



BOARD OF SUPERVISORS

PHILIP C. BARRETT, CHAIRMAN

EMERGENCY ORDER No. 3 of 2024 of Saratoga County

LOCAL STATE OF EMERGENCY ORDER

I, Philip C. Barrett, the Chief Executive of Saratoga County, in accordance with a declaration of a State of Emergency issued on January 15, 2024, and pursuant to Section 24 of the New York State Executive Law, do hereby order:

On May 19, 2023, the Saratoga County Chief Executive 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. The State of Emergency was renewed per statute on June 19, 2023, July 18, 2023, August 18, 2023, September 16, 2023, October 16, 2023, November 16, 2023 and December 16, 2023. It has been deemed necessary to extend the state of emergency another thirty days effective January 15, 2024.

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, 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. Coordination with Transporters of Migrants and/or Asylum Seekers

- A. Any operator of any licensed or unlicensed chartered transportation service who knows or reasonably should know that such transportation service will be transporting ten or more passengers who are likely to seek emergency shelter and other immediate services in the County of Saratoga must comply with the requirements set forth in this Emergency Order. There shall be a presumption that the passengers who have arrived recently in the United States are likely to seek emergency shelter and other immediate services. The

determination that an operator knows or reasonably should know that they are providing transportation that makes them subject to this Order will be based upon the totality of the circumstances, including but not limited to: whether the passengers' fares were paid for by a third party; the identity of such third party; any conditions that such third party paying for transportation imposed on the operator or transporter, whether the passengers' travel arrangements included return travel; whether the bus is coming from a state from which a substantial number of charter buses or other means of transportation, including but not limited to airplane, have arrived carrying people seeking emergency shelter and other immediate services in the County of Saratoga in the last 60 days; and any other indicia that the passengers are likely to seek emergency shelter and other immediate services in the County of Saratoga.

- (1) Notification: Any such transporter or operator must provide notice of the anticipated date and time of the arrival of the migrants and/or asylum seekers in Saratoga County and the information required by paragraph (2) of this section to the County Administrator (the "Administrator") of Saratoga County or their designee by emailing said Administrator at least three (3) days in advance of such anticipated date and time of arrival, except as provided in paragraph (5) of this section.
- (2) Information Required: Any such transporter or operator must provide a manifest of its passengers to the Administrator at least three (3) days in advance of the anticipated date and time of arrival of the migrants and/or asylum seekers in Saratoga County or upon departure from the transporter's point of origin, whichever is later. Unless prior approval has been requested and obtained through the exemption process set forth in paragraph (5) of this section, the manifest shall include:
 - (a) The number of passengers on each bus or other means of transportation who arrived in the United States within the previous 90 days and, if the operator has relevant information, the number of such passengers that are likely to seek emergency shelter and other immediate services in Saratoga County, including vaccinations and Social Services;
 - (b) The number of such passengers who are single adults traveling alone, and the number of such passengers who are members of a family, including specifying separately the number of families with children;
 - (c) The number of such passengers who are children;
 - (d) The vehicle operator's name; and,
 - (e) Identification of the means of transportation, and description of the vehicle, including for motor vehicles, color, license plate number and any logos to assist in identification.
- (3) Timing of Drop-Offs: An Operator of a charter bus must direct the bus driver to drop off passengers in Saratoga County only between the hours of 8:30 AM to 12:00 PM Monday through Friday, unless prior approval for drop off at a different time
- (4) Location Drop Offs: Drop off locations shall be provided to the Charter Transportation Service by the Administrator of Operations.

(5) Request for Exemption:

(a) An Exemption to the requirements set forth in Paragraphs (H) (1) (2) (3) or (4) of this section may be granted in accordance with this paragraph. To request an exemption, a transporter or operator must email the Administrator at countyadministrator@saratogacountyny.gov, no later than 72 hours prior to the anticipated date and time of arrival in Saratoga County. Such request for an exemption must set forth: the reasons the exemption is requested; where applicable, a list of any type of manifest information listed in paragraph (2) that such transporter or operator is able to provide; where applicable the requested date and time of arrival that is outside the allowable hours set forth in paragraph (3); and where applicable, the proposed alternate location other than the location in paragraph (4).

(b) Any such request for an exemption shall be granted where the Administrator determines, in the Administrator's discretion either: (a) that granting such exemption would not substantially impair the City's to manage the ongoing emergency effectively and efficiently; or (b) that, based upon the particular and unusual circumstances presented there is no other reasonable alternative, with respect to the details of arrival, to the actions proposed to be taken by the operator. Where appropriate, the Administrator may grant or deny an exemption in part, and, consistent with the standard set forth in the preceding sentence, may obtain the agreement of the operator to alternative requirements, in lieu of those being waived, as conditions to the exemption where such requirements further public health and safety.

(c) The Administrator shall accept and may approve, applications for exemptions upon less than 72 hours' notice consistent with the standards in this paragraph where such applications additionally demonstrate exigent circumstances that prevent providing the full notice, and that the maximum feasible notice has been provided consistent with such circumstances.

- B. For purposes of this Emergency Order, the terms "Transporter" and/or "Operator" shall be used to mean each owner, lessee or person in control of a vehicle or other method of transport, who contracts or otherwise accepts payment to transport passengers to any location within the County of Saratoga, and any agent acting at their direction. In addition, "Transporter" and/or "Operator" shall be deemed to include any intermediary or federally authorized motor carrier facilitating the transportation of passengers to the County of Saratoga. The terms "Transporter" and/or "Operator" may be used alone or together and shall have the same meaning whenever used.

Section 3. 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 4. 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 5. 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:

January 25, 2024 through January 29, 2024

GIVEN, under my hand and the Seal of the County of Saratoga this 24th of January, in the year Two Thousand Twenty- Four.

COUNTY OF SARATOGA



PHILIP C. BARRETT.
CHAIRMAN, BOARD OF SUPERVISORS