

# Safer Independence Guidelines



## Mask guidance for businesses under Safer Independence Guidelines

The Safer Independence guidelines went into effect on Friday, Dec. 11. These orders require masks to be worn in all public indoor and outdoor spaces including workplaces, businesses, places of worship, community centers, gyms or libraries. This will require your employees and customers to wear a face covering while inside your place of business. Proper face coverings include N95 masks, surgical masks, or cloth masks that cover the mouth and nose. Some businesses may choose to allow an accommodation for patrons to wear a face shield if medically unable to wear a mask.

However, some individuals are medically exempt or exempt while participating in particular activities from wearing a mask. This includes:

- - Minors below the age of 5; and
  - Persons who have disabilities for which masks constitute a substantial impairment to their health and well-being based upon medical, behavioral, or legal direction; and
  - Persons who are in a restaurant or tavern and are actively engaged in consuming food or drink while adequately distanced from other patrons; and
  - Persons who are obtaining a service involving the nose or face for which temporary removal of the face covering or mask is necessary to perform the service; and
  - Professional athletes and recreational athletes actively engaged in high-intensity, organized game play.

In order to ensure your business is complying with the local health order and the Americans with Disabilities Act (ADA), please see suggestions for potential situations where employees and customers require a mask exemption.

### Employees with Exemptions

In the case of an employee with a disability that prevents them from wearing a mask, the employer must provide a reasonable accommodation.

This could be having the employee work from home or significantly distanced from other employees. In the case of remote work, make sure that the employee can still perform all job requirements – otherwise, it's not a reasonable accommodation.

In some cases, an employer may deny a reasonable accommodation if it is an undue hardship or a direct threat. Undue hardship must be proved in litigation based on facts (such as disruption to business operations or financial hardships).

## Customers with Exemptions

If a customer enters your business without a mask, you can ask them:

- ◆ Is (not wearing a mask) an accommodation?
- ◆ Are you not wearing a mask due to a disability or valid medical exemption?

If the answer is affirmative, the business may offer an accommodation or may allow the customer to enter. If their answer is negative, the business may provide an accommodation or they must refuse service. Your employees MAY NOT inquire as to the nature of the person's disability, request documentation of a medical condition or disability, or require that a person state their disability.

In order to address these issues, we recommend providing information, action plans and training to managers, supervisors and employees on how to address these situations and avoid heated confrontations and/or potential litigation.

Please note that the current health order does not allow an exemption for individuals utilizing a fitness center/gym. Masks must be worn at all times while an individual is working out.

## Expectations of Businesses

In order to comply with the order, businesses must take the following actions:

1. Post signage on all entrances and exits indicating that masks are required in public settings.
2. Educate employees about face covering mandates and the exemptions for those who do not have to wear them.
3. Enforce the face covering mandate within the confines of the business or organization.
4. Actively ask customers who aren't wearing masks the two questions mentioned above.

Failure to enforce the face covering mandate within the confines of the business may result in a notice of non-compliance which is punishable by fine, the removal of the business's permit, or the termination of utilities at the business.

## Sources:

- ◆ <https://www.syracuse.com/coronavirus/2020/05/can-store-owners-require-you-to-wear-a-face-mask-to-enter.html>
- ◆ <https://www.fisherphillips.com/resources-alerts-businesses-that-mandate-masks-for-employees-and>