

BOARD OF SUPERVISORS

THEODORE T. KUSNIERZ, JR., CHAIRMAN

EMERGENCY ORDER No. 5D of 2023 of Saratoga County

LOCAL STATE OF EMERGENCY ORDER

I, Theodore T. Kusnierz, Jr., the Chief Executive of Saratoga County, in accordance with a declaration of a State of Emergency issued on August 18, 2023, and pursuant to Section 24 of the New York State Executive Law, do hereby order:

On May 19, 2023, the Saratoga County Chief Executive, Theodore T. Kusnierz, Jr., declared a local state of emergency for the County of Saratoga because the public safety and public health is imperiled due to the immediate danger of an extraordinary increase in the number of asylum seekers entering the County of Saratoga and whereas it has been deemed necessary to extend the state of emergency another thirty days effective August 18, 2023.

Pursuant to NYS Executive Law §24, when a State of Emergency is in effect, the Chief Executive may promulgate local emergency orders to protect life and property or to bring the emergency situation under control. By law upon reconsideration of all the relevant facts and circumstances, such an order may be extended for additional periods not to exceed five days each during the pendency of the state of emergency.

New York City has seen a recent surge of people to its shelter system. Now, the City seeks to rid itself of problems associated with the people in its shelter system by moving them to other communities in the State. As proposed, the City's stated goal is to support the people relocated to other Counties for an undetermined amount of time, with no plans to relocate the individuals back to New York City and no guarantee of continued financial support for these relocated individuals. Such a program would significantly increase the County's homeless population. The City cannot guarantee that the individuals currently under their care will not become the responsibility of Saratoga County. This is a significant concern for Saratoga County, a place with only a small fraction of New York City's population and budget.

I recognize that people in need of services may be comprised of any class of persons, citizen, or non-citizen, of any immigration status, of any race, religion, national origin, or other group. The County of Saratoga supports thousands of impoverished persons without regard to their origin as citizen and non-citizen, documented, undocumented, or seekers of asylum. However, the County's resources are strained already. We cannot take on the additional burden of those persons who are presently the City of New York's responsibility. The County presently lacks sufficient low-income housing to absorb people that the City wants to send here, then abandon after four months.

The County of Saratoga takes responsibility for the people who live here and who come here, as required by section 62 of the New York State Social Services Law. By the same law, New York City has a legal responsibility to provide for the welfare of the indigent that arrive within its borders. By the current program, New York City is illegally trying to export its issues to Saratoga County.

Section 62 states that, as a matter of law "each public welfare district shall be responsible for the assistance and care of any person who resides or is found in its territory and who is in need of public assistance and care which he is unable to provide for himself." New York City is one such social service district and is consequently responsible for the assistance and care of any person who resides or is found in its territory and who is in need of public assistance and care which they are unable to provide for themselves. Proper planning and a recognition that the County of Saratoga does not have the resources to take on New York City's burden will only come through cooperation from and communication with New York City.

In addition, communities throughout the Country are experiencing issues with discrimination. As such, to deter any such discrimination with respect to the issues presented to the County and addressed by this Order, it is prohibited for any municipality, nor an agent or contractor of the municipality, to engage in discriminatory acts within the County regarding the operation of any government program.

This Order barring other municipalities, or agents or contractors of the municipalities, from unilaterally deciding to establish shelters for persons in their care by removing them to Saratoga County is for the sole purpose of mandating good government, responsible government, government that conserves the tax money of its residents, government that operates within

existing laws, and that makes policies that reflect the best interests of the electorate and supports those who are new to the County as well as those which have been here for some time.

This Emergency Order shall not be read to have the purpose of barring any person from traveling to or residing in the County of Saratoga. Its sole purpose is to prevent other municipalities, or agents or contractors of the municipalities, from foisting their own policies, costs, and responsibilities on this County.

NOW, upon these facts and circumstances, I hereby rescind Emergency Order No. 4 and enact this Emergency Order No. 5; and by the power vested in me as the Chief Executive of Saratoga County, it is hereby:

ORDERED that:

Section 1. Prohibition of municipal programs that violate New York State law:

A. Prohibition on illegal shelters and temporary housing.

1. No municipality, nor an agent or contractor of the municipality, outside Saratoga County may establish a shelter or temporary housing in Saratoga County without adhering to the requirements of all applicable statutes, laws, regulations, and rules of the United States of America, New York State, the County of Saratoga and any affected municipality, for the establishment of such shelter or temporary housing and all related Administrative Directives of the NYS Office of Temporary and Disability Assistance, including but not limited to NYS Social Services Law Art. 2-A and Art. 3 Titles 1 and 2, 18 NYCRR Parts 352, 491 and 900, NYS Office of Temporary and Disability Assistance Administrative Directive 6-ADM-07 Revised, and all state and local zoning and building laws, rules, and regulations.
2. No such municipality, nor an agent or contractor of such municipality, may operate such a facility described in subsection (1) without the written permission of the Chief Executive who shall ensure compliance with the requirements of subsection (1) and ensure that the life, liberty and property of the people of the County of Saratoga, whether for the short or long term, including those intended to reside in any facility described in subsection (1), are preserved and that the municipality, or any agent or contractor of the municipality, establishing the facility engages in a plan acceptable to the County for the long term welfare and security of persons residing in and coming to this County.
3. No owner or operator of any location within the County of Saratoga may permit a use prohibited by this subsection where permission has not been granted by the Chief Executive of the County.

B. No New York State municipality, nor an agent or contractor of a New York State municipality, may operate any program, including but not limited to one establishing shelters or temporary housing in Saratoga County, which program is discriminatory on the basis of: age, alienage or citizenship status, color, creed/religion, disability, family status, gender/gender identity/expression, lawful occupation, lawful source of income, marital status, national origin, partnership status, race, or sexual orientation.

C. Remedies:

1. Any person violating the provisions of this Emergency Order or causing any other person to violate this Emergency Order, is punishable by the penalty described by NYS Executive Law §24(5): Class B misdemeanor.

D. Remedies not exclusive:

1. No remedy or penalty specified in this Emergency Order shall be the exclusive remedy or remedy available to address any violation described in this Emergency Order.
2. Each remedy or penalty specified in this Emergency Order shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this Emergency Order or in any other applicable law.
3. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this Emergency Order or in other applicable law.

Section 2. Comprehensive Emergency Management Plan:

- A. Pursuant to the Saratoga County Comprehensive Emergency Management Plan, the Chief Executive and the Saratoga County Director of Emergency Management shall activate and initiate all processes necessary to effectuate the provisions of this Local Emergency Order.**

Section 3. Severability:

- A. If any clause, sentence, paragraph, subdivision, section or part of this Emergency Order, or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgement shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered, for any reason, which remaining portions shall continue in full force and effect.

Section 4. Effective Date and Expiration:

- A. This Local Emergency Order shall take effect immediately and shall remain in effect for a period of five (5) days unless sooner modified, extended, or revoked. This Local Emergency Order may be renewed for additional periods of five (5) days each during the pendency of the local state of emergency.


This Local Emergency Order shall be executed in quadruplicate and filed within seventy-two hours or as soon thereafter as practicable in the office of the Clerk of Boards of Legislators, the office the County Clerk, the New York Secretary of State, and the New York State Office of Emergency Management withing the Division of Homeland Security and Emergency Services.

The Local Emergency Order is being extended for an additional 5 days:

September 7, 2023 through September 11, 2023

GIVEN, under my hand and the Seal of the County of Saratoga this 6th of September, in the year Two Thousand Twenty-Three.

COUNTY OF SARATOGA



THEODORE T. KUSNIERZ, JR.
CHAIRMAN, BOARD OF SUPERVISORS