued and regulated by the Department of Public Safety and are subject to additional restrictions. Existing permit holders must obtain approval from DPS prior to self-certifying in accordance with this form. For additional information, contact licenses-permits@sunnyvale.ca.gov.

GENERAL REQUIREMENTS

1. The business owner/operator must submit a completed/signed copy of this City of Sunnyvale Operational Certification for Temporary Outdoor Uses on Private Property to the Community Development Department (email to planning@sunnyvale.ca.gov).
2. By submitting a signed and completed copy of this form, the business owner/operator certifies that they have read, understood, and will comply with all federal, state, county, and City of Sunnyvale requirements, as may be amended, including but not limited to all of the following orders and regulations:
 - a. The Santa Clara County Public Health Officer's June 5, 2020 Order, including all subsequent and amended orders
 - b. The Santa Clara County Public Health Department list of "What's Closed Under the State or Local Health Orders?"
 - c. The State of California's Cal/OSHA and Statewide Industry Guidance on COVID-19 and industry guidance to reduce risk, including but not limited to:
 - i. "COVID-19 Industry Guidance: Hair Salon and Barbershop Services Provided Outdoors" (dated July 29, 2020 and as may be amended)
 - ii. "COVID-19 Industry Guidance: Expanded Personal Care Services Provided Outdoors" (dated July 29, 2020 and as may be amended)
 - d. The California Department of Consumer Affairs requirements
 - e. The California Board of Barbering and Cosmetology requirements
 - f. Federal and state Americans with Disabilities Act ("ADA") requirements
3. Updated or new State, County, or City of Sunnyvale orders impacting outdoor operation of the permitted uses or regarding social distancing requirements for spacing and queuing do not require re-certification to the City so long as the outdoor use remains in compliance with such subsequent orders.
4. Where State, County, or City of Sunnyvale orders or regulations provide conflicting regulations, the more restrictive regulation shall apply.
5. Property owner approval for the expansion of the use into the outdoor operating area is required.
6. Temporary outdoor uses as outlined in these program regulations may be allowed until such a time as the local emergency has ended, or until a subsequent order is issued by the City's Director of Emergency Services or the Sunnyvale City Council, whichever is sooner.
7. Once the temporary outdoor use ceases, as provided in General Requirement #4 above, the outdoor service area must be restored to its original condition.
8. The business or property owner shall be responsible for all liability imposed by law for personal injury or property damage caused by the outdoor service area. If any claim of such liability is made against the City, its officers or employees, the business owner shall defend, indemnify and hold them, and each of them, harmless from such claim insofar as permitted by law.
9. Any proposed outdoor use that is not able to self-certify by adhering to the regulations outlined herein shall be subject to the relevant discretionary Planning permits and procedures as provided in [Title 19 \(Zoning\)](#) of the Sunnyvale Municipal Code.
10. Failure to meet the listed orders, regulations, and requirements may result in removal of the approval to operate outdoor uses/services. The City of Sunnyvale reserves the right to revoke the permissions granted by this self-certification form to operate temporary outdoor uses.
11. The City reserves the right to retroactively impose additional review on any business providing outdoor services pursuant to this self-certification form in order to ensure compliance with the program requirements outlined in this form.

LOCATION REQUIREMENTS

Temporary outdoor use areas must adhere to the following locational requirements:

1. Shall be located on privately-owned land. Proposed outdoor uses on **public property** require a separate [Encroachment Permit for public streets](#), and a separate [self-certification form for public sidewalks](#), both issued by the Department of Public Works.
2. May be located on an existing stabilized surface, paved area, existing non-disabled off-street parking spaces, or useable open space areas.
3. Shall not encroach into, alter, or obstruct the use of existing drive aisles, loading zones, fire lanes, bike lanes, crosswalks, disabled parking spaces, or landscaped areas⁴.
4. Shall not be located within 15 feet of the closest curb line or any existing fire hydrant.
5. Outdoor hair salons, barbershops, and nail salons shall not be located closer than 20 feet to an existing outdoor dining area.
6. Shall not be located within 50 feet from any adjacent residential property (where applicable). This requirement shall not apply to vertical mixed-use buildings or developments.

SITE LAYOUT REQUIREMENTS

1. All outdoor use areas shall maintain a clear passageway and/or emergency exit.
2. Existing walkways shall retain a minimum unobstructed area of four feet in width.
3. All outdoor use areas shall comply with ADA requirements and be accessible to patrons with physical disabilities, as required by Title 24 of the California Code of Regulations.
4. All shaded or covered areas shall have the same ventilation and airflow as the outdoors.
5. Any area intended for queuing of patrons shall display tape or markings in intervals of at least six (6) feet to ensure social distancing.
6. All outdoor use areas shall provide warning tape or striping where changes in elevation occur along the perimeter of walking paths and the outdoor use area.

FURNITURE REQUIREMENTS

Permitted and prohibited furniture in temporary outdoor uses areas are as follows:

Permitted Furniture	Prohibited Furniture ⁵
Temporary and movable furniture including the following: <ol style="list-style-type: none"> 1. Tables, chairs, benches 2. Mirrors 3. Umbrellas 4. Temporary shade structures or utility tents that are: <ol style="list-style-type: none"> a. No greater than 8 feet in height b. No greater than 120 square feet in area c. Enclosed on no more than one side 5. Merchandise display areas 6. Cordless/battery-operated lighting 7. Temporary barriers/planters no greater than 3 feet in height 8. Liquified Petroleum Gas (LPG) heaters 	<ol style="list-style-type: none"> 1. Permanent structures 2. Trash/garbage structures/enclosures

⁴ Pursuant to Sunnyvale Municipal Code section [19.12.130](#), “landscaped area” means a portion of a site planted with vegetation utilized for screening or ornamentation.

⁵ This list is not exhaustive; the City may add additional items to the prohibited furnishings list.

PARKING REQUIREMENTS

When the temporary outdoor use area is intended to occur in existing off-street parking stalls on private property, the site is eligible for a temporary exception from the City’s current parking requirements, provided the following conditions are met:

All Private Properties	
<ol style="list-style-type: none"> 1. Two outdoor barber/hair salon chairs or nail salon tables are permitted per each existing parking space. 2. All existing disabled parking spaces and related loading area shall be reserved for disabled parking only. 	
Properties with One Tenant	Shopping Centers (two or more tenants)
<ol style="list-style-type: none"> 1. A maximum of 50 percent of the existing parking spaces serving the property may be used for all outdoor uses. 2. At least one parking space per staff member at peak staffing levels must be available for employee parking. 3. At least one parking space per nail/hair salon or barber station must be available for customer parking. 4. At least three existing parking spaces must be available for parking for retail curbside pickup. 	<ol style="list-style-type: none"> 1. A maximum of 50 percent of the existing parking spaces serving the shopping center may be used collectively for all outdoor uses by all tenants in the shopping center. 2. Large-scale operation: If multiple tenants propose temporary outdoor services, additional Planning staff authorization may be required if the tenants represent more than half of the floor area of the existing commercial building or buildings. Tenants in shopping centers with multiple tenants shall work with management and other tenants to equitably allocate the available walking paths and patios for temporary outdoor use.

OUTDOOR USE AREA OPERATIONAL REQUIREMENTS

1. All outdoor service areas shall adhere to the physical distancing provisions outlined by all of the state and county orders and regulations referenced above, including any and all subsequent orders or amendments.
2. The hours of operation of the outdoor use area are limited to the hours of operation of the associated business.
3. Tripping hazards that may result from cords or other equipment should be avoided to the extent possible.
4. Smoking is prohibited in the outdoor use area.
5. The business operator shall not play music or use amplified sound in the outdoor use area.
6. All outdoor use areas must adhere to the noise and sound requirements in Sunnyvale Municipal Code section [19.42.030](#).
7. The business operating the outdoor use area shall ensure that all equipment, furniture, retail items for sale, and any other materials are secured and are not located outside of the delineated area.
8. All outdoor use areas must remain clear of debris and litter at all times.
9. All waste material must be adequately disposed of in designated refuse areas.

STORM DRAINAGE REQUIREMENTS

1. Storm drainage devices must be maintained to ensure minimal impact on storm drains.
2. The business shall ensure that no hair, liquids, hair or nail products, shampoo water, hair dye, trash, or any other waste created or resulting from the outdoor use is washed down storm drains.
3. Where storm drainage inlets are located in the paved area used for the outdoor use, the applicant must ensure protection of the inlet either with a full trash capture device or equivalent temporary solution within 10 days of commencing outdoor service. Until installation of such a device, the applicant is directed to clear the outdoor area at least twice a day or whenever litter is apparent. Questions regarding storm drainage inlet protection devices should be directed to green@sunnyvale.ca.gov or 408-730-7717.

LIQUIFIED PETROLEUM GAS (LPG) HEATER REQUIREMENTS

1. LPG heaters must be installed and maintained in accordance with their listing [California Fire Code (“CFC”) section 603.5.2]
2. LPG heaters in use must be separated from combustibles as set forth in the manufacturer’s product listing. In the absence of an owner’s manual stating otherwise, the horizontal and vertical clearances shall be five feet. (Note: Most heaters have distance requirements stated on a permanently attached plate.) [CFC section 603.5]
3. LPG heaters in use shall not be located less than five feet from building openings. [CFC Table 6104.3]
4. Structures such as walls, solid fences, earth or concrete barriers and other similar structures shall be avoided around or over LPG heaters. (Note: The base of the heater contains the LPG cylinder, and the presence of such structures can create significant hazards, such as pocketing of escaping gas, interference with the application of cooling water by firefighters, and the redirection of flames against the LPG cylinders.)
5. LPG heaters are prohibited inside tents, canopies, and temporary membrane structures. [CFC section 3104.13.1]
6. Sources of ignition shall be prohibited within five feet of any LPG heater. “NO SMOKING” signs shall be posted at affected locations. [CFC sections 305.1 and 310.3]
7. LPG heaters shall not be located in exit pathways. [CFC section 1028.2]

DEPARTMENT OF PUBLIC SAFETY - FIRE PREVENTION REQUIREMENTS

1. The outdoor service area may be subject to inspection and approval by a Fire Prevention Inspector. Questions regarding fire prevention should be directed to fireprevention@sunnyvale.ca.gov or 408-730-7212.

AFFIDAVIT

By signing below, I agree that I have read, understand, and will comply with all of the above conditions for the duration of the Santa Clara County Public Health Officer’s Shelter in Place Order related to the operation of my business.

DATE: _____

NAME: _____ SIGNATURE: _____

Please email the signed pdf to planning@sunnyvale.ca.gov and in the subject line insert “Temporary Outdoor Service @ [BUSINESS NAME]”.