

LOCAL LAW NO. ____ OF 2020

**TOWN BOARD
TOWN OF NEW CASTLE
PROPOSED LOCAL LAW CREATING
CHAPTER 86 OF THE
CODE OF THE TOWN OF NEW CASTLE**

A LOCAL LAW to create Chapter 86 of the Code of the Town of New Castle requiring the use of face masks and face coverings to prevent the spread of infectious diseases.

BE IT ENACTED by the Town Board of the Town of New Castle as follows:

Section 1. Chapter 86 of the Code of the Town of New Castle entitled “Masks and Face Coverings” is hereby created as follows:

Chapter 86. Masks and Face-Coverings

§ 86-1 Findings and purpose.

- A. In February 2020, the Center for Diseases Control and Prevention (“CDC”) confirmed the first case in the United States of a new respiratory disease called the novel coronavirus (COVID-19). COVID-19 is caused by a virus (SARS-CoV-2) that is part of a large family of viruses called coronaviruses. COVID-19 spread rapidly in population centers in New York, including those within the County of Westchester. COVID-19 poses serious health risks to persons infected with the disease, particularly those with underlying medical conditions and the elderly. The spread of COVID-19 has caused economic hardship for many of the Town’s residents and business owners, and has significantly impacted the Town’s ability to provide services to its constituents. It is therefore essential that the spread of the virus be slowed to safeguard public health, safety and welfare.
- B. The virus that causes COVID-19 is readily transmitted via respiratory droplet contact, especially in group settings. Droplet transmission can be reduced with the use of personal protective barriers, such as face masks. The CDC and other public health agencies have uniformly recommended that the general public wear cloth face coverings and that individuals not residing within the same household maintain at least

six feet of social distance from one another to prevent the spread of COVID-19 by droplet transmission.

- C. On April 15, 2020, Governor Cuomo issued Executive Order 202.17 requiring any individual who is over the age of two and able to medically tolerate a face-covering to cover their nose and mouth with a mask or cloth face-covering when in a public place and unable to maintain, or when not maintaining social distance. However, the State has not established penalties for the violation of Executive Order 202.17.
- D. On May 28, 2020, the Governor issued Executive Order 202.34 which authorized business operators and building owners to deny admittance to individuals who fail to comply with the Governor's face mask mandate set forth in Executive Order 202.17 or to require or remove individuals from the premises if such individual fails to wear as face mask as required. Nothing in Executive Order 202.34 or any other Executive Order prohibits or limits the right of State and local enforcement authorities from imposing fines or other penalties for any violation of the directive in Executive Order 202.17.
- E. The New York State Department of Health has issued Industry Guidance During the COVID-19 public health emergency for a variety of activities, industries and businesses which sets forth physical distancing requirements to minimize the spread of droplets and airborne contaminants, including generally mandating a distance of six feet between individuals and when not able to do so, the wearing of acceptable face covering.
- F. The Governor has issued multiple Executive Orders limiting the gatherings of individuals, whether it is on public or private property. On June 15, 2020, the Governor issued Executive Order 202.45, which modified prior Executive Orders to "allow gatherings of fifty (50) or fewer individuals for any lawful purpose or reason, so long as any such gatherings occurring indoors do not exceed 50% of the maximum occupancy for a particular indoor area, and provided that the location of the gathering is in a region that has reached Phase 4 of the State's reopening, and provided further that social distancing, face covering, and cleaning and disinfection protocols required by the Department of Health are adhered to." Thus, gatherings that do not exceed the Governor's limitations may occur so long as appropriate social distancing and face covering requirements are adhered to.
- G. In June, 2020, the New York State Department of Health was directed to investigate COVID-19 exposure in the New Castle community associated with the Horace Greeley High School drive-in graduation ceremony, field night event and graduation parties. Thereafter, there was a cluster outbreak as at least 27 individuals who attended the events tested positive. Individuals who attended or had someone in their household attend the graduation ceremony, field night event or any graduation parties were subject to a precautionary quarantine for a period of 14 days.
- H. Governor Cuomo has repeatedly stated that local governments have a responsibility to

enforce social distancing, mask-wearing requirements and business closures and limitations. The Governor has warned local governments across New York State that if local officials do not enforce compliance with COVID-19 public health orders, areas will be closed again. The Governor has stated that he will reverse openings in areas that are not complying with the rules and in those areas where local governments are not enforcing the law.

- I. While voluntary compliance with the aforementioned health and safety precautions on public and private property is preferred, the Town has determined that the grave health risks and economic impacts associated with COVID-19 require enforcement mechanisms to protect the public health, safety and welfare of Town residents. This local law therefore establishes mandatory requirements regarding the use of face masks and face coverings on private and public property in the Town of New Castle as well as penalties for any violation of the requirements of this chapter.

§ 86-2 Definitions.

FACE MASKS AND FACE COVERINGS

Masks and face coverings include, but are not limited to cloth (e.g., homemade sewn, quick cut, bandana), surgical masks, N-95 respirators and face shields.

§ 86-3 Face mask or face covering required on public property.

All persons shall wear a face mask or face covering which shall be worn covering the nose and mouth of the wearer at all times in the Town of New Castle when present in or on any public property or public space, including but not limited to any park, recreational facility, town building, sidewalk, street, parking lot or plaza, when unable to maintain a distance of six feet from another person who is not a member of the same household.

§ 86-4 Face mask or face covering required on private property.

All persons shall wear a face mask or face covering which shall be worn covering the nose and mouth of the wearer at all times when on private property located in the Town of New Castle, including but not limited to residential property, business and professional offices, retail and personal service establishments, restaurants, child care facilities, places of public accommodation, private clubs and religious establishments, when unable to maintain a distance of six feet from another person who is not a member of the same household.

§ 86-5. Exceptions.

- A. Face masks or face coverings shall not be required to be worn by any child under the age of two or by anyone who is unable to medically tolerate a face covering.
- B. Face masks or face coverings shall not be required to be worn if individuals maintain a distance of at least six feet from another person. Individuals who reside in the same

household shall not be required to wear a face mask or face covering if located within six feet of each other.

- C. Drivers traveling alone or exclusively with members of their households in a motor vehicle do not need to wear face coverings.
- D. Persons playing a sport or participating in a fitness class or recreational activity are not required to wear a face mask if individuals are unable to tolerate a face covering for the physical activity. Persons must put a face mask or face covering on as soon as such physical activity has ended.
- E. Individuals are not required to wear a face mask or face covering when they are actively eating and/or drinking, or while seated at a restaurant.
- F. Police officers, fire fighters, ambulance personnel and other first responders shall not be required to wear a face mask or face covering when not practical or when engaged in a public safety matter of an emergency nature.

§ 86-6. Request for exemption.

- A. If an individual or organization believes that circumstances exist that make it a hardship or impractical to meet the requirements of this chapter, such individual or organization may apply to the Chief of Police of the Town of New Castle for an exemption. The burden is on the applicant to show hardship or impracticality.
- B. If the Chief of Police, in his or her discretion, determines that wearing a face mask or face covering will result in a hardship to or is impractical for such individual or organization, the Chief of Police may grant an exemption from the provisions of this chapter.
- C. Any applicant aggrieved by a determination of the Chief of Police under § 86-5(C) herein may appeal said determination to the Town Administrator, whose decision shall be deemed final. Any such appeal must be filed with the Town Clerk within ten (10) days of the issuance of the determination appealed from.

§ 86-7. Enforcement; penalties for offenses.

- A. This law may only be enforced during the time that a Declaration of Emergency is issued by the Town Supervisor due to an epidemic or disease outbreak that is communicable through droplet contact or airborne transmission.
- B. The Police Department of the Town of New Castle shall enforce the provisions of this chapter, subject to § 86-6(B).
- C. Any person found guilty of a violation of this chapter shall be subject to a fine in the amount of up to \$250 for the first violation, and up to \$500 for any subsequent violation occurring within a one-year period.

Section 2. Numbering for Codification.

It is the intention of the Town of New Castle and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Town of New Castle; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word “Local Law” shall be changed to “Chapter,” “Section” or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

Section 3. Severability.

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local Law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

Section 4. This Local Law shall take effect upon filing with the Secretary of State.