

Municipality of San Juan Orders Mandatory Use of Facemasks and Announces Special Hours of Operations for Businesses

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PRACTICE AREAS

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An McV Government Affairs Alert

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On July 18, 2020 (the “Effective Date”), the Municipality of San Juan approved Municipal Ordinance No. 4, Series 2020-2021 (the “Municipal Ordinance”), establishing the compulsory use of facemasks and special hours of operations for businesses located in the Municipality of San Juan. The restrictions in the Municipal Ordinance are in response to the state of emergency declared in Executive Order No. EO-040, series 2019-2020, due to the spread of COVID-19.

The Municipal Ordinance became effective on July 18, 2020 and continues in effect for 60 days, unless otherwise extended for two additional 30-day periods.

Public Policy on the Mandatory Use of Face Masks

The Municipal Ordinance provides for the compulsory use of face masks in the jurisdiction of the Municipality of San Juan for every person over two (2) years of age, in the places and circumstances summarized below:

- Enclosed spaces, which include the interior space of a building or structure, where a commercial establishment is located, which includes, but is not limited to restaurants, bars, theater rooms, cinemas, government offices, financial institutions, salons and barber shops, shopping malls, stores or grocery stores, and any other office, establishment, or building that provides goods or services, public or private, whether paid or free. Every commercial establishment must ensure that every person who enters its facilities wears a mask and must provide that each person, client or visitor of its establishment maintains a minimum distance of six (6) feet.
- Open spaces, which includes spaces without walls, with or without roof or cover, where there is social or commercial interaction, including, but not limited to, open-air restaurants, open-air bars, street food or mobile food businesses or other services, or any other activity that involves social or commercial interaction outdoors. Every commercial establishment must ensure that every person who enters its facilities has a mask and must

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provide that each person, client or visitor of its establishment maintains a minimum distance of six (6) feet.

- All Municipal offices, departments and buildings.
- The use of face masks is not compulsory when consuming food or drink. The establishment dedicated to the sale of food or beverages is responsible for designating areas that guarantee physical distance.
- Every establishment or business, whether it is a closed or an open place, must place a sign within view of its customers or consumers indicating the mandatory use of face masks within the establishment pursuant to the Municipal Ordinance. Failure to comply with this requirement may entail the imposition of a fine in accordance with the provisions of this ordinance.
- All commercial establishments and offices must provide sufficient space so that all clients, visitors and employees maintain a minimum distance of six (6) feet and ensure that every person who enters its facilities wears a mask.

Penalties

Individuals who fail to comply with the mandatory use of masks may face an administrative fine of \$100 per infraction.

Businesses that do not comply with the mandatory face mask requirement (for clients/visitors as well as employees) and ensure proper social distancing may face a \$1,000 fine for a first infraction and a \$2,000 fine for a second or any other subsequent infraction. The fines will constitute a lien and/or encumbrance on the municipal license tax (*patente municipal*).

Special Hours of Operations for Establishments dedicated to the Retail Sale of Alcohol

All commercial establishments located within the jurisdiction of the Municipality of San Juan must **close operations at 8:00 p.m. until 5:00 am**, every day for a period of 60 days starting on the Effective Date.

The Municipal Ordinance defines a “commercial establishment” as any store, bar, cafeteria, open-air cafe, cocktail lounge, nightclub, pub, entertainment room, restaurant or other business authorized to sell or offer the retail consumption of alcohol, including any aisle, patio, terrace, pavilion, division,

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section or dependency that has direct communication with a business where alcoholic beverages are sold or served, as well as street vendors who sell alcoholic beverages, which are not excluded. Supermarkets, independent grocery stores and gas stations are excluded from this definition, but only if the sale of alcoholic beverages is an accessory business and not for consumption on the premises.

The special hours of operations set forth in the Municipal Ordinance may be extended for an additional 30-day period, by means of an executive order issued by the Mayor, which extension shall be previously notified to the presidency of the Municipal Legislature. A second 30-day extension may be granted with the ratification of the Municipal Legislature.

Suspension of Non-Essential Mass Gatherings

All non-essential mass gathering activities are suspended for a period of 60 days as of the Effective Date. The suspension of these activities may be extended by the by the Mayor, which extension shall be previously notified to the presidency of the Municipal Legislature.

The Municipal Ordinance defines a “non-essential mass gathering activity” as an organized activity of a social, cultural, entertainment nature or any other special event with the intention of gathering in one place, whether closed or outdoors, more than 25 people, where individuals are not separated by a physical space of at least 6 feet.

Outdoor activities, including drive-in activities (e.g. drive-in cinemas) or auto-concerts (drive-in concerts), are exempted from this Section.

Enforcement

In addition to the Municipal Police, the Municipal Ordinance empowers inspectors of the San Juan Permits Office of the Autonomous Municipality of San Juan to inspect any commercial establishment and issue fines for infractions.

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If a commercial establishment is imposed a second fine for violating any provision of the Municipal Ordinance, inspectors may also request the temporary closure of the business for a 10-day period, following legal and/or administrative procedures.

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