

LOCAL LAW NO. 2 OF 2020

A local law to require the use of face masks and face coverings to prevent the spread of infectious disease.

BE IT ENACTED by the Town Board of the Town of Oneonta, pursuant to the authority contained in Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York, Part 66 “Immunizations and Communicable Diseases”, Subpart 66-3 titled “COVID-19 Emergency Regulations” effective July 9, 2020.

Section 1. Chapter 54 of the Code of the Town of Oneonta entitled “Masks and Face Coverings” is hereby created as follows:

Chapter 54. Masks and Face-Coverings

§ 54-1 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-Co V-2) that is part of a large family of viruses called coronaviruses. COVID-19 spread rapidly in New York. 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. New York State first identified cases within its borders on March 1, 2020. 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 the 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.
- 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 a 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. 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.
- H. 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 Oneonta as well as penalties for any violation of the requirements of this Chapter.
- I. The purpose of this law is to assist in reducing the spread of COVID-19.

§ 54-2 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, any one of which must cover the nose and mouth of the wearer.

§ 54-3 Face mask or face covering required.

- A. Public Property. All persons must wear a face mask or face covering which must be worn covering the nose and mouth of the wearer at all times in the Town of Oneonta 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.
- B. Private Property. All persons must wear a face mask or face covering which must be worn covering the nose and mouth of the wearer at all times when on private property located in the Town of Oneonta, including but not limited to public areas of ~~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. In addition, a mask is required to be worn covering the nose and mouth of the wearer at all times when a gathering of a group of individuals occurs at a residential property that exceeds ten (10) or more individuals. A “gathering” is defined herein to mean “a planned or spontaneous event, indoors or outdoors, with at least ten (10) people participating in said gathering.”

Business owners may be found in violation of this law and be fined for not adhering to the provisions of this law within or with on their business premises.

§54-4. 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 as determined by a New York licensed physician or mid-level provider.
- B. Except as required in Section 54-3, 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.
- C. Drivers traveling alone or exclusively with members of their households in or upon a motor vehicle do not need to wear face coverings when traveling in or upon said vehicles. Individuals who are riding bicycles, scooters, skateboards or are jogging are exempt if in the roadway and not upon the sidewalk.
- D. Individuals are not required to wear a face mask or face covering when they are stationary, seated or standing while actively eating and/or drinking, or while seated within a Town restaurant’s approved outdoor eating area.
- E. 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 because they are engaged in a public safety matter of an emergency nature.

§54-5. 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 Town Supervisor of the Town of Oneonta for an exemption. The burden is on the applicant to show hardship or impracticality.
- B. If the Town Supervisor, in his 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 Town Supervisor may grant an exemption from the provisions of this chapter.
- C. Any applicant aggrieved by a determination of the Town Supervisor under § 54-5 herein may appeal said determination to the Town Board, and its 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.

§ 54-6. Enforcement; penalties for offenses.

- A. This law may only be enforced during the time that a Declaration of Emergency is issued by the New York State Governor due to an epidemic or disease outbreak that is communicable through droplet contact or airborne transmission.
- B. The Constable of the Town of Oneonta, any law enforcement officer, or any official with jurisdiction within the Town shall enforce the provisions of this chapter.
- C. Any person found guilty of a violation of this chapter shall be subject to a civil penalty in the form of a fine of up to \$1,000 for an individual. Any business whose owner or employees are found guilty of a violation of this chapter while on the job shall be subject to a civil penalty in the form of a fine of up to \$2,000.

Section 2. Numbering for Codification.

It is the intention of the Town of Oneonta and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Town of Oneonta; 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 has been specifically exempt there from.

Section 4. Effective date.

This local law shall take effect upon filing with the New York Secretary of State's Office.