

By-Laws of
SUNNYVALE DOWNTOWN ASSOCIATION



ARTICLE 1: NAME

Section 1.01 Name. The name of the corporation is The Sunnyvale Downtown Association, also known as the SDA.

ARTICLE 2: PLACE

Section 2.01 Principal Office. The principal office of the Corporation shall be located in Santa Clara County, California.

ARTICLE 3: PURPOSES

Section 3.01 Purposes. The purposes for which this corporation is formed are pleasure, recreation, and other non-profitable purposes, are to promote the common business interests of the members which include:

- a) Promotion of higher business standards and better business Methods and encouragement of uniformity and cooperation among Local merchants, residents and city government.
- b) Work for the enactment of laws or ordinances to improve the business conditions.
- c) Notwithstanding any other provision of these Articles of Incorporation, the Corporation shall not have the power to carry on such activities which will cause it to fail to qualify as an organization exempt from federal tax under section 501© (6) of the code or exempt from state income tax under Section 23701(e) of the California Revenue and Taxation Code, as amended, supplemented, or substituted.

Section 3.02 Membership. Membership to the corporation will be based upon an annual fee in accordance with the Business Improvement District (BID). The annual fee will be used to operate the corporation in accordance with the Articles of Incorporation and Bylaws of the Corporation.

Section 3.03 Goals. The Corporation shall serve as the collective voice of downtown Sunnyvale business, advocates for policies, programs and events that support the economic growth of the downtown BID. The SDA shall engage in marketing and act as an ambassador for the City of Sunnyvale. The SDA will produce public events within the BID. The SDA shall work with other Community Based Organization's that share in the growth, beautification, and continual vitality of the BID. The SDA shall serve as the primary information portal to all events, attractions and programs stemming from the BID. The goals of the SDA include but are not limited to:

- a) Increase patronage of downtown restaurants, retail stores and art groups by creating target marketing efforts specifically aimed at visitors, residents and employees.
- b) Establish www.sunnyvaledowntown.com as the primary information portal for downtown Sunnyvale visitors, residents, employees and members.
- c) Survey visitors, patrons, business owners and event attendees on programs, events and concepts that economically empower and develop the downtown BID.
- d) Increase foot traffic within the downtown core.
- e) Increase awareness of Sunnyvale's Historical Business District.

Section 3.03 Nonprofit Mutual Benefit. This Corporation has been formed under the California Nonprofit Mutual Benefit Corporation Law for the public and charitable purposes described above, and it shall be nonprofit and nonpartisan. No substantial part of the activities of the Corporation shall consist of the publication or dissemination of materials to influence legislation and the Corporation shall not participate or intervene in any political campaign on behalf of any candidate for public office.

Section 3.04 Charitable Activities. This Corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the charitable and public purposes described in the articles of incorporation.

ARTICLE 4: PROPERTY AND ASSETS

Section 4.01 Dedication. The properties and assets of this nonprofit corporation are irrevocably dedicated to public benefit and/or charitable purposes. No part of the net earnings, properties, or assets of the Corporation, on dissolution or otherwise, shall inure to the benefit of any private person or individual, or any members, director or officer of this Corporation. On liquidation or dissolution, all properties and assets and obligations shall be distributed and paid over to an organization dedicated to charitable public purposes as described in Internal Revenue Code Section (c) (6).

ARTICLE 5: MEMBERSHIP

Section 5.01 Members. Membership and its dues in the Corporation are based on whether the business is located within the BID (zone) and type of business:

	ZONE A	ZONE B	ZONE C
Retailers, Restaurants, Bars	\$500	\$300	\$150
Service Businesses	\$300	\$200	\$100
Professional Services	\$100	\$100	\$100
Financial Institutions	\$500	\$500	\$500

Lodging \$10/rm.

Business type definitions:

Retailers, Restaurants, Bars: Businesses that buy and resell goods. Examples are clothing stores, shoe stores, office supplies as well as businesses that sell prepared foods and drinks.

Service Businesses: Businesses that sell services. Examples are beauty and barber shops, repair shops, most automotive-oriented businesses, entertainment businesses such as theaters, etc.

Professional Services Businesses: Includes Architects, Engineers, Attorneys, Dentists, Doctors, Accountants, Optometrists, Realtors, Insurance Offices, Mortgage Brokers and most other businesses that require advanced and/or specialized licenses and/or advanced academic degrees.

Financial Institutions: Includes banking and savings and loan institutions as well as credit unions, etc.

Lodging: Includes renting rooms by the day or week to community visitors.

Section 5.02 No Discrimination. No applicant or member shall be discriminated against because of race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, mental or physical disability, age, marital status, family/parental status, ancestry, veteran status, income derived from a public assistance program, political beliefs, reprisal/retaliation for prior civil rights activity, ethnic or cultural background, or previous membership in a lawful organization.

Section 5.03 Annual Meetings. The annual meetings of the members shall be held on a date specified by the Board of Directors.

Section 5.04 Regular Meetings. Members can attend the general session of the Board of Directors meeting.

Section 5.05 Special Meetings. Special meetings of the general membership for any purpose may be called at any time by the Chair of the Board, or any three directors.

Section 5.06 Notice. Notice to Special meetings shall be communicated to the general membership at least seven (7) days prior to the meeting and shall state the business to be transacted.

ARTICLE 6: BOARD OF DIRECTORS

Section 6.01 Powers. The business and affairs of the corporation shall be implemented by the Board of Directors. Signature authority for the Corporation shall consist of two individuals appointed by the Board of which one must be a Board member. No single director shall have the right or power to execute documents and/or incur indebtedness/obligation(s) on behalf of the Corporation.

Section 6.02 Number, Election, Tenure, and Qualifications. The number of directors shall not exceed fifteen (15), nor consist of less than three (3). Election to the board shall be based on a letter of interest, qualifications, and a majority vote by the Board. When selecting and voting on Board of Directors, diversity of professional and business expertise shall be considered. Each director shall be elected for a term of two (2) years and until a successor is elected or until such director is re-elected, except as otherwise provided herein. The number of directors may be changed by amendment of this Bylaw, or by repeal of this Bylaw and adoption of a new Bylaw, as provided in these Bylaws. Each Director must be and remain a member in good standing.

Section 6.02a Good Standing. Good Standing is achieved by:

- a) Maintaining an annual paid membership to the Corporation.
- b) Attending seventy-five percent (75%) of the annual regular scheduled meetings.
- c) Reading, understanding, and acknowledging acceptance in a regular meeting.
- d) Signing and abiding by the Board Commitment document as approved from time to time by the Board.

Section 6.02b Failure to maintain Good Standing. Failure to maintain Good Standing will result in notification from the Chair, and if required, action by the Board up to and including removal, and any other action deemed necessary by the Board.

Section 6.03 Regular Meetings. Meetings of the Board of Directors shall be held monthly for the purpose of addressing the business affairs of the Corporation, unless otherwise determined by the Board of Directors.

Section 6.03a General session publicity. The General session is open to the public.

Section 6.04 Special Meetings. Special meetings may be called by or at the request of the Chair or any three (3) directors. The day, place, and time of such meeting, and the general nature of the business to be transacted, shall be as set forth in the notice thereof.

Section 6.05 Notice of Meetings. Notice of any meeting shall be given at least three (3) days before the meeting is to be held, or on a twenty-four (24) hour notice given personally or by telephone. Any director may waive the notice of meeting in writing, either before or after such meeting, or by attendance.

Section 6.06 Meeting by Telephone. As deemed appropriate by the Board, any meeting, regular or special, may be held by conference telephone or similar communications equipment, so long as all directors' participation in the meeting can hear one another, and all such directors shall be deemed to be present in person at such meeting.

Section 6.07 Quorum and Action. A quorum shall consist of a simple majority of Directors. Except as otherwise provided in these Bylaws or in the Articles of Incorporation of this corporation, or by law, no action shall be taken by the board at any meeting at which a quorum, as hereinafter defined, is not present, and the only motion which the Chair shall entertain at such meeting is a motion to adjourn. When a meeting is adjourned for lack of a quorum, it shall not be necessary to give any notice of the time and place of the adjourned meeting or of the business to be transacted at such meeting, other than by announcement at the meeting at which the adjournment is taken, except as provided in Section 6.05 of this Article. The directors present at a duly called and held meeting at which a quorum is initially present may continue to do business notwithstanding the loss of a quorum at the meeting due to a withdrawal of directors from the meeting, provided that any action thereafter taken must be approved by at least a majority of the remaining board members present at such meeting or such greater percentage as may be required by law, or the Articles of Incorporation or Bylaws of this corporation.

Section 6.08 Conduct of Meeting. The Chair, or in his/her absence, the Vice Chair, or in their absence any other director chosen by the Board, shall preside at all meetings. The Secretary, or in his/her absence, the person whom the Chair of the meeting shall appoint as secretary of the meeting, shall act as such.

Section 6.09 Action Without a Meeting. Any action required or permitted to be taken by the Board of Directors may be taken without a meeting if all members of the Board, individually or collectively, consent in writing to the action. Such action by written consent shall have the same force and effect as a majority vote of the Board at a duly exercised meeting. Such written consent(s) shall be filed with the minutes of proceedings of the Board.

Section 6.10 Resignation. Any director may resign effective on giving written notice to the Chair or the Secretary unless the notice specifies a later time for the resignation to become effective. Unless otherwise specified in the notice, the acceptance of the resignation shall not be necessary to make it effective.

Section 6.11 Removal. All directors shall serve at the pleasure of the Board and may be removed, with or without cause by a majority of the remaining directors.

Section 6.12 Vacancies. Any and all vacancies on the Board of Directors shall be filled by a majority vote of the remaining Directors.

Section 6.13 Compensation and Reimbursement. Directors shall serve on a voluntary basis without compensation. Directors may receive reimbursement of expenses, as may be determined by resolution of the Board of Directors to be just and reasonable. All expenses must be both itemized and have receipts.

Section 6.14 Restriction on Interested Directors. Not more than forty-nine (49) percent of the funds may be directed to an interested person, nor more than forty-nine (49) percent of the directors serving on the Board of Directors at any time are an interested person. The Board must approve the allocation of any funds to any interested person.

An interested person is either:

- a) Any person compensated by the Corporation for services rendered to it within the previous twelve (12) months, whether as a full-time or part-time employee, independent contractor, or otherwise.
- b) Any family member, spouse, and in-laws of any such person.

Section 6.15 Voting Rights. Each director must maintain a paid annual membership in order to be counted in the quorum calculation and to exercise voting rights. Each Director shall be entitled to one (1) vote.

Section 6.16 Proxy Voting. No vote shall be cast by proxy.

Section 6.17 The Executive Director. The Executive Director of the Corporation may be placed under a contract of employment to be determined by the Executive Committee. He or She is a non-voting director of the Board. The Executive Director shall manage the corporation in administering the conduct of its business. The Executive Director shall be responsible to and be governed by the Board of Director, shall report to and advise the Board on all significant matters of the Corporation's business, and shall see that all orders and resolutions of the board are carried into effect. The Executive Director shall be empowered to act, speak for or otherwise represent the Corporation between meetings of the Board within the boundaries of policies and purposes established by the Board as set forth in the articles of incorporation and by-laws. The Executive Director shall be responsible for the hiring and firing of all personnel other than the Board and shall be responsible for keeping the Board informed at all times of staff performance as related to program objectives, and for implementing any personnel policies adopted by the board. In the absence of an Executive Director, these become the duties of the Board of Directors.

ARTICLE 7: OFFICERS OF THE BOARD

Section 7.01 Qualifications. Officers must be members of the Board and will thus comprise of the Executive Committee.

Section 7.02 Number of Directors. The Board of Directors shall have the following principal officers that will make up the Executive Committee: Chair, Vice Chair, Secretary, Treasurer and one Member-At-Large. The Board may designate by resolution other officers and assistant officers it may deem necessary. No director except Secretary and Treasurer shall hold two offices at any time.

Section 7.03 Election of Officers. Officers shall be elected on a semi-annual basis two (2) months prior to the end of the second fiscal year. Election shall be based on nominations, expression of interest, qualifications, and a majority vote by the Board. Officers may be reelected to additional two (2) year terms.

Section 7.04 Executive Committee. The Executive Board of Directors should hold its Executive session meetings when needed. The Executive Committee will meet at least once a year to approve the annual budget as well as hire, evaluate, and fire, if necessary, the Executive Director of the Corporation, whose initial term shall be for a period of one (1) year, and whose subsequent term(s) shall not be renewed unless approved by a majority vote of the Executive Committee.

Section 7.04a Executive Committee Attendance. The Executive Session is open to Officers only. Other individuals and/or board members may be invited by approval of the Executive Board.

Section 7.05 Removal of Officers. Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, with or without cause, by the Board.

Section 7.06 Resignation of Officers. Any officer may resign effective on giving written notice to the Chair or the Secretary unless the notice specifies a later time for the resignation to become effective. Unless otherwise specified in the notice, the acceptance of the resignation shall not be necessary to make it effective.

Section 7.07 Vacancies in Office. A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled by the promotion or election of another director by the Board of Directors for the unexpired portion of the term.

Section 7.08 Chair. The Chair shall preside at all meetings of the Board. The Chair shall have such other powers and duties as may be prescribed by the Board of Directors or the by-laws.

Section 7.09 Vice Chair of the Board. The Vice Chair of the Board shall possess the powers and discharge the duty of the Chair in their absence or disability.

Section 7.10 Secretary. The Secretary shall:

- a) Keep the minutes of the meetings of the proceedings of the Board of Directors in one or more books provided for that purpose.
- b) See that all notices are duly given in accordance with the provisions of these by-laws or as required by law.
- c) Be custodian of the corporate records and of the seal of the Corporation and see that the seal is affixed to all documents the execution of which shall have been authorized by resolution of the Board of Directors.
- d) Keep a register of the post office address of each member, which shall be furnished to the secretary by such member.
- e) Sign with the Chair or Vice Chair any and all authorized corporate documents, the executive of which shall have been authorized by resolution of the Board of Directors.
- f) In general, perform all duties incident to the Office of Secretary and such other duties as from time to time may be assigned by the Board of Directors or the Chair.

Section 7.11 Treasurer. The Treasurer shall keep and maintain or cause to be kept and maintained in accordance with generally accepted accounting principles, adequate and current accounts of the properties and business transactions of the Corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, earnings, (or surplus) and shares.

The books of account shall at all reasonable times be open to inspection by any Director. This officer may deposit all monies and other valuables in the name and to the credit of the corporation with such depositories as may be designated by the board of Directors. They shall disburse the funds of the Corporation as may be ordered by the Board of Directors, shall render to the board of directors, whenever they request it, and account for all of their transactions and of the financial condition of the corporation, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors by-laws.

ARTICLE 8: RESPONSIBILITIES OF THE BOARD OF DIRECTORS

Section 8.01 Responsibilities. Subject to the limitations of the articles of incorporation and of the California Non-profit Corporation law and the duties of the Director as prescribed by the by-laws, all corporate responsibilities shall be exercised by or under the authority of, and the business affairs of the corporation shall be controlled by the Board of Directors. Without prejudice to such general responsibilities but subject to the same limitations, it is hereby expressly declared that the Board of Directors shall have the following responsibilities:

- a) To Establish Policy. The Board of Directors shall implement the major policies governing the operations of the corporation, shall have general supervision and control of the business and affairs of the corporation, and shall implement rules and regulations consistent with law, with the Articles of Incorporation and these by-laws for the management of the operations of the corporation and the guidance of the members, officers, employees, and agents of the Corporation.
- b) To Seek Funds. Ensure financial solvency of the Corporation through the solicitation, lobbying, grant writing, corporate sponsorship, and other lawful fund-raising initiatives.
- c) To Monitor Funds. Install an accounting system which shall be adequate to the requirements of the operations of the corporation and maintain proper records of all business transactions. Once in each year, the Board of Directors shall secure the services of a competent certified public accountant, which shall make a careful audit of the books and accounts of the corporation and render a report in writing thereon. This report shall be submitted in a timely manner to the Board of Directors. This report shall include at least a balance sheet showing the true assets and liabilities of the corporation, and a ledger which shall show all of the receipts and all of the expenses of the corporation during such period.

ARTICLE 9: COMMITTEES

Section 9.01 Committees. The Board of Directors shall approve committees by resolution of the Board. Any member of these committees may be removed with or without cause, at any time by the Board.

Section 9.02 Functions and Responsibilities. The Board of Directors shall prescribe the committees' functions and responsibilities upon creation of any such committees.

ARTICLE 10: CORPORATE RECORDS AND REPORTS: INSPECTION

Section 10.01 Maintenance and Inspection of Corporate Records. The Corporation shall maintain, in accordance with generally accepted accounting principles, adequate and correct accounts, books and records of its business and properties. All of such books, records and accounts shall be kept at the corporation's principal executive office in the State of California, as fixed by the Board of Directors, from time to time, or shall be kept at such place or such places as designated by the Board of Directors. The minutes shall be kept in written form and accounting books and records shall be kept in either written form or in any other form. Such minutes and accounting books and records shall be open to inspection upon the written demand of any member at any reasonable time during usual business hours. Such inspection may be made in person or by an agent or attorney and shall include the right to copy and make extracts.

Section 10.02 Maintenance and Inspection of By-Laws. The Corporation shall keep at its principal executive office, the original or a copy of the By-Laws amended to date, which shall be open to inspection by the members at all reasonable times during office hours.

Section 10.03 Financial Statements. A copy of any annual financial statement and any income statement of the Corporation for each monthly period of each calendar year, and any accompanying balance sheet of the Corporation as of the end of each such period, that has been prepared by the Corporation shall be kept on file at the principal executive office of the Corporation for twelve (12) months from the date of its execution, and each such statement shall be exhibited at all reasonable times to any member demanding an examination of such statement or a copy shall be made to any such member.

Section 10.04 Annual Statement of General Information. The Corporation shall, in a timely manner, in each year, file with the secretary of State, on the prescribed form, a statement setting forth the authorized number of Directors, the names and complete business addresses or residence addresses of the Chair, Secretary and Treasurer, the street address of its principal office in this State and the general type of business constituting the principal business activity of the Corporation, together with a designation of the agent of the Corporation for the purpose of the service of process, all in compliance with California Corporations Code Section 1502.

Section 10.05 Fiscal Year. The fiscal year of the Corporation shall be fixed, and be subject to change, by the Board of Directors.

ARTICLE 11: CONTRACTS, LOANS, CHECKS, DEPOSITS, ETC.

Section 11.01 Contracts. The Board of Directors may authorize any officer(s) or agent(s) to enter into any contract or execute and deliver any instrument in the name and on behalf of the Corporation, and such authority may be general or confirmed to specific instances.

Section 11.02 Loans. No loans shall be contracted on behalf of the Corporation and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

Section 11.03 Forms of Payment. All checks, drafts, or other orders for the payment of money, notes, or other evidence of indebtedness, outside of the approved budget, issued in the name of the Corporation shall be determined by resolution of the Board of Directors.

Section 11.04 Deposits. All funds of the Corporation not otherwise employed shall be deposited to the credit of the Corporation in such banks or other depositories as the Board of Directors may select.

ARTICLE 12: INDEMNIFICATION

Section 12.01 Power to Indemnify. This Corporation shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any action or proceeding by reason of the fact that such person is or was an officer, director, or agent of this Corporation, or is or was serving at the request of this Corporation as a director, officer, employee, or agent of another foreign or domestic corporation, partnership, joint venture, or other enterprise, against expenses judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with such proceeding, to the fullest extent permitted by law. The indemnification provided herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled and shall continue as to a person who has ceased to be an agent, officer, or director and shall inure to the benefit of the heirs, executors, and administrators of such a person. This Corporation shall purchase and maintain insurance on behalf of each director of the Corporation, against any liability asserted against or incurred by the director in any such capacity or arising out of the director's status as such, whether or not the Corporation would have the power to indemnify the director against such liability.

ARTICLE 13: AMENDMENTS

Section 13.01 Amendment Procedures. The By-Laws may be altered, amended, or repealed and new By-Laws may be adopted by two thirds (2/3) vote of the Board at any regular or special meeting, with reasonable prior notice and copies of proposed amendments provided to all.

ARTICLE 14: BUSINESSES THAT ARE NOT IN GOOD STANDING WITH DUES OR FEES

Section 14.01 BID Fees Amendment. Effective June 30, 2017, the Sunnyvale Downtown Association (SDA) Board is amending the SDA Bylaws regarding nonpayment of Business

Improvement District (BID) fees by members and the impact on member benefits. As the managing agent of the BID, the SDA will change how businesses classified as “not in good standing” do to nonpayment of BID fees or any other outstanding payments due to the SDA. Any member of the Sunnyvale Downtown Association, that has outstanding BID fees, late fees, or any other outstanding payments, due to the SDA will be considered “not in good standing”. Although, the BID renews every year, if a member is “not in good standing” their benefits are void, until all BID fees and late fees associated with the account, or any other outstanding bills or invoices due to the SDA, are paid in full. A BID member who is “not in good standing” is not eligible to receive any active BID member benefits. This includes, but is not limited, to any events, marketing, and business listing in maps or directories. Once a business has been identified as a business that is “not in good standing,” they will remain in that status until all BID fees, late fees, or outstanding invoices have been paid in full or the board decides on some other course of action to satisfy their financial obligation.

ARTICLE 15: GUIDELINES FOR OUTSIDE DINING

Section 15.01 Guidelines for Outside Dining Amendment. Adopted on February 6, 2019, The SDA board has amended the bylaws to establish a new guideline for businesses that don't comply with the outdoor dining regulations. Since the SDA serves as the managing agent for the Sunnyvale BID, the special event permits that are issued to the SDA must remain in compliance with City Regulations.

Section 15.02 Permits. Businesses must acquire a special event permit if they are interested in expanding their outdoor furniture layout during SDA or other agencies special events. The approved outside dining permit used by the city must be modified and approved showing the alternate configuration to be used during special events only. Permission must be granted by the Special Event holder, and city regulations must be met in order to allow alternate outdoor dining configuration.

Section 15.03 Outside Dining Violations. Any SDA business that is in violation of these guidelines will be subject to the following actions:

- a) First offense: the SDA will issue the SDA Business a written warning
- b) Second offense: The SDA will fine the business \$250.00
- c) Third offense: The SDA will fine the business \$500.00
- d) Forth offense: The SDA will fine the businesses \$700.00

In addition, a 10% late fee will be added starting after 30 days, based on the total amount owed. Furthermore, if payment is not received within 60 days, that business will then be considered “not in good standing” until the amount due is paid in full.

Section 15.04 Outside Dining Fees. Any member of our BID that has outstanding BID fees, late fees, or any other outstanding payments, due to the SDA will be considered “not in good

standing”. Although, the BID renews every year, if a member is “not in good standing” their benefits are void, until all BID fees and late fees associated with the account, or any other outstanding bills or invoices due to the SDA, are paid in full. A BID member who is “not in good standing” is not eligible to receive any of the BID member benefits. This includes, but is not limited to, events, marketing, and business listing in maps or directories. Once a business has been identified as a business that is “not in good standing,” they will remain in that status until all BID fees, late fees, or outstanding invoices have been paid in full or the Board decides on some other course of action to satisfy their financial obligation.

[Signed copy of this bylaw is available on our website: sunnyvaledowntown.com/bid-member-information.html](http://sunnyvaledowntown.com/bid-member-information.html)

CERTIFICATE OF SECRETARY/CHAIR

We, the undersigned, certify that we are presently elected and acting Chair and Secretary, Respectively, of the Sunnyvale Downtown Association, a California Nonprofit Mutual Benefit Corporation, and the above By-laws of this Corporation as adopted at a meeting of the Board of Directors held on February 5, 2019.

Joe Antuzzi

Leigh Odum

Joe Antuzzi 2/5/2019
Signature/Board Chair

Leigh Odum 2/5/2019
Signature/Board