



# OPERATIONAL CERTIFICATION FOR OUTDOOR BUSINESS OPERATIONS IN THE PUBLIC RIGHT OF WAY

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 document to facilitate use of outdoor areas on the **public sidewalk area**<sup>1</sup> 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 document applies to the following uses:

<b>Permitted Uses</b>	<b>Prohibited Uses<sup>2</sup></b>
<ol style="list-style-type: none"><li>1. Hair salons/barbershops</li><li>2. Nail salons</li><li>3. Outside retail (except sales of food)</li><li>4. Massage establishments (chair only, no tables)<sup>3</sup></li></ol>	<ol style="list-style-type: none"><li>1. Adult entertainment uses</li><li>2. Large gatherings</li><li>3. Entertainment uses or establishments</li><li>4. Tattoo/piercing parlors</li><li>5. Pet/dog grooming</li><li>6. Automobile/vehicle repair</li></ol>

<sup>1</sup> Proposed outdoor use on **private property**, requires a separate [self certification form](#).

<sup>2</sup> This list is not exhaustive and is subject to change.

<https://sunnyvale.ca.gov/civicax/filebank/blobdload.aspx?BlobID=27298>

<sup>3</sup> 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](mailto:licenses-permits@sunnyvale.ca.gov).”

## **GENERAL REQUIREMENTS**

1. Hours of operation shall not be extended beyond what is currently permitted by City.
2. Designated outdoor business operation areas shall be maintained free of debris and clutter and shall not create public nuisance issues. Appropriate waste collection containers shall be provided, and all areas shall be regularly cleaned pursuant to the current County Public Health Officer Order. It is the responsibility of the tenant to implement this requirement on a regular basis.
3. All permissions granted by the City for outdoor uses may be revoked by the City at any time.
4. By choosing to operate in the public right-of-way, the business owner/operator agrees 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
5. Where State, County, or City of Sunnyvale orders or regulations provide conflicting regulations, the more restrictive regulation shall apply.
6. Outdoor business operations shall not block any fire lane or emergency vehicle access routes.
7. 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.
8. Once the temporary outdoor use ceases, the outdoor service area must be restored to its original condition.
9. 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.
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 in order to ensure compliance with the program requirements outlined in this form.

Public Works Engineering Services, 456 W. Olive Ave., 408-730-7415  
Representatives are available 8 a.m. - 12:30 p.m. and 1 p.m. - 5 p.m.  
Sunnyvale.ca.gov or pubworks@sunnyvale.ca.gov

## **OUTDOOR USE AREA OPERATIONAL REQUIREMENTS**

1. All outdoor service areas shall adhere to the physical distancing and face covering 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. All businesses that choose to operate outdoors, within the public right-of-way, shall delineate their respective spaces through application of temporary tape attached to the ground. Use of stanchions, or equivalent physical barriers, are prohibited.
8. 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.

## **USE OF THE PUBLIC SIDEWALK**

Businesses may be allowed to utilize a portion of the public sidewalk adjacent to the roadway if the following conditions can be met:

1. Outdoor uses are limited to moveable furniture pieces and must be brought inside at the end of each business day.
2. Moveable furniture must be as close to the business front as possible. Furniture pieces must be properly secured (including locking casters, if available) to prevent public endangerment.
3. Furniture pieces located near corners shall not exceed 3.5' in height within the City's [vision triangle](#).
4. A minimum pedestrian pathway consisting of 4' clearance must be provided from outmost edge of the furniture piece to the back of curb. For outdoor seating, this is measured from a chair in a pulled out position for a patron to easily seat themselves.
5. Shade canopies are considered moveable furniture, and minimum pedestrian clearances will apply. Shade canopies vertical clearance must be minimum 7' above the sidewalk.
6. Outdoor heating elements will not be allowed on the sidewalk.
7. Businesses will be responsible for own trash receptacles and emptying those on a regular basis.
8. Businesses are responsible for all power needs, including outdoor lighting. Electrical cords must be securely temporarily fastened to the sidewalk to avoid tripping hazards.
9. Businesses are not allowed to supply music for outdoor uses.
10. 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.
11. Any area intended for queuing of patrons shall display tape or markings in intervals of at least six (6) feet to ensure social distancing.

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## **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 Order.

DATE: \_\_\_\_\_

NAME: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_

Please email the signed pdf to [Pubworks@sunnyvale.ca.gov](mailto:Pubworks@sunnyvale.ca.gov) and insert your business name after "Outdoor Business @".

## **USE OF THE PUBLIC ROADWAY, INCLUDING ON-STREET PARKING STALLS**

Use of the public roadway, including on-street parking stalls is evaluated on a case by case basis for discretionary review and not guaranteed. Businesses desiring to utilize on-street parking areas will be required to submit an encroachment permit. All costs to implement encroachment permit requirements, including application fees, will be the responsibility of the applicant.

Note that use of the roadway, including on-street parking spaces, requires obtaining an [encroachment permit](#) from the Department of Public Works. The encroachment permit application also requires applicants to prepare and submit a [temporary traffic control plan](#).

This self-certification form is not valid for outdoor business uses in the public roadway, including on-street parking stalls.