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8  
9 UNITED STATES DISTRICT COURT  
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
(Oakland Division)

11  
12 JANICE ALTMAN, et al.,

13 Plaintiffs,

14 v.

15 COUNTY OF SANTA CLARA, et al.,

16 Defendants.

No. 20CV02180JST

**DEFENDANT COUNTY OF SANTA  
CLARA'S REQUEST FOR JUDICIAL  
NOTICE OF THE JUNE 1, 2020  
AMENDMENT TO SANTA CLARA  
COUNTY'S PUBLIC HEALTH ORDER**

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1 Defendant County of Santa Clara requests that the Court take judicial notice, under Rule 201  
2 of the Federal Rules of Evidence, of **Exhibit A**. Exhibit A consists of an updated version of  
3 Appendix C-1 to the Public Health Order the County issued on May 18, 2020 (effective May 22,  
4 2020). The updated version of Appendix C-1 was announced today, June 1, 2020, and takes effect  
5 June 5, 2020. It allows all retail businesses to operate provided “the total number of Personnel  
6 present at a facility...must at any one time be no more than one Personnel per 300 gross square feet  
7 of the facility, and no more than one customer per 200 square feet of space open to the public.” The  
8 updated version of Appendix C-1 does not require transactions to take place outside or by delivery,  
9 and it does not prohibit customers from entering retail stores. The updated Appendix C-1 and other  
10 amendments effective June 5, 2020 may be found at:

11 [https://www.sccgov.org/sites/covid19/Pages/public-health-](https://www.sccgov.org/sites/covid19/Pages/public-health-orders.aspx?mc_cid=9d5f0251fb&mc_eid=7ac9569d31#explained)  
12 [orders.aspx?mc\\_cid=9d5f0251fb&mc\\_eid=7ac9569d31#explained.](https://www.sccgov.org/sites/covid19/Pages/public-health-orders.aspx?mc_cid=9d5f0251fb&mc_eid=7ac9569d31#explained)

13  
14 Respectfully submitted,

15 JAMES R. WILLIAMS  
16 COUNTY COUNSEL

17 Dated: June 1, 2020

18 By: /S/ Jason M. Bussey  
19 JASON M. BUSSEY  
20 Deputy County Counsel

21 Attorneys for Defendants  
22 COUNTY OF SANTA CLARA, LAURIE  
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# **EXHIBIT A**

**Appendix C-1: Additional Businesses Allowed to Operate**

**Effective June 5, 2020**

**General Requirements**

The “Additional Businesses” listed below may begin operating, subject to the requirements set forth in the Order and to any additional requirements set forth below or in separate industry-specific guidance by the Health Officer. These businesses were selected to implement a measured expansion of commercial activity based on health-related considerations including the risks of COVID-19 transmission associated with types and modes of business operations, the ability to substantially mitigate transmission risks associated with the operations, and related factors, such as the following:

- **Increase in mobility and volume of activity**—the overall impact the reopening will have on the number of people leaving their homes and traveling to work at or access the business;
- **Contact intensity**—the type (close or distant) and duration (brief or prolonged) of the contact involved in the business;
- **Number of contacts**—the approximate number of people that will be in the setting at the same time;
- **Modification potential**—the degree to which mitigation measures can decrease the risk of transmission.

To mitigate the risk of transmission to the greatest extent possible, each Additional Business must, before resuming operations:

- 1) Prepare and complete a Social Distancing Protocol (SDP) for each of its facilities in the County used by Personnel or the public, using the template provided in Appendix A to the Order.
- 2) The COVID-19 PREPARED Sign and SDP Visitor Information Sheet, which are included with Appendix A, must be printed and posted at or near the entrance of the facility, such as a window, and shall be easily viewable by the public and Personnel from outside the facility.
- 3) The SDP must be distributed to all Personnel working at the facility. Implement all measures in the Social Distancing Protocol prior to opening.
- 4) Print and post all signage required in the SDP. Several sign templates are available on the Public Health Department’s website at:  
<https://www.sccgov.org/sites/covid19/Pages/learn-what-to-do-flyers.aspx>.

As used in this Appendix C-1, “Personnel” means the following people who provide goods or services or perform operations associated with the Additional Business in the County: employees; contractors and sub-contractors (such as those who sell goods or perform services onsite or who deliver goods for the business); independent contractors (such as “gig workers” who perform work via the Additional Business’s application or other online interface); vendors who are permitted to sell goods onsite; volunteers; and other individuals who regularly provide services onsite at the request of the Additional Business.

In addition, each Additional Business must comply with Social Distancing Requirements and all relevant state guidance and local directives. Where differences exist between the state guidance and local public health directives related to the COVID-19 pandemic, the most restrictive provision controls.

### **List of Additional Businesses**

For purposes of the Order, Additional Businesses include the following:

#### **(1) Retail**

- a. Basis for Addition. Retail typically involves a moderate level of contact for a short duration of time and can proceed with limitations to ensure adequate social distancing and decrease the risk of transmission.
- b. Description and Conditions to Operate. All retail businesses, including wholesale businesses, may operate subject to the following limitations in addition to those required elsewhere in the Order:
  - i. Unless operating as an Essential Business or Outdoor Business or to carry out an Essential Governmental Function, the total number of Personnel present at a facility that qualifies under this category must at any one time be no more than one Personnel per 300 gross square feet of the facility, and no more than one customer per 200 square feet of space open to the public.

#### **(2) Manufacturing**

- a. Basis for Addition. Risks associated with this activity can be mitigated through measures that ensure adequate social distancing and limit intermixing between households.
- b. Description and Conditions to Operate. All manufacturing businesses may operate subject to the following limitations in addition to those required elsewhere in the Order:
  - i. Unless operating as an Essential Business or to carry out an Essential Governmental Function, the total number of persons (including Personnel, customers, delivery persons, or other persons) present at a facility that qualifies under this category must at any one time be no more than one person per 300 gross square feet of the facility.

#### **(3) Logistics, Warehousing, Delivery, and Distribution**

- a. Basis for Addition. Risks associated with this activity can be mitigated through measures that ensure adequate social distancing and limit intermixing between households.
- b. Description and Conditions to Operate. All logistics, warehousing, delivery, and distribution businesses may operate subject to the following limitations in addition to those required elsewhere in the Order:
  - i. Unless operating as an Essential Business or to carry out an Essential Governmental Function, the total number of persons (including Personnel,

customers, delivery persons, or other persons) present at a facility that qualifies under this category must at any one time be no more than one person per 300 gross square feet of the facility.

- ii. All delivery and distribution activities must take place with the minimum number of persons in a vehicle necessary to safely operate the vehicle and carry out relevant job functions.
- iii. In addition to the requirements set forth in the Order regarding face coverings, Personnel must wear face coverings at all times when inside a vehicle to carry out operations that qualify under this category, except Personnel who are exempted from the face covering requirement pursuant to the Health Officer's Critical Guidance on Face Coverings.

**(4) Outdoor Museums, Outdoor Historical Sites, and Publicly Accessible Gardens**

- a. Basis for Addition. Visiting outdoor museums, outdoor historical sites, and publicly accessible gardens involves low contact intensity and a low number of contacts so long as proper social distancing is maintained at all times. Interactions and activities that occur outdoors carry a lower risk of transmission than most indoor interactions and activities. Because outdoor recreation is already allowed under the Order, resumption of this activity should result in only a relatively modest increase in mobility and may decrease congestion in other outdoor locations like public parks and beaches.
- b. Description and Conditions. Outdoor museums, outdoor historical sites, and publicly accessible gardens may open subject to the following limitations in addition to those required elsewhere in the Order:
  - i. Members of the public are not allowed to access any indoor facilities associated with outdoor museums, outdoor historical sites, or publicly accessible gardens, except to use restrooms, which must be frequently cleaned. All business and transactions involving members of the public must occur outdoors.
  - ii. Businesses operating under this category must implement measures to ensure that social distancing of at least six feet is maintained at all times other than between members of the same household.

**(5) Childcare, Camps, and other Educational or Recreational Institutions for All Children**

- a. Basis for Addition. These businesses are critical to children's physical, mental, and social development, and also play a vital role in families' social and economic wellbeing. However, these programs involve a relatively high quantity, intensity, and duration of contacts, and children are often unable to consistently follow social distancing and sanitation requirements that apply to other types of businesses. Risk associated with this category of businesses can be mitigated to some degree with limitations on the size of the groups and on intermixing between groups. In addition, because many of these businesses are already allowed to operate for some children, this addition creates a relatively modest expansion of activity.

- b. Description and Conditions to Operate. All childcare establishments, camps, and other educational or recreational institutions or programs may provide their services to all children subject to the following limitations in addition to those required elsewhere in the Order:
- i. Programs must be carried out in stable groups of 12 or fewer children (“stable” means that the same 12 or fewer children are in the same group each day).
  - ii. Children within a program shall not change from one group to another within that program.
  - iii. If more than one group of children is at one facility, each group shall be in a separate room. Groups shall not mix with each other.
  - iv. Providers or educators shall remain solely with one group of children.
  - v. Children may not move from one program to another more frequently than once every three weeks, or take part in more than one program simultaneously.

**(6) Limited Services That Do Not Require Customer Contact**

- a. Basis for Addition. The limited services allowed to open involve minimal, low-intensity, short-duration interaction between Personnel and customers. Risks associated with this activity can be mitigated through measures that ensure adequate social distancing and limit intermixing between households.
- b. Description and Conditions to Operate. Limited services that do not require customer contact including but not limited to, pet grooming (including mobile pet grooming), pet daycare, dog walking, repair services (including shoe, watch, jewelry, and other repair services), home cooking services, tailoring, car detailing, residential and janitorial cleaning services, and home maintenance, may operate subject to the following limitations in addition to those required elsewhere in the Order:
- i. If the service is operated out of a business facility that is not an Essential Business or Outdoor Business or used to carry out an Essential Governmental Function, the total number of persons (including Personnel, customers, delivery persons, or other persons) present at the facility must any one time be no more than one person per 300 gross square feet of the facility, and no more than one customer per 200 square feet of space open to the public.
  - ii. To the extent feasible, all interactions and transactions between Personnel and customers must occur outdoors.
  - iii. To the extent feasible, businesses must provide an option to customers that allows them to order and pay for products online or by phone prior to arriving at the facility.
  - iv. To the extent feasible, items serviced must be disinfected prior to being returned to customers.

**(7) Outdoor Dining**

- a. Basis for Addition. Outdoor dining provides access to freshly prepared meals at a relatively low risk of transmission. Because food service will be limited to outdoor areas, the overall volume of increased activity will be modest. In addition, interactions and activities that occur outdoors carry a lower risk of transmission than most indoor interactions and activities. Risks associated with these operations can be substantially mitigated with conditions to ensure adequate social distancing and limit intermixing between households.
- b. Description and conditions to operate: Restaurants and other food facilities that provide sit-down food service may provide outdoor, sit-down meals, subject to the following limitations in addition to those required elsewhere in the Order:
  - i. Outdoor seating arrangements shall limit the number of patrons at a single table to no more than six (6) individuals, all of whom must be from the same household or living unit. Members of separate households or living units are not allowed to dine at the same table.
  - ii. All tables must be separated to ensure that six-foot minimum social distance can easily be maintained between all members of separate households or living units at all times. For clarity, patrons who are members of the same household or living unit and seated together at a table do not need to be six feet apart.
  - iii. Alcohol may be sold to patrons in conjunction with a meal, but it may not be sold independently.
  - iv. Bar areas must remain closed to customers.
  - v. Entertainment events are not allowed at this time.
  - vi. Outdoor dining, placement of outdoor seating arrangements, and food service must be in compliance with local laws, regulations, and permitting requirements.
  - vii. Facilities that open for outdoor dining must offer curbside pickup, takeaway, and/or delivery service alternatives.

**(8) Outdoor Swimming Pools**

- a. Basis for Addition. Outdoor swimming pools have few high-touch surfaces and do not require shared equipment. Risks associated with outdoor swimming pools can be substantially mitigated with limitations to ensure adequate social distancing and limit intermixing between households.
- b. Description and Conditions to Operate. Outdoor swimming pools may operate subject to the following limitations in addition to those required elsewhere in the Order:
  - i. Lap swimming must be limited to one swimmer per lane, except that members of the same household or living unit may occupy a single lane.
  - ii. Use of shared swimming areas must be limited to no more than one swimmer per 300 square feet of shared pool space.
  - iii. Except for members of the same household, swimmers shall remain at least six feet apart at all times.
  - iv. At least one person, separate from a lifeguard, shall be on duty at all times to ensure that the social distancing protocol applicable to the facility and all limitations herein are followed.

- v. Locker rooms shall be closed to the public, except for use as a restroom.
- vi. All gathering shall be prohibited outside the pool, such as on pool decks, except that members of a household may observe a child or other person swimming to ensure safety and supervision.

**(9) Campgrounds**

- a. Basis for Addition. Camping is an outdoor activity and can occur with members of one's own household without generating substantial risk of contact with other households. Risks associated with this activity can be mitigated through measures that ensure adequate social distancing and limit intermixing between households.
- b. Description and Conditions. Campgrounds may operate subject to the following limitations additional to those required elsewhere in the Order:
  - i. Only designated camping spots shall be used.
  - ii. Each camping spot shall be occupied by no more than one household or living unit.
  - iii. If camping spots are immediately adjacent to one another, there shall at least one closed camping spot between each open camping spot to maintain adequate distance between households or living units.
  - iv. Yurts, dorms, cabins, "glamping" facilities, and other permanent facilities may not be used, except for restrooms, food lockers, dishwashing stations, and drinking water stations, which must be frequently sanitized.
  - v. To the extent feasible, reservations shall be made by phone or online prior to arrival.