

Twelfth Bavarian Infection Protection Measures Ordinance
(12th BayIfSMV)^[1]
Of 5 March 2021
(BayMBI. No. 171)
BayRS 2126-1-16-G

Full quote according to the editorial guidelines (RedR): Twelfth Bavarian Infection Protection Measures Ordinance (12th BayIfSMV) of 5 March 2021 (BayMBI. No. 171, BayRS 2126-1-16-G), which was last amended by Article 1 of the Ordinance of 16 April 2021 (BayMBI. No. 280)

In accordance with Article 32 sentence 1 in conjunction with Article 28 sub-para. 1, Article 28a of the German Infection Protection Act (IfSG) of 20 July 2000 (Federal Law Gazette I p. 1045), last amended by Art. 4a of the Act of 21 December 2020 (Federal Law Gazette I p. 3136), and in conjunction with Section 9 no. 5 of the Ordinance on Responsibility to Issue Decrees [Delegationsverordnung, DelV] of 28 January 2014 (Law and Ordinance Gazette p. 22, BayRS 103-2-V), which was last amended by Section 14a of the Ordinance of 2 February 2021 (Law and Ordinance Gazette p. 26), the Bavarian State Ministry of Health and Care orders:

^[1] Cf. the reasons required under Article 28a sub-para. 5 IfSG which were published in BayMBI. No. 172 of 5.3.2021.

Part 1 General regulations

Article 1 Social distancing, mouth and nose cover

(1) ¹Everyone is urged to reduce physical contact with other persons to an absolutely necessary minimum and to keep the group of persons as constant as possible. ²Wherever possible, a minimum distance of 1.5 m must be maintained between two persons. ³Where it is not possible to maintain the minimum distance in public areas, a mouth and nose cover should be worn. ⁴It is necessary to ensure sufficient ventilation in enclosed areas.

(2) ¹Insofar as this Ordinance imposes the obligation to wear a mouth and nose cover (mask obligation) or a medical face mask, the following applies:

1. Children are exempt from the obligation to wear a mask until their sixth birthday;
2. Those persons who can credibly demonstrate that it is not possible or that it is unreasonable for them to wear a mouth and nose cover due to a disability or for health reasons are exempt from the obligation to wear one; in the case of health reasons, proof must be furnished, in particular, by means of a medical certificate stating the medical evaluation of the syndrome (diagnosis), the Latin name or the classification of the disease in accordance with ICD 10 and the reason why this results in exemption from the mask obligation;
3. Removal of the mouth and nose cover is permitted as long as it is necessary for identification purposes or for communicating with persons with impaired hearing or for other compelling reasons.

²Insofar as this Ordinance imposes the obligation to wear an FFP2 mask or a mask of at least the equivalent standard (FFP2 mask obligation), sentence 1 applies mutatis mutandis with the proviso that children between the ages of six and 15 need only wear a mouth and nose cover.

Article 2 Recording contact data

¹Where, in accordance with this Ordinance or on account of the protection and hygiene concepts for which it provides, contact data are collected for the purpose of contact tracing in the case of an ascertained infection

with the coronavirus SARS-CoV-2, the following applies apart from Article 28a sub-para. 4 sentences 2 to 7 of the Infection Protection Act (IfSG):

1. The surname and first names, secure contact information (phone number, email address or postal address) and the period of stay must be documented for each person;
2. If contact details are given to a person obligated to collect them, they must be accurate.

²The collection of contact data as per sentence 1 may also be carried out in electronic form, as long as a sufficiently precise documentation of the data specified in sentence 1 no. 1 is ensured. ³Authorities, courts and public bodies that perform tasks in the public interest or undertake acts ordered by a public authority may also collect personal data when their respective buildings or premises are entered; sentence 1 applies accordingly.

Article 3 Procedure for incidence-dependent regulations

Where, pursuant to this Ordinance, the applicability of regulations in districts and cities with district status depends upon the condition that the number of new infections with the SARS-CoV-2 coronavirus per 100,000 inhabitants within seven days, laid down by Article 28a, sub-para. 3, sentence 12 IfSG (7-day incidence), lies above or below certain values in a specific district or city with district status, the following applies:

1. The State Ministry of Health and Care shall, by announcement on 7 March 2021, lay down the incidence classification applicable to all districts and cities with district status as from 8 March 2021.
2. If a value pertaining to the 7-day incidence which, in terms of its being exceeded or not exceeded, is directly tied to the regulations of this Ordinance, is exceeded or – where this is decisive for the classification – no longer exceeded on three consecutive days, the responsible local authority must officially announce this without delay.
3. The regulations applicable to the new incidence area shall then apply to the relevant district or city with district status from the second day after the condition set out in no. 2 is met, but at the earliest on the day after the official announcement referred to in no. 2; the announcement referred to in no. 2 shall state the first day of applicability.

Article 4 Limited contact

(1) ¹Meetings in public areas, in privately used rooms and on privately used land are only permitted

1. - in districts and cities with district status where a 7-day-incidence of 100 is exceeded - with members of one's own household and one additional person; the reciprocal supervision of children under the age of 14, which is free of charge and not on a commercial basis, is also permitted in fixed, family or neighbourhood care groups if it extends to children from no more than two households,

2. - in districts and cities with district status where the 7-day-incidence is between 35 and 100 - with members of one's own household and in addition the members of one further household, as long as a total number of five persons is not thereby exceeded,

3. - in districts and cities with district status where the 7-day-incidence does not exceed 35 - with members of one's own household and in addition the members of two further households, as long as a total number of ten persons is not thereby exceeded,

²The children belonging to these households who are under the age of 14 are not included in the total number. ³Spouses, life partners and non-marital partners are considered to form one household with their partner, even if they do not have a common abode.

(2) Sub-para. 1 does not apply to professional and official activities or to volunteer work in corporations and institutions under public law mandatorily requiring several persons to work together.

Part 2 Public life

Article 5 Events, parties

¹Subject to more specific provisions in this Ordinance, events, assemblies, when not assemblies in accordance with Article 7, crowds, as well as public festivities, are prohibited throughout the state. ³Parties in public places and grounds are prohibited.

Article 6 Church services, meetings of religious communities

Church services which are open to the public in churches, synagogues and mosques, as well as meetings of other religious communities, are permitted under the following conditions:

1. In buildings, the maximum number of participants allowed is determined by the number of available seats with a minimum distance of 1.5 m to other seats.
2. A minimum distance of 1.5 m must be maintained between persons who are not members of the same household.
3. All participants must wear FFP2 masks.
4. Communal singing is prohibited.
5. There is an infection protection concept for church services or gatherings that minimises the possible risks of infection according to the religious community and rite; the infection protection concept must be submitted to the responsible local authority upon request.
6. Worship services and meetings of religious communities which reach the scale of large events are prohibited.
7. If the number of participants is expected to reach full capacity, attendance of church services and meetings of religious communities is only permitted after prior registration.
8. In the case of church services and meetings of religious communities where more than ten participants are expected, prior notice must be given to the responsible local authority at least 48 hours in advance; this does not apply if the respective religious community's relevant infection control concept as per No. 5 was submitted to the competent authority specified in Section 65 of the Responsibilities Ordinance (ZustV).

Article 7 Assemblies as defined by Article 8 of the German Constitution

(1) ¹In the case of outdoor assemblies as defined by Article 8 of the Constitution, a minimum distance of 1.5 m must be maintained between all participants and any physical contact with other participants in the assembly or with third parties must be avoided. ²The authorities responsible in accordance with Article 24 sub-para. 2 of the Bavarian Assembly Act (BayVersG) must ensure, insofar as this is necessary in individual cases, by means of appropriate restrictions in accordance with Art. 15 BayVersG, that

1. the provisions under sentence 1 are complied with and
2. the risks of infection arising from the assembly are also limited to a level that is acceptable in terms of infection protection legislation; this should generally be assumed if the assembly has no more than 200 participants and is held at a fixed location.

³The mask obligation applies to the participants, with the exception of the persons chairing the assembly during announcements, orators during speeches and participants driving a motor vehicle on the road during the assembly. ⁴If the requirements under sentence 2 cannot be ensured even by restrictions, the assembly must be prohibited.

(2) Assemblies as defined by Article 8 of the Constitution in enclosed rooms are permitted under the following conditions:

1. The event organiser must take suitable measures to ensure that a minimum distance of 1.5 m can always be maintained between all participants and any physical contact with other assembly participants or third parties can be avoided.
2. The maximum number of participants allowed is determined by the number of places available considering no. 1.
3. The participants must wear an FFP2 mask; sub-para. 1 sentence 3 clause 2 applies accordingly.
4. The organiser must draw up a protection and hygiene concept and submit it to the responsible local authority upon request.
5. The responsible local authority must be notified of assemblies where more than 100 participants are expected; Art. 13 sub-para. 1 to (4) BayVersG shall apply accordingly.

Article 8 Public transport, school transport, tourist coaches

¹Passengers, ticket inspectors and service personnel who come into contact with passengers must wear masks when using long-distance public transport and related facilities. ²Sentence 1 applies accordingly to local public transport and related facilities as well as to free school transport with the proviso that all passengers must wear FFP-2 masks. ³Tourist coach tours are prohibited.

Article 9 Special rules on visits and protection

(1) ¹In the case of a visit to patients or residents of

1. hospitals and preventive care/rehabilitation facilities where medical care comparable to that offered in hospitals is provided (facilities as defined in Article 23 sub-para. 3 sentence 1 nos. 1 and 3 IfSG),
2. inpatient nursing care facilities as defined in Article 71 sub-para. 2 of the Eleventh Book of the Social Code,
3. facilities for persons with disabilities as defined in Article 2 sub-para. 1 of the Ninth Book of the *Social Code* where integration assistance services are provided by day and by night,
4. sheltered housing groups as defined in Article 2 sub-para. 3 of the German Act on the Quality of Care and Living for the purpose of outpatient intensive care where outpatient care services provide services as defined in Article 23 sub-para. 6a IfSG,
5. retirement homes and nursing homes,

visitors are required to wear masks and must, if possible, consistently maintain a minimum distance of 1.5 m. ²The facility must draw up a protection and hygiene concept on the basis of a framework concept announced by the State Ministry of Health and Care, comply with it and submit the concept to the responsible local authority upon request.

(2) In facilities as defined in sub-para. 1 sentence 1 nos. 2, 3 and 5, the following applies in addition:

1. Visitors may only be admitted if they
 - a) have a written or electronic negative test result regarding an infection with the coronavirus SARS-CoV-2 and can provide evidence of this upon request, whereby the testing by means of a PCR test or a POC antigen test upon which the test result is based must have been performed no more than 48 hours prior to the visit and must meet the current requirements of the Robert Koch Institute, or
 - b) have carried out an antigen test approved by the Federal Institute for Drugs and Medical Devices for

self-administration by laypersons (self-test) with regard to an infection with the SARS-CoV-2 coronavirus in the facility under supervision, and have obtained a negative result.

2. Visitors must wear an FFP2 mask within the facility.
 3. Employees are required to wear FFP2 masks within the framework of occupational health and safety regulations to the extent that they are in contact with residents.
 4. The protection and hygiene concept referred to in sub-para. 1, sentence 2, must include a testing concept which envisages, in particular, regular testing of the facility's employees for infection with the SARS-CoV-2 coronavirus – also taking into account the proportion of residents and employees who have already received a vaccination against the SARS-CoV-2 coronavirus; the facilities shall organise the necessary testing.
 5. If, in a district or a city with district status, the 7-day incidence exceeds 100 or if there is a major outbreak, then the responsible local authority must – taking into account the proportion of residents and employees who have already received a vaccination against the SARS-CoV-2 coronavirus – order testing of the employees of these facilities for SARS-CoV-2 coronavirus infection on at least two different days per week on which the employees are scheduled to be on duty.
- (3) ¹Ambulatory care services and day care centres must have their employees regularly tested for SARS-CoV-2 coronavirus infection, if possible, on three different days per week, within the limits of available testing capacity. ²Their employees are required to wear FFP2 masks within the framework of occupational health and safety regulations to the extent that they are in contact with persons in need of care.
- (4) Tending to a dying person is permitted at any time.

Part 3 Sports and leisure

Article 10 Sports

(1) ¹The practice of sports and practical sports education are permitted as follows:

1. in districts and cities with district status where a 7-day incidence of 100 is exceeded, non-contact sports only are permitted with due regard to the contact restriction in accordance with Article 4 sub-para. 1; the practice of team sports is prohibited;
2. in districts and cities with district status where the 7-day incidence is between 50 and 100, non-contact sports only are permitted with due regard to the contact restriction in accordance with Article 4 sub-para. 1 and, in addition, in the open air in groups of up to 20 children under 14 years of age;
3. in districts and cities with district status where a 7-day incidence of 50 is not exceeded, non-contact sports only are permitted in groups of up to 10 people or in the open air in groups of up to 20 children under 14 years of age.

²sub-para. 2 remains unaffected by this.

(2) Competitive and training activities of professional athletes and competitive athletes of the national and state squads are permitted under the following conditions:

1. No spectators are allowed.
2. Only those persons who are needed for the competitive or training activities or media coverage are allowed to enter the sports facility.
3. In order to minimise the risk of infection, the organiser must draw up and comply with a protection and hygiene concept, which must be submitted to the responsible local authority upon request.

(3) ¹The operation and use of sports grounds, fitness studios, dance schools and other sports facilities is permitted in the open air only and for the purposes named in sub-para. 1 sentence 1 only. ²sub-para. 2 and Article 18 remain unaffected.

Article 11 Leisure facilities

(1) ¹The operation of amusement parks and comparable local leisure facilities is prohibited. ²Leisure activities may not be offered commercially, neither in the open air nor indoors.

(2) ¹Open-air playgrounds are only open for children accompanied by an adult. ²The adults accompanying them must prevent any crowding and ensure sufficient spacing of the children wherever possible.

(3) Guided city tours and tours for guests as well as mountain, cultural and nature tours and tours in show caves and visitor mines are prohibited.

(4) The operation of cable cars, boats on rivers and lakes for excursion purposes and tourist rail transport is prohibited.

(5) ¹The opening and operation of bathing facilities, hotel swimming pools, spas, wellness centres and saunas is prohibited. ² Article 10(2) remains unaffected by this.

(6) Brothels, sex establishments, amusement arcades, casinos, betting shops, clubs, discotheques, other places of amusement and comparable leisure facilities are closed.

Part 4 Business life

Article 12 Retail and service businesses, markets

(1) ¹In districts and cities with district status where a 7-day incidence of 50 is exceeded, the opening of shops frequented by customers is prohibited for retail, service and crafts businesses. ²Exceptions are the food trade including via direct marketing, delivery services, beverage markets, health food stores, baby specialist stores, pharmacies, medical supply stores, drugstores, opticians, hearing aid specialists, petrol stations, car repair shops, bicycle repair shops, banks and savings banks, insurance agencies, pawn shops, branches of the letter and mail order trade, dry cleaners and launderettes, the sale of press articles, pet supplies and animal feed, as well as the wholesale trade. ³The sale of goods which do not belong to the usual range of the respective shop is prohibited. ⁴The following applies to establishments and wholesalers which are allowed to open as per sentence 2:

1. the operator must ensure by means of suitable measures that a minimum distance of 1.5 m can always be maintained between customers;
2. the operator must take suitable measures to ensure that the number of customers present in the shop at any one time does not exceed one customer per 10 m² for the first 800 m² of the sales floor and in addition one customer per 20 m² for the part of the sales floor exceeding 800 m²;
3. in the sales rooms, on the sales premises, in the entrance and waiting areas in front of the sales rooms and the corresponding parking spaces, staff must wear masks and the customers and persons accompanying them must wear FFP2 masks; if reliable protection against infection is ensured by transparent or otherwise suitable protective walls at the cash desk and counter areas of shops, the mask obligation does not apply to staff;
4. the operator must draw up a protection and hygiene concept for visiting customers and submit it to the responsible local authority upon request.

⁵The following applies to shopping centres:

1. sentences 1 to 4 apply with regard to the individual shops;
2. with regard to the shopping centres, sentence 4 applies with the proviso that the maximum number of

customers admitted depends on the overall floor space of the shopping centre and that the protection and hygiene concept must take the entire customer flows of the shopping centre into account.

⁶Notwithstanding sentence 1, the collection of pre-ordered goods from shops is permitted; for this, sentence 4 nos. 1, 3 and 4 apply accordingly with the specification that the protection and hygiene concept must, in particular, include measures to prevent crowds of customers, e.g. by means of spaced time windows.

⁷ In districts and cities with district status where the 7-day incidence

1. is under 50, the opening of shops frequented by customers is permitted subject to the conditions of sentence 4,

2. is between 50 and 100, in addition to sentence 6 the opening of shops for individual customers who have an appointment for a set period of time is permitted; here, sentence 4 nos. 1, 3 and 4 apply correspondingly with the proviso that the number of customers present in the shop at the same time must not be higher than one customer per 40 m² of the sales area; the operator must collect the contact data of the customers in accordance with Article 2,

3. is between 100 and 200, No. 2 applies with the further proviso that customers may only be admitted if they can show proof of a negative result from a POC antigen test or self-test taken no more than 24 hours previously, or from a PCR test taken no more than 48 hours previously, regarding infection with the coronavirus SARS-CoV-2.

(2) ¹Services where physical proximity to the customer is inevitable, such as massage practices, tattoo studios or similar businesses are prohibited. ²Notwithstanding sentence 1 and sub-para. 1 sentence 1, hairdressing services as well as non-medical foot, hand, nail and facial care may be offered to the extent which is necessary for hygiene or care; sub-para. 1 sentence 4 applies mutatis mutandis in this regard, subject to the conditions that staff must wear a medical face mask within the scope of occupational health and safety regulations and that access must be controlled by means of prior reservation of appointments. ³The FFP2-mask obligation does not apply if the nature of the service does not permit it. ⁴The service provider must collect the contact data of the customers in accordance with Article 2.

(3) ¹The opening of doctors' practices, dentists' practices and all other practices, insofar as they provide medical, therapeutic and care services or offer medically necessary treatment, is permitted. ²In them, sub-paragraph 1 sentence 4 nos. 1 and 3 apply accordingly under the condition that the mask requirement does not apply if the nature of the service does not permit it. ³Any further obligations to wear a medical mouth and nose mask remain unaffected.

(4) ¹Markets are prohibited. ²The only exception is the sale of food. ³For their organiser, paragraph 1 sentence 4 nos. 1 and 4 apply accordingly with the proviso that the protection and hygiene concept must be drawn up on the basis of a framework concept announced by the State Ministry for Economic Affairs, Regional Development and Energy and the State Ministry of Health and Care. ⁴Sub-para. 1 sentence 4 no. 3 applies accordingly to sales staff, customers and persons accompanying them.

Article 13 Gastronomy

(1) Gastronomic businesses of any kind, including company canteens, are prohibited, subject to sub-para. 2 and 3.

(2) ¹The dispensing and delivery of takeaway food and beverages is permitted. ²For the staff, to the extent that they come into contact with customers, and for customers, Article 12 sub-para. 1 sentence 4 no. 3 applies accordingly. ³When food and beverages are purchased, it is prohibited to eat and drink them on the spot.

(3) The operation of company canteens which are not open to the public is, by way of exception, permitted under the following conditions:

1. The consumption of food and beverages at the canteen is essential for the running of the business.
2. A minimum distance of 1.5 m between all guests who are not members of the same household is

ensured.

3. The operator must draw up a protection and hygiene concept and submit it to the responsible local authority upon request.

Article 14 Accommodation

(1) ¹Overnight accommodation may be offered by hotels, accommodation facilities, school hostels, youth hostels, campsites and all other commercial or paid lodgings for credibly necessary purposes only, in particular, for professional and business purposes. ²Overnight accommodation for touristic purposes is prohibited.

(2) The following applies with regard to overnight accommodation as specified in sub-para. 1 sentence 1:

1. The operator must ensure by means of suitable measures that a minimum distance of 1.5 m is always maintained between guests who do not belong to the same household, and between guests and staff.

2. Guests who, in relation to each other, do not belong to the same household, may not lodge together in the same room or accommodation unit.

3. Personnel in the service area or in areas where a minimum distance of 1.5 m cannot be maintained, as well as guests if they are not at the table of the restaurant area or in their accommodation unit, must wear masks; Article 12 sub-para. 1 sentence 4 no. 3 clause 2 applies accordingly.

4. The operator must draw up a protection and hygiene concept on the basis of a framework concept for accommodation facilities announced by the State Ministry for Economic Affairs, Regional Development and Energy and the State Ministry of Health and Care and submit the concept to the responsible local authority upon request.

5. The operator must collect the contact data of the guests in accordance with Article 2.

(3) For gastronomic offers, the respective specific regulations of this Ordinance are applicable.

Article 15 Conferences, congresses, trade fairs

Conferences, congresses, trade fairs and comparable events are prohibited.

Article 16 Business accommodation

¹For companies and agricultural businesses employing at least 50 persons who are housed in collective accommodation or in company-owned or rented accommodation, the protective and hygiene measures required from the point of view of infection protection law may be ordered by the responsible local authority in individual cases. ²The operators are responsible for compliance with the protective and hygiene measures and must review and document this regularly.

Part 5 Education and culture

Article 17 Examinations

¹Examinations are only permitted if a minimum distance of 1.5 m is maintained between all participants.

²Where it is not possible to maintain the minimum distance due to the nature of the examination, other equally effective protective measures must be taken. ³Spectators who are not involved in running the examination are not permitted.

Article 18 Schools

(1) ¹Classes and other school events within the meaning of the Bavarian Education and Training Act [Gesetz über das Erziehungs- und Unterrichtswesen, BayEUG] as well as lunchtime supervision at schools are permitted pursuant to the following sentences if suitable measures are adopted to ensure that infection protection is taken into due account. ²The schools and the providers of lunchtime supervision must draw up a protection and hygiene concept for all activities on the school grounds and at the emergency childcare facilities based on a hygiene plan made available to them by the State Ministry of Education and the Arts and the State Ministry of Health and Care (framework hygiene plan) and submit the concept to the responsible local authority upon request. ³ Subject to the preconditions of sub-para. 4, the following applies:

1. In districts and cities with district status where a 7-day incidence of 100 is exceeded,
 - a) classroom teaching will take place in grade 4 of the primary school level, grade 11 of the grammar schools and the specialised secondary schools and in graduation classes, provided that the minimum distance of 1.5 m can be consistently and reliably maintained, or remote and classroom teaching alternately, and
 - b) remote teaching will take place for all other types of schools and classes;
2. in districts and cities with district status where the 7-day incidence is between 50 and 100, classroom teaching will take place, provided that the minimum distance of 1.5 m can be consistently and reliably maintained, or remote and classroom teaching alternately;
3. in districts and cities with district status where a 7-day incidence of 50 is not exceeded,
 - a) classroom teaching will take place for primary school classes and
 - b) classroom teaching will take place for all other types of schools and classes, provided that the minimum distance of 1.5 m can be consistently and reliably maintained, or remote and classroom teaching alternately.

⁴By way of derogation from Article 3, each Friday the responsible local authority will in an official announcement specify the incidence classification which is decisive for the respective district or city with district status in line with the current version of the publication of the Robert Koch Institute. ⁵The regulation applicable to that incidence range shall then apply to the respective district or city with district status for the duration of the following calendar week from Monday to midnight of the following Sunday. ⁶Regulations on emergency childcare are issued by the competent State Ministry.

(2) ¹Masks are mandatory on school grounds, during lunchtime supervision and in all emergency childcare facilities; furthermore, teachers are required to wear a medical face mask in compliance with occupational health and safety regulations. ²Notwithstanding Article 1, the following persons are exempt from the mask obligation:

1. pupils who are exempted with the approval of the supervisory staff for compelling pedagogical-didactic or school-organisational reasons,
2. school administration staff after reaching their respective workplace, if no other persons are present,
3. pupils during an efficient shock ventilation of the classroom or common room, and for a short time outdoors in the open air, as long as a sufficient minimum distance is consistently maintained.

³The legal guardians of the pupils must ensure that they comply with the mask obligation.

(3) Sub-para. 1 to 2 also apply with regard to activities at the State Institute for the Training of Specialist Subject Teachers and at the State Institute for the Training of Support Teachers.

(4) ¹Pupils are only allowed to participate in classroom teaching and in classroom phases of alternating teaching as well as in emergency childcare and lunchtime childcare if they undergo a test for infection with the SARS-CoV-2 coronavirus pursuant to sentences 2 to 5 twice a week, in the case of sub-para. 1, sentence 3, no. 1 at least twice a week. ²For this purpose, at the beginning of the school day the pupils must carry on them a written or electronic negative result of a PCR or POC antigen test and present it on request,

or must have performed a self-test at school under supervision, with a negative result.³The testing from which the test result is derived or the self-test performed at school must have been taken no more than 48 hours, in the case of sub-para. 1 sentence 3 no. 1 no more than 24 hours, before the beginning of each school day.⁴To the extent that tests are performed at school, the school will process the test result solely for the school-related purpose of maintaining classroom lessons; subject to reporting obligations under the Infection Protection Act, the test result will not be forwarded to third parties.⁵The test result shall be kept for a maximum of 14 days.⁶The State Ministry for Education and Cultural Affairs may announce exceptions for pupils with special educational needs.⁷Sentences 1 to 5 apply mutatis mutandis to teachers and school administrative staff with regard to their activities on school premises, with the proviso that a self-test may also be carried out outside the school and without supervision if the person vouches that the test result was negative.

Article 19 Day care services for children, adolescents and young adults

(1)¹The running of day-care centres, day-care babysitters and nannies, holiday day-care centres and organised playgroups for children is permitted under the following conditions:

1. in districts and cities with district status where a 7-day incidence of 100 is exceeded, the facilities will be closed; regulations concerning supervision of pupils whose parents cannot work from home will be issued by way of announcements by the State Ministry for Family, Labour and Social Affairs in consultation with the State Ministry of Health and Care;
2. in districts and cities with district status where the 7-day incidence is between 50 and 100, the facilities can only open if the childcare is provided in fixed groups (limited regular service);
3. in districts and cities with district status where a 7-day incidence of 50 is not exceeded, the facilities can open.

²The respective operators must draw up a protection and hygiene concept on the basis of a framework hygiene plan made available to them by the State Ministry for Family, Labour and Social Affairs and the State Ministry of Health and Care and submit the concept to the responsible local authority upon request; facility-specific requirements and local circumstances must thereby be taken into account.³ Article 18 sub-para. 1 sentences 4 to 5 apply accordingly.

(2)¹For special pedagogical daycare centres, the respective operators must draw up a protection and hygiene concept on the basis of a framework hygiene plan made available to them by the State Ministry for Family, Labour and Social Affairs and the State Ministry of Health and Care and submit the concept to the responsible local authority upon request.²The facility-specific requirements and the circumstances on site must be taken into account.

(3)¹Pupils may only attend day-care as set out in sub-para. (1) and (2) if they have been tested for infection with the SARS-CoV-2 coronavirus as specified for classroom teaching.²Insofar as the prerequisites for attending classroom teaching or emergency childcare have not already been fulfilled on that day as per Article 18 sub-para. 4, Article 18 sub-para. 4, sentences 1 to 5 shall apply mutatis mutandis with the exception that the childcare facility shall replace the school.

Article 20 Extra-curricular education, music schools, driving schools

(1)¹Offers of basic, further and advanced vocational training are permitted in classroom form if a minimum distance of 1.5 m is maintained between all participants.²The mask obligation exists where the minimum distance cannot reliably be maintained, particularly in corridors, stairways and other areas of frequent encounters, and when seated during face-to-face events.³ Article 17 sentence 2 applies accordingly.⁴The operator must draw up a protection and hygiene concept and submit it to the responsible local authority upon request.⁵In districts and cities with district status where a 7-day incidence of 100 is exceeded, offers referred to in sentence 1 are prohibited in classroom form except for the provisions of sub-para. 3.⁶The permission given in Article 20 sub-para. 1 sentence 2 of the 11th BayIfSMV in the version applicable until 21 February 2021 for final-year pupils of vocational schools remains unaffected.

(2) Offers of adult education as per the Bavarian Adult Education Promotion Act and comparable offers from other providers as well as other extracurricular educational offers, sub-para. 1 sentences 1 to 5 apply *mutatis mutandis*.

(3) ¹First-aid courses and the training of members of the fire brigade, of the rescue service and of the technical relief organisation are permitted if a minimum distance of 1.5 m is maintained between all participants. ²The mask obligation exists where the minimum distance cannot reliably be maintained, particularly in corridors, stairways and other areas of frequent encounters, and when seated during face-to-face events. ³ Article 17 sentence 2 applies accordingly. ⁴The operator must draw up a protection and hygiene concept and submit it to the responsible local authority upon request.

(4) ¹Instrumental and singing lessons may only be given in face-to-face form as private lessons subject to the following conditions:

1. a minimum distance of 2 m can be consistently and reliably maintained;
2. teachers are required to wear a medical face mask in compliance with occupational health and safety regulations; pupils must wear an FFP2 mask; these obligations do not need to be fulfilled only if and for as long as the active production of music does not allow for a mask to be worn;
3. the operator must draw up a protection and hygiene concept and submit it to the responsible local authority upon request.

²In districts and cities with district status where a 7-day incidence of 100 is exceeded, instrumental and singing lessons in face-to-face form are prohibited.

(5) ¹With regard to theoretical driving school lessons, refresher courses, aptitude seminars and theoretical driving tests, the obligation to wear a medical face mask applies to instructors within the scope of occupational health and safety regulations, and in all other cases FFP2 masks; sub-para. 3 sentences 1 and 4 apply accordingly. ²With regard to practical driving school lessons and practical tests, FFP2 masks are mandatory for the instructors within the scope of occupational health and safety regulations as well as for the other passengers of the vehicle.

(6) Article 10 applies to practical sports education.

Article 21 Universities

¹There are no face-to-face events at the universities. ²Notwithstanding sentence 1, practical and artistic training elements and events necessitating special laboratories or workrooms at the universities are permitted if it is ensured that a minimum distance of 1.5 m is always maintained between all participants. ³Events specified in sentence 2 are subject to the mask obligation. ⁴More specific provisions under this Ordinance are not affected.

Article 22 Libraries, archives

Libraries and archives may be opened under the conditions of Article 12 sub-para. 1 sentence 4.

Article 23 Cultural sites

(1) Theatres, operas, concert halls, stages, cinemas and similar establishments are closed.

(2) For museums, exhibitions, memorial places, properties of the Bavarian Administration of State-Owned Palaces, Gardens and Lakes and comparable cultural sites, as well as zoological and botanical gardens, the following applies:

1. In districts and cities with district status where a 7-day incidence of 100 is exceeded, the specified cultural sites are closed.
2. In districts and cities with district status where the 7-day incidence is between 50 and 100, the specified

cultural sites may only open for visitors who have previously booked appointments under the following conditions:

- a) the number of visitors admitted is determined according to the space available for visitors, whereby a minimum distance of 1.5 m between them is ensured;
- b) the visitors must wear FFP2 masks;
- c) the operator must draw up a protection and hygiene concept and submit it to the responsible local authority upon request;
- d) the operator must collect the contact data of the visitors in accordance with Article 2.

3. In districts and cities with district status where a 7-day incidence of 50 is not exceeded, no. 2 applies with the provision that there is no need for any prior booking of appointments and collection of contact details.

Part 6 Other regulations

Article 24 Stricter mask obligation, alcohol ban, tracing of infection chains

(1) A mask obligation exists

1. in central meeting areas to be determined by the responsible local authority in town centres or other public places in the open air where people are present either in close proximity to each other or for more than a short space of time,

2. in corridors, stairways and other areas of frequent encounters including the lifts of public buildings and of other publicly accessible buildings for which this Ordinance does not lay down any specific rules,

3. in the central meeting areas and areas of frequent encounters of workplaces, in particular, in lifts, corridors, canteens and entrances; the same applies at the workstation if the minimum distance of 1.5 m cannot reliably be maintained.

(2) ¹The consumption of alcohol is prohibited in public areas of frequent encounters in town centres or other public places in the open air where people are present either in close proximity to each other or for more than a short space of time. ²The exact locations involved are determined by the responsible local authority in each case.

(3) As soon as the complete tracing of infection chains can no longer be ensured in terms of personnel in a district or city constituting a district in its own right, the responsible local authority must

1. report this to the responsible government, and
2. ask for personnel reinforcement, e.g. by police and Bundeswehr forces.

Part 7 Incidence-based measures

Article 25 Regulations in the event of a markedly higher 7-day incidence

(1) ¹If, in a district or city with district status, the value of the 7-day incidence is markedly higher than the national average, the responsible local authority must, in agreement with the responsible government and without prejudice to Article 28, issue additional instructions. ²If there are indications that the increased incidence value is also due to infections entering from neighbouring risk areas as defined in Section 2 No. 17 IfSG, the responsible local authority must, in particular, order additional restrictions on movement for inward and outward cross-border commuters as well as additional protective and hygiene measures for businesses employing inward commuters.

(2) In a district or city with district status where the 7-day incidence is above 200, the responsible local authority can order by general decree that employees of certain establishments and facilities may only work in person at their workplace if they have proof at the beginning of the working day of a POC antigen test or

self-test carried out no more than 24 hours previously or a PCR test carried out no more than 48 hours previously with a negative result as regards infection with the SARS-CoV-2 coronavirus.

Article 26 Regulations in the event of a 7-day incidence of more than 100, night curfew

In districts and cities with district status where a 7-day incidence of 100 is exceeded, it is forbidden to be outside of a home from 10 p.m. to 5 a.m., unless it is justified on the grounds of

1. a medical or veterinary emergency or other medical treatment which cannot be postponed,
2. the performance of occupational or official activities, or purposes connected to vocational training which cannot be postponed,
3. the exercise of custody and access rights,
4. care for persons in need of support and minors which cannot be postponed,
5. tending to the dying,
6. taking actions to care for animals or
7. other similarly important and irrefutable reasons.

Article 27 Further lifting of restrictions

(1) If, in a district or city with district status, the 7-day incidence does not exceed 100 and the development of the incidence of infection appears to be stable or in decline, the responsible local authority may, in agreement with the State Ministry of Health and Care, at the earliest with effect from 26 April 2021 and in accordance with framework concepts which shall be published by the responsible state ministries in agreement with the State Ministry of Health and Care and which shall specify the necessary protection and hygiene measures, permit the following further openings:

1. the opening of outdoor gastronomy for visitors who have booked a table in advance, with documentation for contact tracing purposes; if people from several households sit at one table, a POC antigen test or self-test carried out no more than 24 hours earlier or a PCR test carried out no more than 48 hours earlier for SARS-CoV-2 coronavirus infection is necessary for the guests at the table, each with a negative result;
2. the opening of theatres, concert halls and opera houses and cinemas for visitors in possession of a test result as specified in No. 1;
3. indoor non-contact sports and outdoor contact sports provided that all participants are in possession of a test result as specified in No. 1.

(2) If, in a district or city with district status, the 7-day incidence does not exceed 50 and the development of the incidence of infection appears to be stable or in decline, the responsible local authority may, in agreement with the State Ministry of Health and Care, allow – at the earliest from 26 April 2021 – further alleviating departures from the provisions of this Ordinance with respect to

1. the opening of outdoor gastronomy,
2. the opening of theatres, concert halls, opera houses and cinemas, and
3. indoor non-contact sports and outdoor contact sports

in accordance with framework concepts which shall be published by the responsible state ministries in agreement with the State Ministry of Health and Care and which shall specify the necessary protection and hygiene measures.

Part 8 Final provisions

Article 28 Local measures, additional instructions, exemptions

(1) ¹Additional instructions from the local authorities responsible for the enactment of the Infection Protection Act remain unaffected. ²The responsible local authorities may, even to the extent that this Ordinance prescribes protective measures or protection and hygiene concepts, issue additional instructions in specific cases where this is necessary in terms of infection protection legislation.

(2) ¹Upon application, special permits may be granted by the responsible local authority, provided that each case is acceptable in terms of infection protection legislation. ²Special exemptions for a general group of persons or a general constellation of cases may only be granted in agreement with the responsible government under the conditions of sentence 1.

(3) In districts and cities with district status where a 7-day incidence of 100 is exceeded, the responsible local authority can – at the earliest from 26 April 2021 and in agreement with the State Ministry of Health and Care and the other State Ministries concerned – permit the opening of certain facilities in individual cases or in general within the territory of a municipality within the scope of limited pilot tests, by way of derogation from the provisions of this Ordinance, insofar as this is justifiable from the point of view of infection control legislation and is necessary to test the effectiveness of comprehensive test concepts and of further protective and hygiene measures.

Article 29 Offences

An offence within the meaning of Section 73 sub-para. 1a no. 24 IfSG is committed by anyone who, intentionally or negligently,

1. in breach of Article 2 sentence 1 no. 2, provides false contact data,
2. in breach of Article 4 sub-para. 1, spends time with other persons,
3. in breach of Article 5 sentence 1 or Article 7 sub-para. 2, holds an event or an assembly, in breach of Article 7 sub-para. 2 no. 4, cannot as the event organiser present a protection and hygiene concept, or, in breach of Article 5 sentence 1 or Article 7 sub-para. 1 sentence 1, takes part in an event or an assembly,
4. in breach of Article 5 sentence 2, parties in public spaces or parks,
5. in breach of Article 7 sub-para. 1 sentence 3 or Article 7 sub-para. 2 no. 3, does not comply with the mask obligation when participating in an assembly,
6. in breach of Articles 8, 9, 12, 13, 14, 22 or 23, as a visitor, customer, accompanying person or guest fails to comply with the mask obligation or FFP2 mask obligation,
7. in breach of Article 9, cannot present a protection and hygiene concept as the operator of a facility,
8. in breach of Article 10 sub-para. 1 or 2, plays sport or conducts practical sport education, in breach of Article 10 sub-para. 2 no. 1, allows in spectators, in breach of Article 10 sub-para. 3, operates or uses sports halls, sports grounds, fitness studios, dance schools or other sports facilities,
9. in breach of Article 8 sentence 3, operates or carries out tourist bus tours, operates facilities in breach of Article 11 sub-para. 1, 4 to 6 or, in breach of Article 11 sub-para. 3, carries out guided tourist tours,
10. in breach of Article 12, opens a shop or a takeaway service or runs a market or, as the operator of a shop, a market stall or a shopping centre, or as a party responsible for a service company or a practice, fails to comply with the obligations specified therein or to ensure that the staff comply with the mask obligation or obligation to wear a medical mask or, as the organiser of a market, fails to comply with the obligations specified therein,

11. in breach of Article 13, opens or runs a gastronomic business or fails to ensure that the staff comply with the mask obligation or, in breach of Article 13 sub-para. 2 sentence 3, as a customer, consumes food or drink on the spot,

12. in breach of Article 14, provides accommodation without complying with the obligations specified therein or fails to ensure that the staff comply with the mask obligation,

13. in breach of Article 15, holds conferences, congresses or trade fairs,

14. in breach of Article 16, as operator, does not observe the ordered protective and hygiene measures, tolerates employees' failure to comply with them or does not fulfil the obligations to review or document,

15. in breach of Article 17, conducts examinations

16. in breach of Article 18, operates private schools as defined in Articles 90 et seq. of the Bavarian Education and Training Act [Gesetz über das Erziehungs- und Unterrichtswesen, BayEUG] without fulfilling the obligations named in Article 18 sub-para. 1 or fails to ensure that the mask obligation laid down in Article 18 sub-para. 2 is observed at such a school or, in breach of Article 18 sub-para. 2 sentence 3, as a legal guardian repeatedly and persistently fails to ensure that the mask obligation is observed,

17. in breach of Article 19, opens or runs a day-care centre, babysitting or nanny business, special pedagogical daycare centre, holiday daycare centre or organised playgroup,

18. in breach of Article 20, carries out education offerings, gives instrumental or singing lessons or provides driving school lessons,

19. in breach of Article 23, runs the establishments named therein,

20. in breach of Article 24 sub-para. 1, fails to comply with the mask obligation or, in breach of Article 24 sub-para. 2, consumes alcohol,

21. in breach of Article 26, spends time away from home.

Article 30 Effective date, expiry date

This Ordinance takes effect on 8 March 2021 and expires on 9 May 2021 at midnight.

Munich, 5 March 2021

Bavarian State Ministry of Health and Care

Klaus Holetschek, State Minister