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Fifth Bavarian Ordinance on Protective Measures Against Infectious Diseases

Fünfte Bayerische Infektionsschutzmaßnahmenverordnung [5. BayIfSMV]

dated 29 May 2020

Pursuant to § 32 sent 1 of the Law on Protection Against Infectious Diseases [*Infektionsschutzgesetz/IfSG*] dated 20 July 2000 (Federal Law Gazette I p. 1045), last amended by Art. 1 and 2 of the Law dated 19 May 2020 (Federal Law Gazette I p. 1018) in conjunction with § 9 No. 5 of the Delegation Ordinance [*Delegationsverordnung/DelV*] dated 28 Jan 2014 (Federal Law Gazette p. 22, Compilation of Bavarian Laws 103- 2-V), last amended by Ordinance dated 13 Jan 2020 (Bavarian GOV Gazette p. 11), the Bavarian State Ministry for Health and Care **decrees** the following:

**Part I
General Provisions****§ 1
General Distancing Requirement, Mouth-Nose Coverings**

(1) Every individual is required to reduce all physical contacts with other persons, except for family members living in the same household, to the absolute minimum extent possible. Wherever possible, a minimum distance of 1.5m [4.9 feet] must be maintained between two individuals.

(2) Insofar as provided in this ordinance on mouth-nose coverings (duty to wear mask), the following applies:

1. Children under 6 years of age are exempt for wearing such coverings.
2. Persons are exempt who can credibly substantiate that it is impossible or unreasonable for them to wear a mouth-nose covering due to disability or health reasons.
3. Removal of the mouth-nose covering is permissible for identification purposes or communication with hearing-impaired persons or other valid reasons.

**§ 2
Contact Restrictions in Public Areas**

(1) The presence of several individuals in a public area should be so designed that the group at most consists of members living in the same household, spouses, life partners, non-marital partners, direct relatives, siblings, and members of one other household.

(2) Partying and barbecuing in public squares and parks is prohibited, irrespective of who is present.

(3) Para (1) does not apply to professional and official activities as well as volunteer activities in corporations and institutions under public law which require the gathering or cooperation of several persons.

§ 3

Contact Restrictions in Private Areas, Babysitting

The group of participants in a gathering in privately used rooms and on private premises may only consist of members living in the same household, spouses, life partners, non-marital partners, direct relatives, siblings, and members of one other household. Deviating from sentence 1, the reciprocal, free of charge, non-professional babysitting of minors in fixed childcare groups organized by families or neighbors is permitted if the children come from a maximum of three households. § 4 remains unaffected thereby.

§ 4

Special Bans on Visits

(1) Prohibited are visits to:

1. Hospitals as well as preventive and rehabilitation facilities which offer equivalent medical care (facilities IAW Section 23 Paragraph (3) Numbers 1 and 3, IfSG); except for obstetric and pediatric wards for close relatives, and palliative wards and hospices.
2. Inpatient care facilities within the meaning of §71 Paragraph (2) of the Eleventh Book of the Social Code [SGB XI].
3. Facilities for disabled persons within the meaning of Section 2 Paragraph (21) of the Ninth Book of the Social Code [SGB IX] where integration assistance is provided day and night.
4. Outpatient assisted living communities within the meaning of § 2 Paragraph (3) of the Law on Nursing and Living Quality Act for the provision of outpatient intensive care in which outpatient nursing services are provided IAW Section 23 Paragraph (6a) IfSG.
5. Elder-Homes and residential homes for senior citizens.

(2) Notwithstanding para (1), each patient or resident may be visited once a day by one person from the group of family members outlined in § 3 sent. 1. For visits to minors, both parents or guardians jointly, or another specific person during fixed visitation hours. All visitors must be registered by name with the facility. Further exceptions to para (1) are for medical, legal or pastoral purposes or the performance of other services; however, they must be approved in advance by the facility management. Mouth-nose coverings must be worn by the visitors, and the physical distancing of 1.5m must be maintained if possible. A protection and hygiene concept must be prepared and presented to the district administrative authorities on demand. In individual cases, the responsible district administrative authorities may issue supplemental directives if deemed necessary for reasons of protection against infections.

(3) Accompanying dying persons by closest relatives is permitted at any time, notwithstanding paras 1 and 2.

Part 2 Public Life

§ 5

Ban on Events, Assemblies and Gatherings

Apart from more specific rules set forth in this Ordinance, events, assemblies and gatherings are prohibited Bavaria-wide. Exemptions can be issued on request by the responsible district administrative authority, if acceptable in an individual case from an infection control perspective.

§ 6
Worship Services, Gatherings of Religious Communities

Publicly accessible worship services in churches, synagogues and mosques as well as gatherings of other religious communities are permitted:

1. For worship services and gatherings
 - (a) If held in buildings, the maximum number of participants depends on the number of available seats; whereby a minimum distance of 2 meters between each seat must be maintained; and the minimum distance of 2 meters must be maintained between each participant.
 - (b) If held outdoors, the maximum number of participants is 50, and the minimum distance of 1.5m must always be observed.
2. All participants must wear mouth-nose coverings; except for liturgical readings and preaching.
3. The worship service or gathering is limited to a maximum of 60 minutes.
4. There must be a protection plan for worship services or gatherings to minimize possible infection for the religious community and rite. The religious community must be able to present such a protection plan to the responsible district administrative authorities on demand.

§ 5 sent. 2 applies accordingly.

§ 7
Gatherings IAW the Bavarian Public Assembly Act

Public gatherings within the meaning of the Bavarian Public Assembly Act are permitted under the following prerequisites:

1. The number of participants is limited to a maximum of 50.
2. A minimum distance of 1.5m must always be maintained between all participants and any physical contact among participants or third parties should be avoided, which also includes that no flyers or other items may be distributed.
3. The assembly takes place exclusively outdoors and at a fixed location.
4. The duration of the assembly is limited to a maximum of 60 minutes.
5. The same organizer or the same assembly participants will hold a maximum of one assembly per calendar day.

§ 5 sent. 2 applies accordingly.

§ 8
Local Public Transport, School Transport

In local and long-distance public transport and the associated facilities, all passengers and air travelers as well as conductors and service staff who come into contact with passengers and air travelers are required to wear mouth-nose coverings. The foregoing sentence 1 also applies to cost-free school bus transport.

Part 3
Sports, Games, Leisure Time

§ 9
Sports

(1) The operation or use of gyms, sports fields, fitness studios and other sports facilities as well as dance schools and swimming facilities is prohibited, except for:

(2) Exercise in the fresh air in public spaces or on public or private outdoors sports facilities or in riding-halls is permitted under the following prerequisites:

1. Compliance with the restrictions outlined under § 1 para. 1.
2. Exercise alone or in smaller groups of up to 5 persons; and starting on 8 June 2020, in groups up to 20 persons.
3. Exercise without physical touch.
4. No use of indoor changing rooms.
5. Strict adherence to hygiene or disinfectant measures, especially when sharing sports equipment.
6. No use of indoor wet areas, however, the opening of separate toilet facilities is possible.
7. Avoid forming waiting lines when entering or leaving the facility.
8. Mandatory wearing of mouth-nose coverings in indoor spaces, in particular when passing through the entrance area, fetching or returning the required sports equipment as well as using the restrooms.
9. No special endangerment of vulnerable persons, and
10. No spectators.

(3) Operation for training purposes by professional athletes and by athletes of the Olympic and Paralympic federal and state cadres is permitted, and starting on 8 June 2020, also for non-olympic federal and state cadres, provided that the training sessions will be performed in compliance with the prerequisites set forth under para 2 nos 5 thru 10. Until 7 June 2020, training sessions may only be performed by the individual alone or in smaller groups up to five persons.

(4) Soccer matches and training practices in professional leagues and DFB-cup competition of the German Football Association (Deutscher Fussball Bund/DFB) are permitted IF

1. No spectators are present and only such persons are admitted to the sports facility who are necessary for the sports operation or media coverage.
2. The organizer takes suitable precautions there will be no event or unauthorized gatherings in the immediate vicinity of the sports facility and no assembly of persons who are not allowed access under No. 1.
3. The organizer submitted a protection and hygiene concept for minimization of the infection risk to the Bavarian State Ministry of the Interior, State Ministry for Sports and Integration and State Ministry of Health and Care for approval and compliance.

(5) Furthermore, competitive sports meets are permitted outdoors in public spaces or in public or private outdoor sports facilities if the prerequisites outlined in para. 2 no. 1 thru 10 are observed. The operator must prepare a protection and hygiene concept tailored to the specific venue and competition on the basis of the framework concept published by the Bavarian State Ministry of the Interior, State Ministry for Sports and Integration and State Ministry of Health and Care. This concept must be presented to the responsible district administrative authorities upon request.

(6) Indoor training in sports facilities as well as in fitness studios is permitted if the prerequisites of para. 5 are fulfilled. Ensure adequate ventilation with outside air. Outside of the training, there is a duty to wear mouth-nose coverings in enclosed rooms, in particular when entering or leaving the sports facility or using the restrooms.

(7) Paragraph 6 applies to dance practice with the proviso that the compliance with the requirements of paragraph 2 nos. 1 and 3 can be waived for a set dance couple if para 2 nos. 1 and 3 are observed in relation to the other dance couples.

(8) Where necessary, compliance with the requirements of paras 2 and 6 sent. 1 can be waived for medically prescribed rehabilitative sports and functional exercise pursuant to § 64 (1) nos. 3 and 4 of the Ninth Book of the Social Code [SGB IX].

(9) Outdoor swimming pools and outdoor thermal spa facilities can be opened in compliance with the requirements of para 2 nos. 1 and 3 thru 9 and para 5 sent 2. In addition, the operator must implement appropriate measures to ensure that the number of patrons present at the same time does not exceed one person per 20 square meters of the accessible areas, including the pool.

§ 10 Playgrounds

(1) Outdoor playgrounds are only open to children who are accompanied by an adult. The accompanying adults are required to avoid any type of gatherings and, wherever possible, ensure the physical distancing of the children.

(2) The police and municipal security authorities are required to close overcrowded playgrounds temporarily or partially.

§ 11 Recreational Facilities

(1) The operation of amusement parks and comparable fixed-site recreational facilities is only permitted outdoors and under the following conditions:

1. The operator must take suitable measures to ensure that a minimum physical distance of 1.5m between the visitors can be maintained in the entire operational area.
2. Admission of no more than one visitor per 20 square meters of accessible area is permitted.
3. The operator must prepare a protection and hygiene concept and, if a customer parking lot is available, also a parking concept on the basis of the framework concept published by the Bavarian State Ministry of Economic Affairs, Regional Development and Energy and the State Ministry of Health and Care. This concept must be presented to the responsible district administrative authorities upon request.

The respective provisions set forth in this ordinance apply to food service provisions as well as theater performances, movie showings and similar events.

(2) City tours and guided walking tours, hiking, cultural and natural tours as well as tours in show caves and tourist mines are permitted if the responsible operator takes suitable measures to ensure that the minimum distance of 1.5 m between the participants can be maintained. The group size must be limited to one person per 20 square meters in enclosed rooms and a maximum of 15 persons outdoors.

(3) The operation of cable cars, tourist excursions on rivers and lakes as well as touristic train tours are permitted under the following conditions:

1. The operator must take suitable measures to ensure that a minimum distance of 1.5 m between the passengers is maintained at all times or suitable separation devices are in place.
2. The wearing of mouth-nose coverings is mandatory for all passengers as well as conductors and service staff who come in contact with patrons in enclosed rooms, the interior of motor vehicles and cabins.

3. The operator must prepare a protection and hygiene concept on the basis of the framework concept published by the Bavarian State Ministry of Economic Affairs, Regional Development and Energy and the State Ministry of Health and Care. This concept must be presented to the responsible district administrative authorities on demand.

(4) Para 3 applies accordingly to touristic bus tours with the proviso that group tours for closed groups are not permitted.

(5) Brothels, clubs, discotheques, saunas, other entertainment establishments and comparable recreational facilities are closed; thermal spas and wellness centers are also closed subject to the provisions set forth in § 9 (9).

Part 5 Economy

§ 12 Trade and Service Industry

(1) The following applies for wholesale and retail businesses with customer traffic:

1. The operator has to implement adequate measures to ensure that in general a minimum physical distance of 1.5m between the customers can be maintained.
2. The operator must take appropriate measures to ensure that the number of customers present in the store never exceeds one customer per 20 square meters of sales area.
3. Mandatory mouth-nose coverings for staff, customers and accompanying persons.
4. The operator must develop a protection and hygiene plan and, if a customer parking lot is available, also a parking plan. Said plan(s) must be presented to the responsible district administrative authorities upon request.

The following applies for shopping centers:

1. For individual retail shops, sentence 1 applies.
2. The following applies for connecting customer passageways ,:
 - a) Sentence 1 applies with the proviso that the protection and hygiene plan as well as parking plan must take into account the total flow of customers within the shopping area.
 - b) No lounge areas may be made available.

Sentence 1 nos. 3 and 4 applies accordingly to booths and stands on open markets

(2) For service establishments with customers, para 1 sent. 1 nos. 1, 3, and 4 apply accordingly, with the proviso that the duty to wear a facial cover is inapplicable if the type of provided service does not allow the wearing of a facial cover.

(3) In medical and dental practices and all other type of other practices where medical, therapeutic and healthcare services are provided, para 1 sent. 1 Nos. 1 and 3 apply accordingly, with the proviso that the duty to wear a facial cover is inapplicable if the type of service provided does not allow the wearing of a facial cover. Further obligation to wear medical face protection masks remains unaffected hereby.

§ 13

Dining Establishments

(1) Dining services of every type are prohibited subject to the following paragraphs:

(2) The pick-up or delivery of take-out food and beverages.

(3) Non-public company dining facilities and school cafeterias if it is ensured that the 1.5m minimum physical distance is maintained between the guests. The operator has to prepare a protection and hygiene plan which must be presented to the responsible district administrative authorities on demand.

(4) The sale of food and beverages for local consumption outdoors is permitted, especially in outdoor dining areas or beer gardens and in open-air restaurant areas between 0600 to 2200 hours if it is ensured that for all guests not related per § 2 (1) either the 1.5m minimum distance is maintained or suitable separation devices are in place. The wearing of mouth-nose coverings is mandatory for service personnel or in those areas where the 1.5m minimum distance cannot be maintained, and for patrons who do not remain in their seat. The operator has to design a protection and hygiene plan on the basis of the framework concept for hospitality establishments which was published by the State Ministry for Economic Affairs, Regional Development and Energy and State Ministry for Health and Care and which must be presented to the responsible district administrative authorities on demand.

(5) The sale of food and beverages by food service establishments for on-site consumption IAW § 1 no. 2 of the Hospitality Law is permitted, if food and beverages are not consumed outdoors, between 0600 to 2200 hours, if it is ensured that for all guests not related per § 2 para (1) either the 1.5m minimum distance is maintained or suitable separation devices are in place. Para (4) sent. 2 and 3 applies accordingly.

§ 14

Lodging

The operation of hotels, accommodation facilities, school camps, youth hostels, camping grounds and the provision of any type of lodging is only permitted under the following conditions:

1. The operator has to implement appropriate measures to ensure that the 1.5m minimum distance can be maintained at all times between guests who are not interrelated as specified under § 2 (1), and between guests and staff.
2. Guests who are not interrelated as specified under § 2 (1) may not be lodged in the same room or accommodation unit.
3. The wearing of mouth-nose coverings is mandatory for service personnel or in those areas where the 1.5m minimum distance cannot be maintained, and for patrons who are not in their seat in the restaurant area or in their accommodation unit.
4. The operator must prepare a protection and hygiene concept and, if a customer parking lot is available, also a parking concept on the basis of the framework concept published by the Bavarian State Ministry of Economic Affairs, Regional Development and Energy and the State Ministry of Health and Care. This concept must be presented to the responsible district administrative authorities on demand.

For food service provision as well as sports and recreational offers, the specific provisions set forth in this ordinance apply accordingly.

Part 5 Education and Culture

§ 15 Examinations

The taking of exams is only permitted if the minimum 1.5m physical distance is maintained by all participants at all times. If such a minimum distance cannot be maintained due to the type of exam, then other equally effective protective measures must be in place. No spectators who are not part of the exams will be admitted. § 5 sent. 1 applies accordingly.

§ 16 Vocational Training, Continuing Education, Advanced Education, Adult Education

(1) Vocational training, continuing education, advanced education is only permitted if there is a minimum physical distance of 1.5m between all participants. § 15 sent. 2 applies accordingly.

(2) Adult education within the meaning of Art. 1 para (1) of the Bavarian Adult Education Promotion Act, language and integration promotion, family education facilities, youth educational work pursuant to the Eighth Book of the Social Code, extracurricular environmental education and comparable educational offers are only permitted if expressly allowed under this ordinance if the 1.5m minimum distance between all participants can be maintained. § 15 sent. 2 applies accordingly. The operator must prepare a protection and hygiene concept on the basis of the framework concept published by the Bavarian State Ministry of Economic Affairs, Regional Development and Energy and State Ministry of Health and Care. This concept must be presented to the responsible district administrative authorities on demand.

(3) Music schools may only offer individual lessons. Thereby a minimum physical distance of 1.5m must be maintained. Sent. 1 and 2 apply accordingly to music lessons outside of school buildings.

(4) § 5 sent. 2 applies accordingly.

§ 17 Driving Schools

For theoretical driving instructions, retraining, driver fitness seminars and theoretical driving tests, § 15 applies accordingly. Practical driving school lessons and practical driving tests are only permitted for a maximum of 60 minutes each; all participants have to wear mouth-nose coverings.

§ 18 Universities

At present, there are no face-to-face events in any Bavarian universities. Practical events requiring special laboratory or work areas at universities in deviation from sentence 1 are permitted, however, the minimum physical distancing of 1.5m must be observed by all participants.

§ 19 Libraries, Archives

In public libraries, including lending and university libraries as well as state archives, no more than one visitor per 20 square meters of accessible library or archive space may be admitted.

§ 20 Cultural Venues

(1) Museums, exhibitions, memorial sites, sites of the Administration of Bavarian Castles, parks and lakes and comparable cultural venues as well as outdoor areas of zoos and botanical gardens can open under the following conditions:

1. For food-service provisions, § 13 applies.
2. For guided tours, § 11 (2) applies.
3. Admission of no more than one visitor per 20 square meters of accessible area is permitted.
4. The operator must prepare a protection and hygiene plan and, if parking is available, a parking plan, and present the plan(s) to the district administrative authorities on demand.

(2) Theater and movie theaters are closed. Exemptions for open-air showings can be granted by the responsible district administrative authorities if possible under infection control perspective.

Part 6 Final Provisions

§ 21 Administrative Offenses

A willfully or negligently committed infringement constitutes an administrative offense IAW § 73 para. (1a) No. 24 **IfSG**:

1. Punishable under § 2 para. 1 for gathering with other persons in a public area.
2. Punishable under § 2 para 2 for partying or barbecuing in public areas or parks.
3. Punishable under § 3 for hosting persons in private space or visiting other persons.
4. Punishable under § 4 for visiting a facility or, as facility operator, for inability to present protection and hygiene concept.
5. Punishable under §§ 4, 8, 9, 11 and 17 or §§ 12 thru 14, for failure, as customer, accompanying person or guest, to wear a mouth-nose covering.
6. Punishable under § 5 sent 1 or § 7 for organizing or participating in an event or gathering.
7. Punishable under § 9 for operating or using gyms, sports grounds, fitness studios and other sports facilities, dance schools or thermal spas.
8. Punishable under § 11 for operating establishments or giving guided tours or conducting tourist bus trips.
9. Punishable under § 12 for failure, as operator of a shop, booth or stand on a market ,or a shopping center, or as responsible operator of a service providing establishment or a practice, to comply with the inherent duties or for failure to ensure that the staff wear mouth-nose coverings.
10. Punishable under § 13 for opening a food service operation without complying with the inherent duties or for failure to ensure that the staff wear mouth-nose coverings.
11. Punishable under § 14 for failure, as operator of a lodging facility, to ensure the compliance with the inherent duties or for failure to ensure that the staff wear mouth-nose coverings.
12. Punishable under § 15 for conducting exams.
13. Punishable under § 16 for offering educational programs or music lessons.
14. Punishable under § 17 for conducting driving school lessons.
15. Punishable under § 20 for operating cultural sites.

§ 22
Local Measures and Supplemental Directives

Further directives by local health authorities remain unaffected hereby. In regard to protective measures under this ordinance or protection and hygiene plans, the responsible district administrative authorities can also issue supplemental directives if necessary under infection control perspective.

§ 23
Entry into Force, Expiration

This Ordinance becomes legally effective on **30 May 2020** and will expire on 14 June 2020. Notwithstanding Sentence 1, § 9 paragraphs 5 thru 9 becomes legally effective on **8 June 2020**.

Munich, 29 May 2020

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END OF TRANSLATION

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