



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**

November 29, 2023 – ORDER NO. 3-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 and September 15, 2023, I issued subsequent Proclamations 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, in 1984, the City of New York agreed to a consent judgment guaranteeing shelter in the City of New York to all persons who apply and qualify for shelter, and in 1989 the City of New York issued an executive order establishing the City of New York as a "sanctuary city" for federal immigration purposes, which such status the New York City Council reaffirmed by resolution adopted in 2016; and

WHEREAS, in the last year, the State of Texas has transported tens of thousands of persons from Texas to the City of New York on the basis of its status as a "sanctuary city"; and

WHEREAS, also in the last year, tens of thousands of persons who have entered the country have, of their own volition, migrated to settle in New York City; and

WHEREAS, in May 2023, the Mayor of the City of New York, on the basis of overwhelmed City agencies and stress on City resources, announced plans to bus persons from the City of New York to hotels and motels in counties outside of the City of New York, in violation of the United States and New York State constitutions and statutes and without regard to those counties' capabilities to house, feed, and serve such populations amidst those counties' own homeless and mental health services crises; and

WHEREAS, in response to the Mayor of the City of New York's unlawful busing program, the Onondaga County Executive issued Local Emergency Order 2, and extensions thereto, —which remains in effect—barring local hotels, motels and others from contracting with the City of New York to transport or house New York City migrants, asylum seekers, or other persons without first establishing that such contract will not jeopardize the health, safety, or welfare of the County or its residents ("Local Emergency Order No. 2"); and

WHEREAS, all temporary housing shelter beds in the County of Onondaga 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 shall not be read to have the purpose of barring any persons from traveling to or residing in Onondaga County; its sole purpose is to prevent other municipalities from foisting their own policies, costs and legal responsibilities onto Onondaga County; and

WHEREAS, the City of New York commenced a lawsuit in the New York State Supreme Court, New York County, challenging such emergency orders, but the Court determined that the City failed to select a proper venue for the lawsuit and ordered that the action be severed as to Onondaga County and transferred to the Supreme Court, Onondaga County; and

WHEREAS, by press release dated September 26, 2023, the Mayor of the City of New York—in an effort to evade and subvert Local Emergency Order 2 through extrajudicial means—announced plans to expand the New York City Fighting Homelessness and Eviction Prevention Supplement (“City FHEPS”) program by providing five years (or more) of rental vouchers to New York City residents who agree to relocate from New York City to counties in upstate New York and Long Island (the “City of New York Homeless Relocation Program”); and

WHEREAS, by videoconference on September 26, 2023, the City of New York confirmed that although it will be providing five years of rental payments to homeless who agree to relocate to upstate New York and Long Island, the City will divest itself of the obligation to pay for the attendant social services, educational services, and all other support for the homeless persons it relocates; and

WHEREAS, the City of New York Homeless Relocation Program violates the City’s 1984 consent judgment and is unlawful under the United States and New York State statutes and constitutions, including Article IX of the New York Constitution, which secures to Onondaga County the right of local self-government and which further requires local governments to secure intergovernmental cooperation by formal agreement as authorized by the New York State Legislature, not by unilateral fiat; and

WHEREAS, the County of Onondaga strives to be a welcoming community; however, the unlawful City of New York Homeless Relocation Program poses a grave risk to the social, health, and emergency services resources of the County, particularly because the County’s number of homeless is at all-time highs, causing the County’s inventory of affordable housing and emergency housing to reach historic lows; and

WHEREAS, the County of Onondaga is responsible for securing the health and safety of its residents, and should the City of New York transport or facilitate the relocation of any number of persons to the County

their arrival will create a social, health, and emergency services crisis, causing an increase in homelessness, threatening the health and public safety of County residents and any relocated persons;

NOW THEREFORE, by the power 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, I hereby promulgate and enact this Local Emergency Order No. 3, effective within the territorial limits of Onondaga, and it here hereby ORDERED:

Section 1. Prohibition of Acceptance Within the County of New York City FHEPS Vouchers, Absent Written Authorization By The County of Onondaga.

- A. No person, business, or other entity within the County of Onondaga shall accept or agree to accept, by lease agreement or otherwise, a New York City FHEPS rental voucher or other voucher without first applying for and obtaining the prior written authorization of the County Executive or his designee, such authorization to be given only after determining that such agreement would not jeopardize the health, safety, or welfare of the County and its residents.
- B. Such application for authorization shall be in the form approved by the County Executive or his designee and shall, at a minimum, identify the address of the property, the term of the lease or other agreement, the monthly rent amount, the amount of the proposed New York City FHEPS voucher, and the legal names, birthdates, current addresses (if any) of all persons to be housed at the property; and any and all records pertaining to services requested by such persons or administered to such persons by the City of New York.
- C. As conditions to granting the authorization described in paragraph A of this Section 1, the County Executive or his designee shall require each person, business or entity seeking to accept New York City FHEPs rental vouchers or other vouchers to:
 - i. First have provided the County of Onondaga with notice and opportunity to elect to furnish an equivalent rental voucher to a client of the Onondaga County Department of Family & Community Services ("DFCS") who seeks housing or shelter. Such person, business, or entity shall satisfy this subparagraph by furnishing to the County of Onondaga a written declination of DFCS to so match the New York City FHEPS rental voucher, in such form as promulgated by DFCS in its reasonable discretion; and
 - ii. Require the City of New York to be a non-tenant party to the lease or other agreement, and require the City of New York to agree to, in addition to paying rental assistance to the voucher recipient, pay to the County of Onondaga all social services, educational, and other governmental costs of the persons relocated from the City of New York to the County of Onondaga, in such amount as reasonably determined by the County of Onondaga upon review of the application materials identified in Section 1(B) hereof. The County of Onondaga shall allocate such payments to all applicable taxing jurisdictions and districts on a *pro rata* basis.
- D. The County Executive or his designee, in granting the authorization described herein, may impose such additional conditions as he, in his reasonable discretion, deems necessary to protect the health, safety, or welfare of the County and its residents.

Section 2. Penalties and Remedies.

- A. Pursuant to New York State Executive Law Section 24(5), any person who, or entity which, knowingly violates the provisions of this Local Emergency Order shall be guilty of a class B misdemeanor. 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).
- B. In addition to the foregoing penalty, any person who, or entity which, knowingly violates any provision of this Local Emergency Order or any term or condition of the authorization provided hereby shall be liable for a civil penalty of Two Thousand Dollars and Zero Cents (\$2,000.00) per day. The civil penalties provided by this paragraph shall be recoverable in an action instituted in the name of the County of Onondaga and initiated by the County of Onondaga.
- C. Regardless of any other penalty, remedy or relief sought by the County for any violation of this Local Emergency Order, the County Attorney may commence actions or proceedings in the name of the County, in a court of competent jurisdiction, to abate any violations of this Local Emergency Order.
- D. The penalties or remedies of this Local Emergency Order are not exclusive of any other remedy or penalty, but are in addition to all such other remedies and penalties and may be pursued at any time whether prior to, simultaneously with, or following any other remedy or penalty.

Section 3. Comprehensive Emergency Management Plan. Pursuant to the Onondaga County Comprehensive Emergency Management Plan, the County Executive and the Onondaga County Director of Emergency Services shall activate and initiate all processes necessary to effectuate the provisions of this Local Emergency Order.

Section 4. Severability. If any clause, sentence, paragraph or part of this Local Emergency Order shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this Local Emergency Order so adjudged to be invalid.

Section 5. Effective Date and Expiration. This Local Emergency Order shall take effect immediately and shall remain in effect for a period of five (5) days. This Local Emergency Order may be renewed for additional periods of five (5) days each.

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 Board of Legislators, the office of the County Clerk, the New York Secretary of State, and the New York State Office of Emergency Management within the Division of Homeland Security and Emergency Services.

COUNTY OF ONONDAGA

By:


J. Ryan McMahan, II
County Executive