

TOWN OF MACHIAS

DATE: March 5, 2024

RESOLUTION NUMBER: 20

YEAR: 2024

MOVED BY: Robert Shenk

SECOND BY: Frank Bork

TITLE: **RESOLUTION IN OPPOSITION OF NEW YORK STATE REGULATION 10 NYCRR 2.13**

WHEREAS, Despite the expiration of New York State's Disaster Emergency on June 24, 2021, and the concurrent expiration of the extraordinary authority it granted to the Executive Branch to take measures to contain the spread of the COVID-19 virus, the Governor and the New York State Department of Health have continued to promulgate emergency regulations of far-reaching scope through the agency rulemaking process in violation of the NYS Administrative Procedure Act ("SAPA"), and

WHEREAS, bill A-416 entitled: "AN ACT to amend the public health law, in relation to the removal of cases, contacts and carriers of communicable diseases who are potentially dangerous to the public health" was proposed for several years in Assembly and failed to garner any support at all, and

WHEREAS, the New York State Department of Health took matters into their own hands, and adopted 10 NYCRR 2.13 *Isolation and Quarantine Procedures*, effective 4/22/2022, as an emergency regulation, **with the intent to make it permanent**, and

WHEREAS, emergency regulation 10 NYCRR 2.13 *Isolation and Quarantine Procedures (a4)* endows the Dept. of Health Commissioner with the power to force people diagnosed or **exposed** to a communicable disease to be removed from society (by isolation, quarantine, detention) into a "residential or temporary housing location that the public health authority issuing the order determines appropriate," of which the location could be anywhere and that time frame could be any number of days, weeks, months or years, and

WHEREAS, emergency regulation 10 NYCRR 2.13 *Isolation and Quarantine Procedures (c2)* empowers the Dept. of Health Commissioner to monitor the person being forcibly held and coordinate with local law enforcement to ensure compliance, and

WHEREAS, emergency regulation 10 NYCRR 2.13 *Isolation and Quarantine Procedures (d)* empowers the Dept. of Health Commissioner to prevent a property owner from entering their property if it is being used as a quarantine facility location, and

WHEREAS, emergency regulation 10 NYCRR 2.13 *Isolation and Quarantine Procedures (f)* establishes civil and criminal penalties if the citizen violates the health authority's order. Each day a separate infraction, and

WHEREAS, emergency regulation 10 NYCRR 2.13 *Isolation and Quarantine Procedures (g1)* every attending physician shall immediately, upon discovering a case or suspected case of a highly contagious reportable communicable disease, cause the patient to be appropriately isolated and contact the State Department of Health and the local health authority where the patient is isolated and, if different, the local health authority where the patient resides, and

WHEREAS, emergency regulation 10 NYCRR 2.13 *Isolation and Quarantine Procedures*, places the decision-making power into the hands of one person to decide the fate of 19 million New Yorkers as far as who can live their life freely and who can be pulled from the privacy of their home, workplace, school, etc.

without notice and removed from society for an arbitrary and indefinite amount of time, in a location they are not allowed to choose, and that they are not allowed to leave until said person allows them to, and

WHEREAS, there are hundreds of studies that show that forced quarantines cause psychological, emotional, and physical harm including depression, anxiety, delayed medical exams, loss of jobs, loss of businesses etc., with the harm outweighing the benefit, and

WHEREAS, the Town of Machias believes that the notion of government requiring individuals to isolate in temporary housing or a facility other than one's home is similar to the COVID response we saw authoritarian regimes implement over past two years and not a requirement that should be implemented in a democracy that values due process and individual liberties, and

WHEREAS, the Town of Machias believes that maintaining the doctrine of the Separation of Powers between the Legislative Branch and the Executive Branch is paramount in preserving a representative form of government, and

WHEREAS, the Town of Machias believes if this illegal regulation is permitted to stand, it would signify a breakdown of the checks and balances that define our democratic form of government, and

WHEREAS, the Town of Machias believes that with the height of the pandemic behind us, New Yorkers want the government overreach, tyrannical behavior and unchecked Executive powers that overshadowed the past three years to come to an end, and

WHEREAS, there is already an established Public Health Law (PHL) 2120 governing isolation and quarantine which balances individual rights and the need for public safety, and

NOW, THEREFORE BE IT RESOLVED, that the Town of Machias expresses its opposition to the requirements and intent of the NYS Department of Health regarding Emergency Regulation 10 NYCRR 2.13.

AND FURTHER BE IT RESOLVED, that copies of this resolution will be forwarded to the offices of the Catt. County Dept. of Health, NYS Dept. of Health, and Governor Hochul.

The resolution as stated above is hereby adopted by a majority vote of the Machias Town Board at an official meeting held on March 5, 2024, the ayes and nays take and recorded below:

- Aye Joshua Dusterhus, Supervisor
- Aye Robert Shenk, Councilmember
- Aye Frank Bork, Councilmember
- Aye Tom Reese, Councilmember
- Aye Nicholas Glasner, Councilmember

CERTIFIED: _____
Rebecca Grimmelt, Clerk
Town of Machias