

# County of Santa Clara

## Department of Environmental Health

### Consumer Protection Division

1555 Berger Drive, Suite 300, San Jose, CA 95112-2716

Phone (408) 918-3400 www.ehinfo.org



## OFFICIAL INSPECTION REPORT

Facility FA0209971 - AGAVE SPORTS BAR & GRILL	Site Address 544 W ALMA ST, SAN JOSE, CA 95125	Inspection Date 02/27/2021
Program PR0302822 - FOOD PREP / FOOD SVC OP 6-25 EMPLOYEES RC 3 - FP14	Owner Name CARAVES, GUSTAVO	Inspection Time 21:45 - 22:57
Inspected By KANE BETHEA	Inspection Type HEALTH ORDER INVESTIGATION	Consent By CLAUDIA BIBIAN

Placard Color

**RED**

### Overall Comments:

*An inspection of the above-referenced permitted facility was conducted to determine whether the permitted facility was operating in accordance with applicable local and state public health orders, including the October 5, 2020 County Health Officer Order Establishing Revised Mandatory Risk Reduction Measures Applicable to All Activities and Sectors to Address the COVID-19 Pandemic ("Revised Risk Reduction Order"), applicable County Health Officer Mandatory Directives ("Mandatory Directives"), the Statewide Public Health Officer Order dated August 28, 2020 ("State August 28 Order"), reflected in the California Department of Public Health Blueprint for a Safer Economy ("State Blueprint"), and/or applicable State COVID-19 Industry Guidance ("State Guidance") (collectively, "Public Health Orders").*

*Failure to require customers to wear face coverings at any time when they are at the facility (either inside or outside) and not eating or drinking (Revised Risk Reduction Order, ¶ 5; Mandatory Directive for Dining, Bars, Wineries, and Smoking Lounges, if applicable; Mandatory Directive on Gatherings, if applicable)*

*Failure to require staff to wear face coverings as required while at the facility (Revised Risk Reduction Order, ¶ 5; Mandatory Directive for Dining, Bars, Wineries, and Smoking Lounges, if applicable; Mandatory Directive on Gatherings, if applicable)*

*Failure to limit tables to no more than six people per table (Revised Risk Reduction Order, ¶ 5; Mandatory Directive for Dining, Bars, Wineries, and Smoking Lounges)*

*Failure to separate tables by at least 10 feet (as measured from the edge of the tables) to allow adequate social distancing between customers seated at different tables (Revised Risk Reduction Order, ¶ 5; Mandatory Directive for Dining, Bars, Wineries, and Smoking Lounges)*

*Operating facility that does not meet criteria for outdoor operations (outdoor facility must have at least 50% of its perimeter open to the outdoors; walls must be non-adjacent and non-continuous) (Revised Risk Reduction Order, ¶ 5; 11/25/2020 CDPH Directive on Use of Temporary Structures for Outdoor Business Operations)*

## **Notice of Permit Suspension** **Immediate Closure Required**

Pursuant to County Ordinance Code section B11-34 and California Health and Safety Code sections 113715 and 114409, the permit to operate your food facility is hereby suspended. **You are ordered to immediately cease operation of the food facility at 544 W ALMA ST, SAN JOSE, CA 95125 and prevent public access to the facility.** Operation of your food facility constitutes an imminent hazard to public health because of the risk of COVID-19 transmission associated with the violations of the public health orders, as described above in this Official Inspection Report.

If you fail to immediately suspend operation of your food facility, the County may:

1. Charge you any costs the County incurs to correct the violations and public nuisance, including staff costs and attorneys' fees;
2. Initiate civil action or criminal prosecution;
3. Revoke your food facility permit; or
4. Take any other action appropriate under the law.

**In order to reinstate your permit, you must contact the Department of Environmental Health at 408-918-3460 or DEHCovid19@cep.sccgov.org to schedule an inspection with a Department of Environmental Health inspector** so that the inspector can verify that your food facility has abated all violations and is in full compliance with the public health orders and any other applicable laws. The Department of Environmental Health will schedule a verification inspection within three business days (not including weekends or holidays) of your request for reinspection. The initial reinspection to verify compliance will be conducted without charge. If subsequent reinspections are required, an hourly fee (minimum one hour) at the current rate approved by the Board of Supervisors will be assessed for each and every reinspection until the necessary changes or corrections are made.

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If you disagree that the violations exist, you may appeal the suspension by filing a written request addressed to Michael Balliet, Department of Environmental Health Director, for an appeal hearing to present any supporting evidence. Your written request for an appeal hearing must be filed within 15 calendar days of this notice and must be submitted either (1) by email to [DEHAppeal@cep.sccgov.org](mailto:DEHAppeal@cep.sccgov.org) or (2) by postal mail or in person to 1555 Berger Drive, Suite 300, San Jose CA, 95112. An appeal hearing will be conducted within fifteen (15) calendar days of receipt of your written appeal. **You must suspend operation of your food facility pending this appeal hearing.**

Continuing or future violations of the public health orders may lead to further permit suspension or revocation.

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**Received By:**

**Signed On:** February 27, 2021

**Comment:** Manager refused to sign report