

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 COVID-19.

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 December 2019, a new respiratory disease called the novel coronavirus (COVID-19) was detected. COVID-19 is caused by a virus (SARS-CoV-2) that is part of a large family of viruses called coronaviruses. In a short period of time, COVID-19 has spread throughout New York, the County of Westchester and Town of New Castle, necessitating stringent public health orders as well as guidance from federal, state and local authorities. Heightened levels of public health and safety planning and preparedness have been necessitated in preparation for and response to confirmed cases of COVID-19 in the Town of New Castle.
- B. The virus that causes COVID-19 is easily transmitted, especially in group settings, and it is essential that the spread of the virus be slowed to safeguard public health and safety. The World Health Organization and the Center for Disease Control recommends cloth masks for the general public as an effective way to prevent the spread of COVID-19. 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. Thereafter, on June 13, 2020, the State adopted legislation to repeal Subdivision 4 of Section 240.35 of the Penal Law to revoke prohibitions on wearing a mask. The State did not establish penalties for the violation of Executive Order 202.17. The Town has the responsibility to enforce the Governor's directives and protect the public, health, safety and welfare.

- C. The Town Board seeks to adopt a local law to mandate the use of face masks and face coverings on private and public property in the Town of New Castle and to establish penalties for any violation of the Town's requirements.

§ 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 of sufficient size to cover 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 any town park, recreational facility, town building, walkway, sidewalk, street 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 of sufficient size to cover the nose and mouth of the wearer at all times on private property located in the Town of New Castle when unable to maintain a distance of six feet from another person who is not a member of the same household.

§ 86-5 Face mask or face covering required inside all business establishments in the Town of New Castle and compliance with other Laws.

New York State Executive Order 202.17 requires any individual over age two, and able to medically tolerate a face-covering, be required to cover their nose and mouth with a mask or cloth face-covering when in a public place. The State has also issued Guidance as to when face masks and face coverings must be worn in businesses, offices and other settings. Failure to wear a face mask or face covering when required by any State or County law, rule, regulation or Guidance or when so requested (either verbally or by the placement of a written sign on the premises) by the business owner or building owner shall be a violation of this Chapter.

§ 86-6. 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 are able to maintain a distance of 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. Face masks or face coverings shall not be required to be worn by campers pursuant to the Interim guidance for child care and day camp programs during the COVID-19 public health emergency guidance.
- D. Face masks or face coverings shall not be required to be worn in settings where it is not feasible.
- E. Drivers traveling alone or with members of their households do not need to wear face coverings unless they are present within six feet of another person who is not a member of their household.
- F. 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 and unable to maintain a distance of six feet from another person. Persons must put a face mask or face covering on as soon as such physical activity has ended.
- G. Individuals are not required to wear a face mask or face covering when they are eating and/or drinking while stationary.
- H. Police officers, fire fighters 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.

§ 86-5. Request for exemption.

- A. If an applicant believes that circumstances exist that make it a hardship or infeasible to meet the requirements of this chapter, individuals may apply to the Town Administrator for an exemption. The burden is on the applicant to show hardship or infeasibility.
- B. If the Town Administrator, in his or her discretion, determines that wearing a face mask or face covering will result in a hardship to or is infeasible for individual, the Town Administrator may grant an exemption from the provisions of this Chapter.

§ 86-6. Enforcement; penalties for offenses.

- A. The Police Department of the Town of New Castle shall enforce the provisions of this Chapter.
- B. Any person in violation of this Chapter shall be guilty of a violation and subject to a fine in the amount of up to \$250 for the first violation and up to \$500 for the second

violation and subsequent violations occurring within a one-year period.

§ 86-7. Effectiveness

This law may only be enforced during the time that a Federal, State or Local State of Emergency is declared related to an epidemic or disease outbreak.

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.