

Bürger Service – Citizen Service		<i>Translator's remark: Bav Corona Ordinance 16 (consolidated version) updated w/Amendment dated 18 Aug 2022 Status 20 Aug 2022; Expiration 12 Sep 2022</i>
Source/Quelle: <b>BAYERN.RECHT</b>	<b>Bayerische Staatskanzlei</b> (Bavarian State Chancellery)	

## TRANSLATION FROM THE GERMAN LANGUAGE

**16. BayIfSMV: Sixteenth Bavarian Ordinance on Protective Measures Against Infectious Diseases (16. BayIfSMV) dated 01 April 2022 (Bavarian Ministerial Gazette No. 210) Compilation of Bavarian Laws [Bayerische Rechtssammlung - BayRS 2126-1-20-G (§§ 1-6)]**

### **Sixteenth Bavarian Ordinance on Protective Measures Against Infectious Diseases (16. BayIfSMV) dated 01 April 2022 (Bavarian Ministerial Gazette No. 210) Compilation of Bavarian Laws [Bayerische Rechtssammlung/BayRS 2126-1-20-G**

**Full citation** in congruence with legal citation guidelines: Sixteenth Bavarian Ordinance on Protective Measures Against Infectious Diseases (16. BayIfSMV) dated 01 April 2022 (Bavarian Ministerial Gazette No. 210, Compilation of Bavarian Laws 2126-1-20-G), last amended by Ordinance dated **18 Aug 2022** (Bavarian Ministerial Gazette No. **486**).

Pursuant to § 32 Sent. 1 in conjunction with § 28 Para (1), § 28a Para (7) of the [Federal] Infection Protection Act [Infektionsschutzgesetz - **IfSG**] dated 20 July 2000 (Federal Law Gazette Part I p. 1045), last amended by Art. 4 of the Law dated 18 March 2022 (Federal Law Gazette Part I. p. 473), and § 9 No. 5 of the Delegation Ordinance (DelV) dated 28 January 2014 (Law and Ordinance Gazette [Gesetz- und Verordnungsblatt - GVBl] p. 22, Compilation of Bavarian Laws BayRS 103-2-V), last amended by the Ordinance dated 15 March 2022 (GVBl. p. 79), the Bavarian State Ministry for Health and Care decrees the following:

#### **Part 1 Applicable Provisions**

##### **§ 1 General Recommendations for Conduct**

<sup>1</sup>Everyone is urged to maintain a minimum distance of 1.5m [4.9 feet] to other persons wherever possible and observe proper hand hygiene. <sup>2</sup>Notwithstanding § 2, in closed spaces recommend that at least a medical (surgical) face mask be worn and a sufficient level of ventilation be ensured. <sup>3</sup>For establishments, facilities, offers and events which are open to the public recommend that hygiene concepts be designed which in particular include measures for the provision of disinfectants and the avoidance of unnecessary contacts.

##### **§ 2 Mask Requirement**

(1) <sup>1</sup>In

1. Local public transportation for passengers, control and service staff, and driving and operating personnel, insofar as they have job related physical contact with other persons,

2. Buildings and closed spaces, including enclosed public vehicle areas, insofar as it is necessary to avert danger to persons who, due to their age or health condition, are at an increased risk of a severe or fatal course of the COVID-19 disease, of

- a) Doctor's practices,
- b) Hospitals,
- c) Facilities for out-patient surgery,
- d) Preventive care and rehabilitation facilities which provide medical care comparable to hospitals,
- e) Dialysis facilities,
- f) Day-care hospitals,
- g) Rescue services,
- h) Full or partial in-patient facilities for the nursing and accommodation of elderly, disabled or care-

dependent persons or comparable facilities not covered in § 23 Para (5) Sent. 1 IfSG, except for curative daycare centers,

3. Buildings and closed spaces outside private premises of homeless shelters and accommodation centers for asylum seekers, persons who are obliged to leave country under an enforceable decision, refugees and late emigrants

the wearing of a medical (surgical) face mask (mask requirement) is mandatory. <sup>2</sup>Sent. 1 No. 2 applies accordingly during the provision of care or nursing services by

1. Out-patient care services which provide out-patient intensive care services in facilities, residential groups or other joint types of living,

2. Out-patient care services and companies not covered in § 23 Para (5) Sent. 1 IfSG which offer comparable services to the facilities as per Para (1) Sent. 1 No. 2 Letter h, except for services in support of everyday life as defined by § 45a Para (1) Sent. 2 of the Eleventh Code of Social Law (SGB XI).

(2) The duty to wear a mask is not applicable where there are necessary grounds.

(3) <sup>1</sup>Exempt from the mask requirement are:

1. Children under 6 years of age;

2. Persons who can credibly substantiate that it is impossible or unreasonable for them to wear a mask due to disability or health reasons. If such health reasons exist, on-site proof must be immediately presented by a written medical certificate by an original which reflects the full name, date of birth and the underlying reason why the subject individual is exempt from wearing a mask.

<sup>2</sup>Removal of the mask is permissible for identification purposes or communication with hearing-impaired persons. <sup>3</sup>For employees, the mask requirement applies during the discharge of their professional duties within the scope of occupational health and safety provisions.

(4) Operators are obligated to ensure compliance with the mask requirement.

### **§ 3 Institution related Testing Requirements**

(1) <sup>1</sup>Access to

1. Hospitals and

2. Facilities as per § 2 Para (1) Sent. 1 No. 2 Letter h,

may only be granted to visitors, operators, employees and volunteers who are tested as per § 2 No. 6 of the COVID-19 Protective Measures – Exemption Ordinance [COVID-19-Schutzmaßnahmen-Ausnahmenverordnung – SchAusnahmV]. <sup>2</sup>Proof of testing must also be presented by vaccinated or recovered persons as defined by § 2 Nos. 2 and 4 SchAusnahmV, whereby operators and employees who are vaccinated or recovered must present proof of testing at least twice per calendar week as per Para (5) Sent. 1 with the provision that the testing as per Para (5) Sent. 1 No. 3 can be carried out without supervision. <sup>3</sup>Operators are obligated to retain their own proof of testing for two weeks and to screen the required proof of vaccination, recovery and test certificates by effective access checks, inclusive of identification of each individual.

(2) <sup>1</sup>Employees who are not deployed on wards or in areas with particularly vulnerable patients are exempt from the testing requirement in the cases of Para (1) Sent. 1 No. 1. <sup>2</sup>Particularly vulnerable are patients who, due to their age or health condition, are at a substantially increased risk of a severe or fatal course of the COVID-19 disease. <sup>3</sup>The wards and areas of a hospital with particularly vulnerable patients must be named and made known to the employees in the hygiene plans as per § 23 Para (5) Sent. 1 IfSG.

(3) For operators and employees of facilities and companies as per § 2 Para (1) Sent. 2, Para (1) applies accordingly, insofar as they provide care or nursing services.

(4) The support of dying persons is permissible at any time.

(5) <sup>1</sup>Insofar as this ordinance requires the presentation of proof of testing (certificate) showing a negative SARS-CoV-2 coronavirus infection result for use or access to specific facilities, establishments or areas, a

written or electronic proof of negative test certificate on the basis of

1. A PCR test, PoC-PCR test or a test using other methods of nucleic acid amplification technique carried out not more than 48 hours ago,
2. A PoC antigen test carried out not more than 24 hours ago, or
3. An antigen test, approved by the Federal Institute for Drugs and Medical Devices, carried out by a layperson (self-test) under supervision not more than 24 hours ago,

whereby the test has to comply with § 22a IfSG. <sup>2</sup>Equivalent to tested persons are the following:

1. Children under 6 years of age,
2. Children not yet enrolled in school.

## **Part 2 Final Provisions**

### **§ 4 Supplemental Directives, Exceptions**

(1) Within the framework of § 28a Para (7) Sent. 2 IfSG, far-reaching or supplemental provisions of the authorities responsible for the enforcement of the infection control laws remain unaffected hereby.

(2) <sup>1</sup>Exemptions can be issued on request by the responsible district administrative authority, if justifiable in an individual case from an infection control perspective. <sup>2</sup>Exemptions pertaining to a general group of persons or a general case constellation may only be granted with the approval of the responsible government under the provisions of Sent. 1.

### **§ 5 Administrative Violations**

A willfully or negligently committed infringement constitutes an administrative offense as per § 73 Para (1a) No. 24 IfSG

1. Contrary to § 2, for failure to comply with the mask requirement, or, contrary to § 2 Para (4), as organizer, for failure to ensure compliance with the mask requirement,
2. Contrary to § 3, for entering an establishment mentioned therein without the requisite proof of testing, or, as owner of an establishment or a facility, for failure to ensure as per § 3 Para (1) Sent. 3, also in conjunction with § 3 Para (3), that visitors, employees or volunteers present proof of testing, or, contrary to § 3 Para (1) Sent. 3, also in conjunction with § 3 Para (3), as operator, for failure to retain own proof of testing for two weeks.

### **§ 6 Entry into Force, Expiration**

This Ordinance becomes legally effective on 03 April 2022 and will expire on 12 September 2022.

**Munich, 01 April 2022**

**Bavarian Ministry for Health and Care**

Klaus Holetschek, Minister of State

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### **END OF TRANSLATION**

<p><i>FOR THE TRANSLATION:</i> <i>Martina Bayer, certified Translator (English)</i> <i>7<sup>th</sup> Army Training Command, OSJA Ansbach Law Center</i> <b>DATE: 20 August 2022</b></p>
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