



County of Onondaga
Office of the County Executive

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**LOCAL EMERGENCY ORDER OF THE ONONDAGA COUNTY EXECUTIVE
ISSUED PURSUANT TO PROCLAMATION OF EMERGENCY
October 10, 2023 – ORDER NO. 2-K**

WHEREAS, on May 18, 2023, I, J. Ryan McMahon, II, Onondaga County Executive, by the authority vested in me by the Onondaga County Charter, the Onondaga County Administrative Code, and the laws of the State of New York, declared, pursuant to Section 24 of Article 2-B of the New York State Executive Law, that the public safety was sufficiently imperiled such that a Proclamation of Emergency was declared within the territorial limits of Onondaga County; and

WHEREAS, on August 16, 2023, I issued a subsequent Proclamation of Emergency in response to the continued imperilment to public safety presented by New York City's program to entice and transport unhoused persons of certain nationalities and/or immigration status outside of its jurisdiction and to establish unlawful temporary housing and homeless shelters outside of its jurisdiction in excess of its Home Rule and Executive Law emergency powers and in contravention of Onondaga County's Home Rule authority as established in Article IX of the New York State Constitution; and

WHEREAS, New York City has directly sought to cause a hotel within the County to be converted into an illegal shelter, resulting in the eviction of existing residents and in violation of local zoning codes, Social Services Law § 62, NYS Office of Temporary and Disability Assistance Administrative Directive 06-ADM-07, Section 24 of Article 2-B of the New York State Executive Law, Municipal Home Rule Law, and Article IX of the New York State Constitution; and

WHEREAS, New York City has failed to communicate and/or coordinate with Onondaga County, its social service district or health department with respect to the unlawful shelter program it created and funds; and has previously represented that it will only pay for up to four (4) months of shelter costs, the details and amounts of which remain unknown, and has no long-term solution for housing or caring for the unidentified and untold number of homeless persons that they transport outside of their jurisdiction once beyond City limits; and

WHEREAS, New York City has repeatedly failed and refused to adequately address the needs of its homeless population, and has decided by its actions and inactions to abdicate its duties and responsibilities to certain of those homeless persons having a particular nationality or immigration status through a government program to rid itself of the problems associated with such persons residing in the City and its shelter program by moving such persons to other communities, including Onondaga County, in what is in essence an unauthorized and illegal "out of sight, out of mind" approach; and

WHEREAS, all temporary housing shelter beds in the County are currently at capacity and cannot accommodate additional homeless individuals and/or are inappropriate for such population due to their utilization by those receiving treatment for severe mental health issues and/or substance abuse; and the County presently lacks sufficient low-income housing and housing inventory to absorb such population; and

WHEREAS, the County of Onondaga serves as a United Nations High Commission on Refugees designated refugee resettlement community, having welcomed refugees from, *inter alia*, Sudan, Congo, Ukraine, Bhutan, and Afghanistan, and expects to house and resettle 1,900 legal refugees over the next year and does not have the capacity,

infrastructure or resources to receive and sustain an increase in the number of unhoused persons in its shelter system or to meet the needs of such individuals, imperiling public health and safety within the County; and

WHEREAS, this Local Emergency Order barring other municipalities from unilaterally deciding to establish shelters for person in their care by removing/exporting them to Onondaga County is for the sole purpose of mandating good governance, intermunicipal coordination, and compliance with existing laws including, but not limited to, Social Services Law § 62 and the Bill of Rights of Local Governments; and

WHEREAS, this Local Emergency Order shall not be read to have the purpose of barring any persons from traveling to or residing in the County; its sole purpose is to prevent other municipalities from foisting their own policies, costs and legal responsibilities on this County;

NOW, THEREFORE, in accordance with authority vested in me by the Onondaga County Charter and Code, local home rule powers conferred upon local governments, and pursuant to Article 2-B, Section 24 of the New York State Executive Law, I hereby rescind Local Emergency Order No. 1, dated May 18, 2023, and any extensions thereto, and hereby promulgate and enact this Local Emergency Order No. 2, effective within the territorial limits of Onondaga County:

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

- A. No municipality outside of Onondaga County may establish, operate or otherwise fund, or make any contract with persons, businesses, or entities to establish, operate or otherwise fund, a shelter or temporary housing in Onondaga County without adhering to the requirements of all applicable statutes, laws, regulations, rules, and orders of the United States, New York State, Onondaga County, and Onondaga County municipalities for the establishment and operation of such shelter or temporary housing, and all related Administrative Directives of the NYS Office of Temporary and Disability Assistance, included but not limited to NYS Social Services Law Article 2-A and Article 3, Titles 1 and 2, 18 NYCRR Parts 352, 491 and 9000, NYS Office of Temporary and Disability Assistance Administrative Directive 06-ADM-07, and all state and local zoning and building laws, rules, and regulations. In addition, no person or entity may act on behalf of any municipality or in performance of a municipal program, or other act funded by a municipality, to perform an act in violation of this subsection.
- B. No municipality outside of Onondaga County may establish and/or operate such a facility described in Subsection A above, and no hotel, motel or owner of a multiple dwelling in Onondaga County is permitted to contract or otherwise engage in business with any municipality other than the County of Onondaga for the purpose of establishing such a facility, without written permission of the County Executive who shall ensure compliance with Subsection A and the safety and welfare of persons residing in and/or coming to Onondaga County. This prohibition extends to any person or entity participating in an outside municipality's government program, or a contract or service funded by an outside municipality or acting on behalf of any outside municipality.
- C. No New York State municipality may establish, fund and/or operate any shelter or temporary housing program in Onondaga County that is discriminatory on the basis of race, creed, color, national origin, immigration status, sexual orientation, sex, age, marital status, disability, pregnancy-related condition, predisposing genetic characteristics, familial status, and gender identity.
- D. The conditions/requirements described in this Section shall not apply to any intermunicipal agreement entered into directly between an outside municipality and the County pursuant to Article 5-G of the General Municipal Law.
- E. Remedies.
 1. Appearance tickets. Any local law enforcement agency, County Executive or designee, is authorized to issue appearance tickets to any person violating or causing any other person to violate this Local Emergency Order for the penalty prescribed by NYS Executive Law § 24(5).

2. Civil penalties. In addition to those penalties prescribed by NYS Executive Law § 24(5), any person who violates any provision of this Local Emergency Order shall be liable to a civil penalty, to be determined by a process set by the County Executive or designee, of not more than \$2,000 per violation for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of this County and initiated by the County Executive or designee and/or County Attorney.
3. Abatement. Regardless of any other remedy or relief brought by the County for any violation, the County Executive or designee is authorized to direct the County Attorney to commence actions or proceedings in the name of the County, in a court of competent jurisdiction, to abate any violation of, or to enforce any provision of this Local Emergency Order.

F. Remedies not exclusive.

1. No remedy or penalty specified in this Local Emergency Order shall be the exclusive remedy or remedy available to address any violation described in this Local Emergency Order.
2. Each remedy or penalty specified in this Local Emergency Order shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this Local 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 Local Emergency Order or in any other applicable law.
4. In particular, but not by way of limitation, each remedy and penalty specified in this Section shall be in addition to, and not in substitution for or limitation of, the penalties specified in NYS Executive Law § 24, and 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 penalty specified in NYS Executive Law § 24.

Section 2. Severability.

If any clause, sentence, section, paragraph, subdivision, part or provision of this Local Emergency Order, or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance, shall be adjudged by a court of competent jurisdiction to be invalid or unconstitutional, the remainder of this Local Emergency Order shall not be affected thereby and every other term and provision of this Local Emergency Order shall be valid and enforced to the fullest extent permitted by law.

Section 3. Effective Date.

This Local Emergency Order shall take effect immediately.

Section 3. Duration of Local Emergency Order

This Local Emergency Order shall remain in effect for five (5) days unless sooner modified, extended, or revoked, and may be extended for additional periods not to exceed five (5) days during the pendency of the local state of emergency.

COUNTY OF ONONDAGA

By:


J. Ryan McMahan, II
County Executive