

## **LOCAL LAW NO. 7 OF 2020**

### **A local law creating Chapter 241 of the Code of the Village of Cooperstown to require the use of face masks and face coverings to prevent the spread of infectious disease.**

BE IT ENACTED by the Board of Trustees of the Village of Cooperstown, 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 241 of the Code of the Village of Cooperstown entitled "Masks and Face Coverings" is hereby created as follows:

#### **Chapter 241. Masks and Face-Coverings**

##### **§ 241-1 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 Village's residents and business owners and has significantly impacted the Village'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 Village 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 Village residents. This local law therefore establishes mandatory requirements regarding the use of face masks and face coverings on private and public property in the Village of Cooperstown as well as penalties for any violation of the requirements of this Chapter.

- I. The Village of Cooperstown is a small Village having a population of less than 1800 residents and is an internationally recognized tourist destination attracting visitors from every State and many nations around the world. The Governor has announced a travel advisory which requires travelers from U.S. States identified by New York State as experiencing severe COVID-19 outbreaks to self-quarantine for a period of fourteen days after entering New York State. Numerous residents have recounted encountering or observing visitors from locations that would require them to self-quarantine who do not appear to be doing so and the Director of the Otsego County Health Department has indicated that it is difficult if not impossible to monitor and enforce the required self-quarantine rules given the large number of visitors.
- J. Our Village has a compact Business District within which is contained a large portion of our retail and commercial business and our historical and tourist attractions (e.g. National Baseball Hall of Fame, Doubleday Field, etc.). Furthermore, the portion of the Village's Business District and immediately surrounding area extending along Main Street from its intersection with Fair Street to its intersection with Pine Boulevard and along Pioneer Street from its intersection with Lake Street to its intersection with Church Street is not capable of providing safe or sufficient space for six feet of social distancing. In particular the majority of the buildings within the aforesaid area are situate immediately adjacent to our sidewalks, the sidewalks have narrow usable width, and the use of portions of the sidewalk area for parking overhang, fenced tree and plant gardens, trees, municipal benches, and authorized merchant and restaurant use for the "on street" sale and/or consumption of merchandise further reduces their available width to five feet or less and makes compliance with a six foot social distancing requirement unfeasible and impossible.
- K. The purpose of this law is to assist in reducing the spread of COVID-19.

**§ 241-2 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.

**§ 241-3 Face mask or face covering required.**

A. In the Village of Cooperstown 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 the wearer is on Main Street between Main Street's intersection with Fair Street to its intersection with Pine Boulevard and on Pioneer Street from Pioneer Street's intersection with Lake Street to its intersection with Church Street.

B. In all other areas of the Village of Cooperstown (i.e. areas other than designated

at section 241-3 A. above) 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 Village of Cooperstown 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.

**§ 241-4 Face mask or face covering required on 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 Village of Cooperstown, 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.

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.

**§ 241-5. 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 as determined by a New York licensed physician or mid-level provider.
- B. Except within the area designated in Section 241-3 A. 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 are not be required to wear a face mask or face covering when located within six feet of each other, but within the area designated in Section 214-3.A. must wear a face mask or face covering.
- 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. 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 stationary, seated or standing while actively eating and/or drinking, or while seated within a Village restaurant's approved outdoor eating area.

- 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 because they are engaged in a public safety matter of an emergency nature.

**§ 241-6. 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 Officer in Charge at the Village of Cooperstown Police Department for an exemption. The burden is on the applicant to show hardship or impracticality.
- B. If the Officer in Charge, 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 Officer in Charge may grant an exemption from the provisions of this chapter.
- C. Any applicant aggrieved by a determination of the Officer in Charge under § 241-6 herein may appeal said determination to the Village Administrator, whose decision shall be deemed final. Any such appeal must be filed with the Village Administrator within ten (10) days of the issuance of the determination appealed from.

**§ 241-7. 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 Police Department of the Village of Cooperstown 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 \$1000 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 Village of Cooperstown and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Village of Cooperstown; 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. Effective date.**

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