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Thirteenth Bavarian Infection Protection Measures Ordinance (13th BayIfSMV)

of 5 June 2021

In accordance with Article 32 sentence 1 in conjunction with Article 28 para. 1, Articles 28a, 28b, 28c sentence 3 of the German Infection Protection Act (IfSG) of 20 July 2000 (Federal Law Gazette I p. 1045), last amended by Article 1 of the Act of 28 May 2021 (Federal Law Gazette I p. 1174), in conjunction with Article 11 of the COVID-19 protective measures – regulation of exceptions of 8 May 2021 (Federal Gazette Official Part 08.05.2021 V1) and Article 9 No. 5 of the Ordinance on Responsibility to Issue Decrees (DeIV) of 28 January 2014 (Law and Ordinance Gazette p. 22, BayRS 103-2-V), which was last amended by Ordinance of 4 June 2021 (BayMBI. 2021 No. 382), the Bavarian State Ministry of Health and Care orders:

Part 1 General regulations

Article 1 Scope of application, incidence calculation

(1) ¹This Ordinance is only applicable in districts and cities with district status where the number of new infections with the SARS-CoV-2 coronavirus per 100,000 inhabitants within seven days (7-day incidence), determined as per Article 28a, para. 3, sentence 12 of the Infection Protection Act (IfSG), does not exceed 100. ²The regulations of areas with a higher 7-day incidence apply only to the extent that they make reference to this provision. ³Article 28b IfSG remains unaffected by this.

(2) The following applies with regard to the 7-day incidence which is decisive for a district or city with district status:

1. If the 7-day incidence published on the internet by the Robert Koch Institute (RKI) exceeds the threshold value which is decisive for a regulation in a district or a city with district status on three consecutive days, the measures ordered by means of the regulation shall come into force there on the day after the next following day.
2. If the 7-day incidence published on the internet by the Robert Koch Institute (RKI) is lower than the threshold value which is decisive for a regulation in a district or a city with district status on five consecutive days, the measures ordered by means of the regulation shall cease to be in force there on the day after the next following day.
3. The responsible local authority shall immediately make an official announcement as soon as the 7-day incidence exceeds a relevant threshold value for three consecutive days or falls below a relevant threshold value for five consecutive days.

Article 2 Social distancing, hygiene, airing

¹Everybody is urged to keep a minimum distance of 1.5 m to other people and pay attention to hand hygiene wherever possible. ²It is necessary to ensure sufficient ventilation in enclosed areas.

Article 3 Mask obligation

(1) Insofar as this Ordinance imposes a mask obligation, the following applies:

1. A medical face mask or a mouth and nose cover (mask) must be worn.
2. Children are exempt from the obligation to wear a mask until their sixth birthday.
3. Those persons who can credibly demonstrate that it is not possible or that it is unreasonable for them to wear a mask due to a disability or for health reasons are exempt from the mask obligation, as long as they can prove this immediately on the spot, in particular by presenting an original written medical certificate, which must contain the full name, date of birth and specific reasons why the person concerned is exempt from the mask obligation.
4. The mask may be removed as long as is necessary for identification purposes or for communicating with persons with impaired hearing or for other compelling reasons.
5. For employees, during their work activities the obligation only applies within the framework of occupational health and safety law.

(2) Insofar as this Ordinance imposes an FFP2 mask obligation, para. 1 applies accordingly with the following provisos:

1. An FFP2 mask or a mask of at least the equivalent standard must be worn.
2. Children and youths are only required to wear a medical face mask between their sixth and sixteenth birthday.

(3) In public areas, wherever it is not possible to maintain the minimum distance, it is recommended that everybody wear a mask even if no mask obligation exists.

(4) A mask obligation exists

1. in central meeting areas 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; such areas may be determined at the discretion of the responsible local authority,
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.

Article 4 Proof of test result

Insofar as this Ordinance requires the presentation of proof of the absence of infection with the SARS-CoV-2 coronavirus (proof of test result) for the use of or admission to certain facilities, establishments or areas, the following applies:

1. A written or electronic negative test result of a) a PCR or POC antigen test or b) a supervised antigen test approved by the Federal Institute for Drugs and Medical Devices for self-administration by laypersons (self-test) that complies with the provisions of the German COVID-19 Protective Measures - Regulation of Exceptions (SchAusnahmV) must be provided.
2. Proof of test results is only required in districts and cities with district status in which a 7-day incidence of 50 is exceeded, unless expressly ordered otherwise.
3. Asymptomatic persons who are in possession of a vaccination certificate (vaccinated persons) or certificate of recovery (recovered persons) made out in their name, as well as children up to their sixth birthday, are exempt from the requirement to present proof of a test result.
4. Proof of a test result may generally be dispensed with if the individual does not use a specific fixed place within the facility, establishment or area and if it is also unlikely, due to the usual behaviour of users there, that the individual will be exposed to close spatial contact with certain persons from another

household for a lengthy period of time, unless expressly ordered otherwise; in cases of doubt, the responsible local authorities will decide.

Article 5 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, Article 28a para. 4 IfSG applies accordingly with the following provisos:

1. In each case, the surname and first names, secure contact information (phone number, email address or postal address) and the period of stay must be documented.
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 in accordance with sentences 1 and 2 when their respective buildings or premises are entered.

Part 2 Rules for the individual areas

Article 6 General restriction of 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 with a 7-day-incidence of 50 to 100 - 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,
2. - in districts and cities with district status where a 7-day incidence of 50 is not exceeded - in groups of up to ten persons.

²The children belonging to these households who are under the age of 14 are not included in the total number.

³Meetings that take place between members of the same household only, between spouses or partners only or solely in order to exercise a right of custody or access remain unaffected.

(2) The provisions of the COVID-19 Protective Measures - Regulation of Exceptions apply accordingly with regard to vaccinated and recovered persons.

(3) 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.

Article 7 Public and private events, parties

(1) ¹Public events are permitted as follows: for a special occasion and with a group of invited persons clearly limited from the outset and consisting,

1. in districts and cities with district status which have a 7-day incidence of between 50 and 100, of up to 25 persons in enclosed rooms and up to 50 persons in the open air, and
2. in districts and cities with district status which have a 7-day incidence of no more than 50, of up to 50 persons in enclosed rooms and up to 100 persons in the open air,

in each case including vaccinated or recovered persons. ²In districts and cities with district status which have a 7-day incidence of between 50 and 100, the participants must carry proof of a test result as per Article 4.

(2) For private events on special occasions with a group of invited persons limited from the outset, such as birthday, wedding or christening celebrations and club meetings, para. 1 applies mutatis mutandis with the proviso that the aforementioned restrictions on the number of persons pursuant to Article 8 para. 2 SchAusnahmV do not include vaccinated or recovered persons.

(3) Otherwise, events, assemblies, inasmuch as they are not assemblies as defined in Article 9, crowds and public festivities are prohibited throughout the state.

(4) Parties in public places and grounds are prohibited.

Article 8 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 in all regions as specified in Article 1 para. 1 sentences 1 and 2 under the following conditions:

1. In buildings, the maximum number of participants allowed including vaccinated and recovered persons 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 to persons who are not vaccinated or recovered persons and are not members of the one's own household.
3. The obligation to wear an FFP2 mask applies to visitors in enclosed rooms only.
4. In districts and cities with district status where a 7-day incidence of 100 is exceeded, communal singing is prohibited.
5. An infection protection concept exists 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.

Article 9 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 responsible authorities pursuant to Art. 24 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 fundamentally be assumed if the assembly has no more than 200 participants including vaccinated and recovered persons 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 body contact with other assembly participants or third parties can be avoided.
2. The maximum number of participants allowed including vaccinated and recovered persons is determined by the number of places available considering no. 1.
3. The obligation to wear an FFP2 mask applies to the participants; para. 1 sentence 3 applies accordingly.
4. The event 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 including vaccinated and recovered persons are expected; Art. 13 paras. 1 to 4 BayVersG apply accordingly.

Article 10

Public transport, school transport

1With regard to local or long-distance public transport, including the paid or commercial transport of persons by motor vehicles, including taxis and school transport, passengers are obliged to wear FFP2 masks both during the journey and during the time they spend in a facility belonging to the respective form of transport. 2Inspection and service personnel who come into contact with passengers must wear at least a medical face mask.

Article 11

Hospitals, homes

(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 para. 3 sentence 1 nos. 1 and 3 IfSG),
2. inpatient nursing care facilities as defined in Section 71 para. 2 of the Eleventh Book of the German Social Code,
3. facilities for persons with disabilities as defined in Section 2 para. 1 of the Ninth Book of the German Social Code where integration assistance services are provided by day and by night,
4. sheltered housing groups as defined in Article 2 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 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 para. 1 sentence 1 nos. 2, 3 and 5, the following applies in addition:

1. Visitors may only be admitted if they present proof of a test result as specified in Article 4.
2. For non-vaccinated or non-recovered visitors and employees, to the extent that they come into contact with residents, FFP2 masks are compulsory; if they are vaccinated or recovered, a medical face mask is compulsory.
3. The protection and hygiene concept referred to in para. 1 sentence 2, must include a testing concept which provides for, 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.
4. In regions specified in Article 1 para. 1 sentence 2 or if there is a major outbreak, 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.

Article 12

Sports

(1) 1Sports and practical sports education are permitted subject to the following paragraphs:

1. In districts and cities with district status which have a 7-day incidence of between 50 and 100, the following is permitted:

- a) with proof of a test result as specified in Article 4, sports of any kind with no restriction on the number of participants and
 - b) without proof of a test result, non-contact sports in groups of up to 10 people or in the open air in groups of up to 20 children under 14 years of age.
2. In districts and cities with district status where a 7-day incidence of 50 is not exceeded, sports of any kind are permitted with no restriction on the number of participants.

(2) ¹With regard to outdoor sports events with fixed seating, up to 500 spectators including vaccinated and recovered persons are allowed to attend. ²In buildings, the maximum number of spectators allowed including vaccinated and recovered persons is determined by the number of available seats with a minimum distance of 1.5 m to other seats. ³In districts and cities with district status where the 7-day incidence is between 50 and 100, the visitors must present proof of a test result as per Article 4. ⁴Only those persons who are needed for the competitive or training activities or media coverage are allowed to enter the sports facility in addition.

(3) ¹The operation and use of sports grounds, dance schools, fitness studios and other sports facilities is permitted for the purposes named in para. 1, whereby only as many persons may be present at the same time as are permitted in the framework concept announced by the State Ministries of the Interior, for Sport and Integration and of Health and Care. ²In sports facilities, FFP2 masks are compulsory as long as no sports are being practised; staff at sports facilities are required to wear a medical face mask. ³Article 20 remains unaffected by this.

(4) ¹The event organiser must present a protection and hygiene concept for each location and competition on the basis of a framework concept announced by the State Ministry of the Interior, for Sport and Integration and the Ministry of Health and Care and submit it to the responsible local authority upon request.

²This does not apply to sports practised without spectators in outdoor sports facilities, as long as only separate WCs (without showers and changing rooms) are open indoors.

Article 13 Leisure facilities

(1) The following applies to cable cars, river and lake cruises, guided city tours and tours for guests as well as mountain, cultural and nature tours and tours in show caves and visitor mines as well as tourist train and coach travel:

1. The operator must ensure by means of suitable measures that a minimum distance of 1.5 m can always be maintained between the passengers.
2. In enclosed rooms, enclosed vehicle areas and driver's cabins, FFP2 masks must be worn by passengers and by inspection and service personnel who come into contact with passengers.
3. The operator must draw up a protection and hygiene concept 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 and submit the concept to the responsible local authority upon request.

(2) With regard to river cruises, passengers need proof of a test result as specified in Article 4 when embarking, if embarkation takes place in Bavaria, and on the day of any shore leave.

(3) For amusement parks, indoor playgrounds and comparable permanent recreational facilities, bathing establishments, hotel swimming pools, spas, wellness centres, saunas, solariums, amusement arcades, casinos and betting offices, para. 1 applies accordingly with the following additional provisos:

1. No more than one visitor per 10 m² of accessible space may be admitted at the same time.
2. In districts and cities with district status which have a 7-day incidence of between 50 and 100, visitors must present proof of a test result as specified in Article 4.
3. For gastronomic offerings as well as for theatre performances, film showings and similar events, the respective specific regulations of this Ordinance are applicable.

(4) Brothels, sex establishments, clubs, discotheques, other places of amusement and comparable leisure facilities are closed.

Article 14 Trade and service companies, markets

- (1) ¹The following applies to wholesale and retail businesses as well as service companies and craft

enterprises where customers shop:

1. The operator must take suitable measures to ensure that
 - a) a distance of 1.5 m between the customers can always be maintained and
 - b) the number of customers present in the shop at the same 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.
2. 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.
3. The operator must draw up a protection and hygiene concept and submit it to the responsible local authority upon request.

2The following applies to shopping centres:

1. Sentence 1 applies to the individual shops.
2. With regard to the shopping centres, sentence 1 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.

(2) 1Para. 1 applies to the performance and use of services involving inevitable physical proximity to the customer with the proviso that staff must wear a medical face mask. 2The FFP2 mask obligation does not apply if the nature of the service does not permit it. 3The service provider must collect the contact data in accordance with Article 5.

(3) 1In doctors' and dentists' practices and other practices where medical, therapeutical and care services are rendered, para. 1 sentence 1 nos. 1 and 3 apply accordingly under the condition that the FFP2 mask obligation does not apply where the nature of the service does not permit it. 2Any further obligations to wear a medical face mask remain unaffected.

(4) 1Weekly markets and other markets for the sale of goods in the open air which do not have the character of a funfair and do not attract large numbers of visitors are permitted. 2For the event organiser, paragraph 1 sentence 1 applies 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.

Article 15 Gastronomy

(1) Gastronomic offers may be provided outdoors and indoors under the following conditions:

1. Gastronomic offers may only be provided between 05:00 hrs. and 24:00 hrs.
2. The operator must ensure that a minimum distance of 1.5 m between all guests who do not belong to the group of persons named in Article 6 para. 1 is safeguarded.
3. In districts and cities with district status where the 7-day incidence is between 50 and 100, visitors from different households sharing one table must present proof of a test result as per Article 4.
4. In buildings and enclosed spaces, masks are compulsory for staff who come into contact with guests, and FFP2 masks are compulsory for guests while they are not sitting at the table.
5. The operator must draw up a protection and hygiene concept in accordance with the framework concept announced by the competent state ministries in agreement with the State Ministry of Health and Care and submit it to the responsible local authority upon request.
6. The operator must collect the contact data of the guests in accordance with Article 5.

(2) 1Licensed public bars as per Section 1 para. 1 no. 1 and Section 2 of the German Licensing Act [Gaststättengesetz] may only open outdoors. 2Para. 1 applies accordingly.

(3) 1The dispensing and delivery of takeaway food and beverages are permitted. 2In buildings and enclosed spaces, masks are compulsory for staff who come into contact with customers, and FFP2 masks are compulsory for customers. 3Any purchased takeaway food and beverages must not be consumed at the place of purchase or in the close surroundings.

Article 16 Accommodation

Overnight accommodation at hotels, accommodation facilities, school hostels, youth hostels, campsites and all other commercial or paid lodgings may be offered under the following conditions:

1. Upon arrival, every overnight guest must, regardless of the local 7-day incidence, present proof of a test result as specified in Article 4.
2. In districts and cities with district status which have a 7-day incidence of between 50 and 100, guests additionally require proof of a test result as per Article 4 every 48 hours after that.
3. Guests may only be accommodated in a room or an accommodation unit within the framework of the existing contact restrictions as per Article 6.
4. 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 share the same room or accommodation unit, and between guests and staff.
5. Personnel who come into contact with guests are subject to the mask obligation, as are guests if they are not at the table of the restaurant area or in their accommodation unit; Article 14 para. 1 sentence 1 no. 2 clause 2 applies accordingly.
6. 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.
7. The operator must collect the contact data of the guests in accordance with Article 5.

Article 17 Conferences, congresses, trade fairs

(1) For conferences, congresses and comparable events, Article 25 para.1 applies accordingly with the proviso that the framework concept of the State Ministry for Economic Affairs, Regional Development and Energy and the State Ministry of Health and Care must be drawn up.

(2) Trade fairs and comparable events are prohibited.

Article 18 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 in individual cases from the point of view of infection protection law may be ordered by the responsible local authority. 2The operators are responsible for compliance with the protection and hygiene measures and have to check and document this regularly.

Article 19 Examinations

1Examinations are, subject to more specific rules, 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 20 Schools

(1) 1Lessons and other school events as defined by the Bavarian Education and Training Act [Gesetz über das Erziehungs- und Unterrichtswesen, BayEUG], lunchtime supervision at schools as well as teaching and studies at the State Institute for the Training of Specialist Subject Teachers and at the State Institute for the Training of Support Teachers are, subject to Article 28b para. 3 IfSG, limited by the following restrictions only:

1. If, in classroom teaching, the minimum distance of 1.5 m cannot be maintained consistently and reliably, then in districts and cities with district status with a 7-day incidence

of between 50 and 165 alternate teaching will take place, therefore also in the areas designated in Article 1 para. 1 sentence 2.

2. For the areas designated in Article 1 para. 1 sentence 2, notwithstanding Article 28b para. 3 IfSG, classroom teaching will take place in grade 4 of the primary school level, grade 11 of the grammar schools and the specialised secondary schools, in the other graduating classes and during practical parts of apprenticeships at vocational schools which can only be carried out in specially equipped premises or learning environments with practical relevance, if the minimum distance of 1.5 m can be consistently and reliably maintained; otherwise remote and classroom teaching will take place alternately.
3. On school grounds, during lunchtime supervision and emergency childcare and, without prejudice to the requirements of Article 19, during final school examinations, the mask obligation applies pursuant to the provisions of Article 3 with the following provisos:
 - a) For
 - aa) the teachers and
 - bb) pupils from grade 5 onward
 the obligation to wear a medical face mask applies.
 - b) Beyond Article 3, there are the following exemptions:
 - aa) during sports lessons,
 - bb) for pupils
 - aaa) after approval of the supervisory staff for compelling pedagogical-didactic or school organisational reasons,
 - bbb) during a shock ventilation of the classroom or common room, and for a short time outdoors in the open air,
 - cc) for the school administration staff after reaching their respective workplace, if no other persons are present.
4. The schools and the providers of lunchtime supervision or emergency childcare must draw up a protection and hygiene concept for all activities on the school grounds 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.

²Regulations on emergency childcare are issued by the competent State Ministry.

(2) ¹Pupils are only permitted to participate in classroom teaching and in classroom phases of alternating teaching, as well as in lunchtime and emergency care, if they provide proof of a test result as per Article 4 twice a week, with the proviso that the underlying test or self-test taken at school was taken no more than 48 hours before the start of the respective school day; Article 4 nos. 2 and 4 do not apply. ²To the extent that tests are performed at school, the school will process the test result for the purposes referred to in sentence 1 and, upon request, for confirmation to be used as proof of a test result for extracurricular purposes; the result is not otherwise passed on to third parties, subject to reporting duties under the Infection Protection Act. ³The test result shall be kept for a maximum of 14 days. ⁴The State Ministry for Education and Cultural Affairs may announce exceptions for pupils with special educational needs. ⁵Sentences 1 to 3 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; if the test result is to be used for extracurricular purposes, the self-test must be carried out under supervision at school.

Article 21 **Day-care services**

(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 the 7-day incidence is between 50 and 165, the facilities can only open if the childcare is provided in fixed groups (limited regular service); this shall also apply in the designated areas as per Article 1 para. 1 sentence 2; further restrictions as per Article 28b para. 3 IfSG for areas with a 7-day incidence above 165 remain unaffected.
2. 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.

(2) 1For special pedagogical daycare centres, the respective operators must draw up a protection and hygiene concept on the basis of a framework concept 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 local circumstances must thereby be taken into account.

(3) 1Pupils may only attend day care as set out in paras. 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 20 para. 2, Article 20 para. 2 applies mutatis mutandis with the exception that the childcare facility shall replace the school.

(4) The providers of child day-care facilities and curative day-care centres as well as child minders must offer two tests per week of care for each child not yet enrolled in school with regard to a direct pathogen detection of the SARS-CoV-2 coronavirus, or enable the free collection of two self-tests from pharmacies.

Article 22 Extracurricular education

(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 parties involved. 2The mask obligation exists where the minimum distance cannot reliably be maintained, particularly in corridors, stairways and other areas of frequent encounters. 3Article 19 sentence 2 applies accordingly. 4The operator must draw up a protection and hygiene concept and submit it to the responsible local authority upon request. 5The permission given in Article 20 para. 1 sentence 2 of the Eleventh Bavarian Infection Protection Measures Ordinance in the version applicable on 21 February 2021 for final-year pupils of vocational schools remains unaffected.

(2) For 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, para. 1 sentences 1 to 4 apply mutatis mutandis. 2Notwithstanding sentence 1, dog training sessions may be attended in person subject to the preconditions of para. 1 sentences 1 to 4 in districts and cities with district status where a 7-day incidence of 165 is not exceeded.

(3) In the areas designated in paras. 1 and 2, during practical parts of apprenticeships which can only be carried out in specially equipped premises or learning environments with practical relevance, classroom teaching can also take place in the regions named in Article 1 para. 1 sentence 2 if the minimum distance of 1.5 m can be consistently and reliably maintained and the participants present proof of a test result as per Article 4 twice a week.

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

1. a minimum distance of 1.5 m can be consistently and reliably maintained; if wind instruments are used and in the case of singing, an extended minimum distance of 2.0 m must be 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.

(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, and in all other cases FFP2 masks; para. 1 sentences 1 and 4 apply accordingly. 2With regard to practical driving school lessons and practical tests, FFP2 masks are mandatory for the instructors as well as for the other passengers of the vehicle.

(6) Article 12 applies to practical sports education.

Article 23 Universities

1In-person events at universities are permitted under the following conditions:

1. In buildings, the maximum number of participants allowed including vaccinated and recovered persons is determined by the number of available seats with a minimum distance of 1.5 m to other seats.
2. On the university premises, FFP2 masks are compulsory; employees are required to wear a medical face mask, except when they have reached their respective workplace, if no other persons are present.
3. Participants must provide proof of a test result in accordance with Article 4 twice a week and always maintain a minimum distance of 1.5 m; insofar as tests are taken at the university, Article 20 para. 2 sentences 2 and 3 applies accordingly.
4. The university must draw up a protection and hygiene concept and submit it to the responsible local authority upon request.

2In regions specified in Article 1 para. 1 sentence 2, events for students who are about to graduate or take partial examinations relevant to graduation, as well as practical and artistic training sections that can only be carried out in specially equipped premises or learning environments with practical relevance, are permissible under the conditions of sentence 1.

Article 24 Libraries, archives

Libraries and archives may be opened under the conditions of Article 14 para. 1 sentence 1.

Article 25 Culture

(1) Cultural events in theatres, operas, concert halls, stages, cinemas and other suitable venues are permitted under the following conditions:

1. In buildings, the maximum number of participants allowed including vaccinated and recovered persons is determined by the number of available seats with a minimum distance of 1.5 m to other seats.
2. Outdoors, a maximum of 500 visitors with fixed seats, including vaccinated and recovered persons, are permitted.
3. In the entire event area, a minimum distance of 1.5 m must always be maintained.
4. In districts and cities with district status which have a 7-day incidence of between 50 and 100, visitors must present proof of a test result as specified in Article 4.
5. The operator must draw up a protection and hygiene concept 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 and submit the concept to the responsible local authority upon request; for the operation of cinemas, the protection and hygiene concept is to be drawn up on the basis of a framework concept announced by the State Ministry for Digital Affairs and the State Ministry of Health and Care.
6. The event organiser must collect the contact data of the visitors in accordance with Article 2.

2For gastronomic offerings, Article 15 applies.

(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, para. 1 sentence 1 nos. 1, 3, 5 and 6 apply accordingly.

(3) In the case of musical or cultural rehearsals by amateur ensembles, the maximum number of participants depends on the size of the available space within which the minimum distance specified in the framework concept of the State Ministries for Science and the Arts and of Health and Care can be reliably maintained.

Article 26 Alcohol prohibition

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 to be determined by the responsible local authority in each case.

Part 3 Final provisions

Article 27 Additional instructions, exemptions

(1) Additional or supplementary instructions from the local health authorities responsible for the enactment of the Infection Protection Act regarding the provisions of this Ordinance or the protection and hygiene concepts issued on its basis remain unaffected.

(2) ¹Upon application, special exemptions may be granted by the responsible local authority provided that this 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. ³When decisions as per sentences 1 and 2 are made, the proportion which a locally limited infection event bears to the overall infection rate of the territorial entity concerned may also be taken into account.

Article 28 Offences

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

1. in breach of Article 5 sentence 1 no. 2, provides false contact data,
2. in breach of Article 6 para. 1, spends time with other persons,
3. in breach of Article 7 paras. 1 to 3 or Article 9 para. 2, holds an event or an assembly, in breach of Article 9 para. 2 no. 4, cannot as the event organiser present a protection and hygiene concept, or, in breach of Article 7 or Article 9 para. 1 sentence 1, takes part in an event or an assembly,
4. in breach of Article 7 para. 4, parties in public spaces or parks,
5. in breach of Article 9 para. 1 sentence 3 or Article 9 para. 2 no. 3, does not comply with the mask obligation when taking part in an assembly,
6. in breach of Article 3 para. 4, Articles 8, 10 to 16, as a visitor, customer, accompanying person or guest fails to comply with the mask obligation or FFP2 mask obligation,
7. in breach of Article 11, cannot present a protection and hygiene concept as the operator of a facility,
8. in breach of Article 12 para. 1 or 3, plays sport or conducts practical sport education, in breach of Article 12 para. 2, permits spectators, in breach of Article 12 para. 3, operates or uses sports halls, sports grounds, dance schools, fitness studios or other sports facilities,
9. in breach of Article 13 paras. 1, 3 and 4, operates facilities or, in breach of Article 13 para. 1, carries out guided tourist tours,
10. in breach of Article 14, opens a business frequented by customers or runs a market or, as the owner of a business, a market stall or a shopping centre, 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 15, opens or runs a gastronomic business without complying with the obligations specified therein or fails to ensure that the staff comply with the mask obligation,
12. in breach of Article 16, provides overnight 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 17, holds conferences, congresses or trade fairs,
14. in breach of Article 18, as the operator, does not observe the ordered protection 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 19, conducts examinations,
16. in breach of Article 20, operates private schools as per Art. 90 et seq. BayEUG without fulfilling the obligations indicated in Article 20 para. 1 or fails to ensure that the mask obligation as per Article 20 para. 1 no. 3 is observed at such a school or, in breach of Article 20 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 21, opens or runs a day-care centre, babysitting or nanny business, special pedagogical day-care centre, holiday day-care centre or organised playgroup,
18. in breach of Article 22, conducts education offerings, gives instrumental or singing lessons or conducts driving school lessons,
19. in breach of Article 25 para. 1, holds cultural events or, in breach of Article 25 para. 2, runs the establishments named therein,
20. in breach of Article 26, consumes alcohol.

Article 28a **Amendment of the 13th Bavarian Infection Protection Measures Ordinance**

This 13th Bavarian Infection Protection Measures Ordinance (13th BayIfSMV) of 5 June 2021 (BayRS 2126-17-G) is amended as follows:

1. In Article 20 para. 1 sentence 1 no. 1, the number "50" is changed to the number "100".
2. Article 21 para. 1 sentence 1 is worded as follows:
"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 the 7-day incidence is between 100 and 165 and thus in the areas designated in Article 1 para. 1 sentence 2, the facilities can only open if the childcare is provided in fixed groups (limited regular service); further restrictions according to Article 28b para. 3 IfSG for areas with a 7-day incidence of more than 165 remain unaffected.
 2. In districts and cities with district status where a 7-day incidence of 100 is not exceeded, the facilities can open."

Article 29 **Effective date, expiry date**

1This Ordinance takes effect on 7 June 2021 and expires on 4 July 2021 at midnight.
2In deviation from sentence 1, Article 28a takes effect on 21 June 2021.

Munich, 5 June 2021

Bavarian State Ministry of Health and Care

Klaus Holetschek, State Minister

Legal notice

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