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HUNDREDS OF BUSINESSES HIT WITH COVID-19 VIOLATIONS BY POLONCARZ ADMINISTRATION

Fines show selective enforcement, failing to follow own protocols, no indication violators given ten-minute or less grace period like the County Executive had at South Park Golf Course

(ERIE COUNTY, NY) – Erie County Comptroller Stefan I. Mychajliw, Jr. released a report to the Erie County Legislature today outlining the hundreds of businesses in Erie County that had violations, that were fined, or even closed for reported COVID-19 health violations. The analysis showed many establishments were cited with violations, and/or fined, and nine were ordered closed for failure to follow certain COVID-19 protocols, policies and regulations.

Approximately 420 COVID-19 related violations were levied against Erie County businesses and other entities, with nine restaurants or establishments being forced to close, including a VFW Post. Data shows 53 restaurants were fined for violations, with penalties ranging from \$100 to \$800, totaling \$15,250.

Health Department inspectors found violations in at least 277 businesses since the COVID-19 restrictions began, with some businesses receiving multiple violations and fines. There is even one case where an establishment was closed (The Cowboy) following a site visit that found one non-critical violation, and where remedy was made on site at time of inspection.

The request for information came after several complaints to the Comptroller's whistleblower hotline wherein the County Executive was photographed on September 25th, 2020 not wearing a mask while with several other people at a public golf course. The almost 20 mask-less golfers also shared communal food and alcohol. At the time Mark Poloncarz said that he was not in violation of Erie County Health Department regulations because the period of time he was mask-less was under ten minutes.

"Our Department of Health considers a close contact being with others for more than 10 minutes. While I should have worn a mask, nothing the team members did in that photo is contrary to our health protocols; we were outside, less than 20 people and together for the photo for about 15 seconds."

Mark Poloncarz, September 27, 2020

The COVID-19 violations report finds that the county conducted three different types of inspections; complaint, routine, and re-inspection.

If a violation existed, it was labeled either as critical or non-critical. Hundreds of violations were reported, some establishments were ordered closed, and some were ordered to pay fines.

“It appears the Poloncarz Administration did not give businesses or customers a ‘ten-minute or less’ grace period on mask enforcement. We do know hundreds of struggling small businesses, bars and restaurants faced violations. Some were fined or closed. The county’s Health Department regulations and enforcement has been confusing and inconsistent. The mixed messages came from the County Executive himself. There’s a set of rules for bars and restaurants. Another set of rules for Mark Poloncarz himself. This makes it challenging for business owners trying to survive in this pandemic,” said Comptroller Stefan Mychajliw.

In numerous cases COVID-19 related violations and fines appeared arbitrary and confusing. For example, businesses cited for the same violations in some cases those violations were labeled as “critical,” and in other cases “non-critical.” Similarly, some businesses were fined for those violations, others were not fined for the same violation. In some cases, the reports did not indicate if remedy was made at time of inspection.

The violations found by the Erie County Health Department at various locations were included but not limited to:

- Operating indoor services against NYS rules
- Overcrowding and/or lack of social distancing
- Unmasked employee(s)
- Standing while drinking/patrons served drinks when not sitting
- Dancing without face masks
- No food with alcohol
- More than 50 people in attendance at function

“Any business that was closed, fined or punished should be refunded if in fact they were not allowed a ten-minute grace period for not wearing a mask. I’m ready to refund fines right now. Keep in mind, this ten-minute rule comes straight from Mark Poloncarz. We want to hear from businesses that were punished by Erie County. They can call our Whistleblower Hotline directly at 716.858.7722. Email is whistleblower@erie.gov. Those who were fined should be paid back their money, and businesses should be afforded a grace period,” concluded Comptroller Mychajliw.

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