

TOWN OF RAMAPO

EMERGENCY ORDER No. 2 - 2020

On March 19, 2020, pursuant to the powers vested in the Town Supervisor by State Executive Law §24, I declared a local State of Emergency in the Town of Ramapo, which Declaration of Emergency has been renewed and is still in effect.

The Mid-Hudson Region has reopened through Phase 4 of the NY Forward Plan, allowing restaurants and other uses to resume otherwise permitted activities, but only in compliance with New York State Department of Health (DOH) Interim Guidance. Restaurants are permitted to offer outdoor dining activities, and other uses allowed in the Town of Ramapo may utilize outside areas as places of public assembly in order to resume activities in accordance with the applicable DOH Guidance, which prescribes substantially reduced occupancy of existing buildings to comply with social distancing requirements and other protective measures.

The purpose of this Emergency Order ("Order") is to support and facilitate the reopening of restaurants and of other uses that require the use of places of public assembly by allowing the use of tents and other temporary accessory structures. Doing so will allow the operator of such uses to accommodate the need to offer the public sheltered outside space so that participants in the activity are able to observe social distancing by lowering the occupancy of existing buildings and complying with other guidance issued by NYS DOH to protect public health.

This action is required to allow the operators of such uses to acquire tents and temporary accessory structures in sufficient time to install and prepare outside areas for sheltered use during the continuing Coronavirus pandemic. This Order applies to existing restaurants and to approved uses that require the use of tents or temporary accessory structures to provide outside areas of public assembly (Eligible Uses), and also applies to any such proposed Eligible Uses that receive all required land use approvals and a building permit during the State of Emergency. This Order only allows Eligible Uses to install and use tents and temporary accessory structures to the extent they are needed to provide sufficient space to allow social distancing.

This Order allows the use of tents and temporary accessory structures as an accessory use to an existing or approved Eligible Use, suspends any provision of the Town Code inconsistent with such use, and suspends any provision of Chapter 367 that would require approval of an amended site plan, special use permit or ZBA determination issued for the existing Eligible Use. Requiring approval or amendment of existing approvals for Eligible Uses would cause unnecessary delay and expense for owners of such uses, who have suffered financial hardship due to the closure and restrictions on operations, cause hardships for the employees and suppliers of such uses and the members of the public served by those uses, as well as the entire Ramapo community.

Consistent with this Order, the Planning Board, Zoning Board of Appeals and CDRC should act as expeditiously as possible to review and act on any pending land use applications for such uses; however, in the event an applicant needs approval for the use of tents or temporary accessory structures to operate during the State of Emergency, such temporary use will be considered by application made pursuant to this Order.

This Order does not change or modify any provisions of the New York State Uniform Fire Prevention and Fire Code, which continue to apply to tents and temporary accessory structures operated by the Eligible Use..

To facilitate the reopening plans of Eligible Uses and protect the public health, this Order will be implemented by the special advisory group established by Emergency Order #1 of 2020; the Town Fire Inspector is appointed to the group for purposes of considering applications pursuant to this Order, and determining whether the proposed tent or temporary accessory structure can be safely used on a

temporary basis in a manner that will comply with all applicable provisions of the Uniform Fire and Building Code, including, but not limited to, Chapter 31 as it pertains to tents. Upon favorable review and recommendation of the special advisory group, the Building Department is authorized to issue building permits for tents or temporary accessory structures for Eligible Uses, subject to any conditions recommended by the special advisory group and the conditions set forth below.

I hereby determine that the issuance of this Order, and the issuance of a building permit to allow the temporary use and occupancy of tents and temporary accessory structures for Eligible Uses to accommodate the need of such uses for sheltered outside space in accordance with the temporary permit conditions that follow, are designated SEQR Type II actions pursuant to 6 NYCRR 617.5 (42).

NOW, THEREFORE, pursuant to the authority vested in me as Chief Executive of the Town of Ramapo by §24 of the State Executive Law to issue emergency orders to address the declared emergency and protect the health and economic wellbeing of the residents, property owners and businesses of the Town of Ramapo, I hereby order, for the period through September 14, 2020, the following, with the anticipation that this emergency order will be renewed and continued until the current declaration of emergency by the Town expires, and the use of tents and temporary accessory structures is no longer necessary in the Town of Ramapo to allow Eligible Uses to meet the social distancing and other measures imposed by federal and state directives.

Directive 1. This Emergency Order authorizes the use of tents and temporary accessory structures as temporary accessory uses to an Eligible Use which is either existing or which has been granted all necessary land use approvals, and which is or will be authorized to operate in Phase 4 of the NY Plan, whether or not those accessory uses are otherwise allowed in the zoning district, but only to the extent that (1) they are necessary to provide sufficient space for the Eligible Use to comply with social distancing requirements and any restrictions on occupancy imposed by the COVID-19 Pandemic, and (2) only if operated in compliance with all NYS Department of Health Guidance applicable to the Eligible Use. The tent or temporary accessory structure shall not increase the occupancy of the Eligible Use beyond the occupancy limits of the building(s) shown on an approved site plan, as established pursuant to the Uniform Fire Prevention and Building Code. This Order suspends any Town Code provision inconsistent with such use.

Directive 2. The special advisory group established by Emergency Order #1-2020 shall consider and act on applications by Eligible Uses for permission to install and maintain any tent or temporary accessory structure needed to accomplish the purposes of this Order.

They shall determine by consensus of the members whether tents or temporary accessory structures can be safely used on a temporary basis that will comply with all applicable provisions of the Uniform Fire and Building Code, including, but not limited to, Chapter 31 as it pertains to tents, and that the proposed use will not cause any significant adverse environmental impact, adversely impact nearby residential uses, or increase the occupancy of the property. The special advisory group shall then issue a written report to the Building Department on whether such use is appropriate and recommend any conditions that should be incorporated as conditions to a building permit and/or certificate of occupancy for such units.

Directive 3. This Emergency Order authorizes the Building Inspector or his designee, upon favorable review and recommendation of the advisory group, to waive all Town Code requirements pertaining to land use review or approval of the installation and use of a tent or temporary accessory structure for an Eligible Use, and issue a building permit and certificate of occupancy for the installation and use of same within 10 days of the Building Department's receipt of a complete application. The building permit and certificate of occupancy shall be subject to the following requirements and any recommendations of the special advisory group:

1. An application for a building permit shall be made to the Building Department, with a sketch plan show the location of the proposed units or porches, landscaping, accessways and such other detail as may be required by the Building Department and the special advisory group to determine whether the proposed location will comply with applicable requirements of the NYS Fire Prevention and Building Code, provide

safe access for occupants and avoid or minimize any impact on neighboring properties. The applicant must be the owner or operator of an Eligible Use lawfully established or a pending applicant for such use, which use will be subject to reduced occupancy or increased distancing requirements imposed by Covid emergency orders.

2. Tents and temporary accessory structures must comply with the New York State Uniform Fire Prevention and Building Code. Prior to issuance of a building permit, the applicant must provide evidence satisfactory to the Building Inspector and/or Fire Inspector that the tent or temporary accessory structure complies with all laws and Uniform Code provisions applicable to the intended occupancy.

3. On review of the building permit application, the special advisory group shall issue its report and recommendations, including recommendations as to compliance with setback requirements and other bulk requirements, and the Building Inspector shall consider the applicable setback requirements and issue a building permit that complies with setback requirements to the extent necessary to avoid a significant adverse impact on neighboring properties. Other applicable bulk requirements may be waived or modified at the discretion of the Building Inspector, if recommended by the special advisory group, to permit the temporary orderly use of tents or temporary accessory structures..

4. The Building Inspector shall require that the use of tents or temporary accessory structures pursuant to this Order not increase the occupancy of the property, the need on the property for off-street parking or cause a substantial increase in traffic entering or exiting the property.

5. Utility connections must have all required governmental and utility company permits and approvals.

6. Tents and temporary accessory structures may be occupied for the duration of the Town of Ramapo declaration of emergency issued in connection with the Covid-19 emergency. Within 30 days of termination of the emergency or termination of the restrictions on occupancy imposed on the existing building(s), occupancy of temporary space shall be terminated. All tents and temporary accessory structures that were allowed to be installed and occupied by this Order shall be removed within 30 days of the termination of occupancy, unless permitted by a subsequent emergency order or local law. In such event, the applicant may apply for such land use approvals as necessary to continue the use in accordance with the Town Code, which shall be subject to SEQRA review.

7. Notwithstanding the temporary use, adequate landscaping and lighting recommended by the special advisory group must be provided. Prior to issuing a certificate of occupancy, the Building Inspector shall determine that adequate landscaping, screening and lighting have been provided and will not unreasonably affect neighboring residential properties.

8. It shall be a condition of every building permit and certificate of occupancy issued for a tent or temporary accessory structure (unit) that:

a. drainage from such units must meet all applicable Town, State and Federal requirements for storm water management;

b. the unit(s) shall be removed at the direction of the Building Inspector in accordance with Paragraph 6 above. To ensure the removal of the unit(s), the applicant shall (1) post and maintain a bond acceptable to the Town Attorney or cash escrow sufficient to ensure the removal of the unit(s), and (2) provide the Town with an irrevocable license to enter upon the property in the event that the applicant fails to promptly remove such unit(s) at the direction of the Building Inspector and do so. In such event, the applicant shall be responsible for all attorney fees, costs and disbursements incurred by the Town to enforce the Order of Building Inspector to vacate and remove the unit(s);

c. all social distancing and other applicable requirements of NYS DOH and NY Forward Guidance for the reopening and operation of the Eligible Use pursuant to the State's phased reopening plan shall be followed; and

d. in the event that the authorization for the reopening of the Eligible Use is rescinded or suspended by New York State, the use of units must comply with all orders or directives issued by the Governor or pursuant to the Governor's Executive Orders.

10. Prior to issuance of a certificate of occupancy for a temporary unit, an on-site inspection is required by the Building Inspector and the Fire Inspector or their designee.

11. A building permit or certificate of occupancy issued pursuant to this Order shall be revocable at the discretion of the Building Inspector on finding that the holder has violated the terms or conditions of the building permit or certificate of occupancy, or that the use of the unit(s) constitutes a nuisance or otherwise adversely impacts upon the health, safety or welfare of the occupants or neighboring property owners or residents. Upon any such determination with respect to revocation, the holder and any other interested parties may be given an opportunity for a due process hearing to have such permit reinstated. If reinstated, permit conditions and requirements may be imposed.

G I V E N under my hand and the Seal of the Town of Ramapo, County of Rockland, this 9th day of September, 2020.

Michael B. Specht
Town Supervisor
Town of Ramapo