



**LIMITED STATE OF EMERGENCY DECLARATION  
AND EXECUTIVE ORDER NO. 4 OF 2021**

**April 26, 2021**

**A Limited State of Emergency is hereby continued in the Town of Wallkill effective as of 12:00 a.m. on April 25, 2021 which shall expire at 11:59 p.m. on May 25, 2021.**

**WHEREAS**, on January 30, 2020, the World Health Organization designated the novel coronavirus, COVID-19, outbreak as a Public Health Emergency of International Concern; and

**WHEREAS**, on January 31, 2020, United States Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the entire United States to aid the nation's healthcare community in responding to COVID-19; and

**WHEREAS**, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State, and in particular, Orange County, New York, and more cases are expected to develop and/or be discovered; and

**WHEREAS**, the Governor of the State of New York previously issued a statewide declaration of emergency with respect to the COVID-19 pandemic and subsequently lifted certain restrictions within the Mid-Hudson Region including Orange County, and by as a result, the Town of Wallkill, but certain restrictions remain; and

**WHEREAS**, on December 29, 2020, as Supervisor, I previously issued Executive Order No. 40 of 2020-Limited Declaration of Emergency effective as of January 1, 2021, which was continued by Executive Order No. 3 of 2021 through April 24, 2021; and

**WHEREAS**, the Town of Wallkill continues to address the threat that COVID-19 poses to the health and welfare of its residents and visitors; and

**WHEREAS**, recent public events within the Town of Wallkill have resulted in continued risk of the transmission of COVID-19 to Town residents as well as officers and employees of the Town;

**NOW, THEREFORE, I, Frank DenDanto, III, Supervisor of the Town of Wallkill, County of Orange, State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, hereby find, pursuant to Section 24 of Article 2-B of the Executive Law, that a disaster is impending in the Town of Wallkill, and, as a result, I do hereby extend the Limited State of Disaster Emergency for the entire Town of Wallkill and issue an updated Executive Order as follows:**

**BY VIRTUE** of the authority vested in me by Section 24(g) of Article 2-B of the Executive Law to temporarily suspend or modify any local law, ordinance, order, rule, or regulation, or parts thereof during a disaster emergency, if compliance with such local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency, or if necessary, to assist or aid in coping with such disaster, I hereby direct the following as of April 25, 2021:

1. Wallkill Town Hall will remain open and operational absent further notice. Residents are encouraged to call the Town 's main switchboard number at (845) 692-7800 and follow the prompts for routing to the desired department. Prior to calling, please log on to [www.townofwallkill.com](http://www.townofwallkill.com) as many services offered in person are available online. The Town of Wallkill Police Department will continue with normal operations and remains accessible 24 hours per day, 7 days per week.
2. **The Town reserves the right to take the body temperature of all persons entering Town facilities and to ask relevant health questions of said persons prior to permitting entry.**
3. During the duration of this Executive Order and any extension hereof, the meetings of the Town Board and all boards, committees, workshop groups and other bodies shall continue, but may be held remotely at the discretion of the undersigned with no opportunity for public attendance. The applicable provisions of the Open Meetings Law have been suspended by a Declaration of Emergency by the Governor of the State New York, allowing this to occur. The meetings of all such bodies may be either conducted by conference call or live videoconference (i.e. Zoom or equivalent medium), both of which methods shall provide for public access. Public input for any noticed public hearings of the Town Board, boards or committees may be accomplished by submitting written comments by mail or email to the Town of Wallkill Town Clerk on or before the opening of the public hearing.

**IN ADDITION TO THE FOREGOING**, this Order is issued in response to the COVID-19 disaster emergency declaration, consistent with the requirements of NYS Executive Law Section 29-a, and is deemed a reasonable, temporary and prudent method to enable on-premises outdoor service of food and beverages at restaurants and bars in the Town of Wallkill to operate consistent with the Governor's Executive Order 202.38 and assist in the recovery from the disaster by mitigating the adverse economic impact that COVID-19 had and continues to have on such businesses;

## **NOW, THEREFORE**

In accordance with the Governor's Executive Order 202.38, as extended I do hereby declare the following;

During this state of emergency, the provisions of the Town's Zoning local law related to the on-premises outdoor service of food and beverages at restaurants and bars are suspended.

Furthermore, in order to ensure the protection of public health and safety the following emergency regulations are hereby set in place as they relate to on-premises outdoor service of food and beverages at restaurants and bars (hereinafter referred to as "outdoor commercial activities") are set in place:

That upon submission of an application as provided for in this Emergency Order, the Town Code Enforcement Officer (CEO) shall have the authority to issue temporary emergency outdoor commercial activity permits to existing Town of Wallkill restaurants and bars engaged in the business of on-premises service of food and beverages, and in doing so, may waive parts of the Town Code as they relate to the engaging of such business activity outside of a wholly enclosed building, use of onsite sidewalks, and required parking areas for outdoor commercial activity. Specific regulations regarding signs, reviews by other boards or commissions of the Town, required parking spaces, and requirements for site plan review or special permits are hereby suspended. Such outdoor commercial activity shall be conducted only by such commercial businesses located on the site for which the permit is being issued or on contiguous lots, public spaces such as parking spaces, street closures, and other open spaces in reasonable proximity to the existing business as determined by the CEO. Additionally, the CEO may revoke any temporary emergency outdoor commercial activity permit for violations of its terms. The capacity of outdoor dining spaces shall be limited to no more than 50% of the seating capacity as determined by the certificate of occupancy of the existing business.

### Applicability:

This emergency approval is valid only for restaurants and bars located in zoning districts where they are already approved to operate by right. Such business must be existing on the effective date of this Order. Outdoor commercial activity will be permitted in parking areas and public or private spaces as made available, including parking lots and parking spaces as well as street closures and other open spaces. The use may also be extended to contiguous lots. All such uses shall be subject to the restrictions and limitations of the State permitting agencies and guidelines that they issue.

No further administrative approval or site plan or special permit, or any other local approval is required as long as the outdoor activity complies with all of the terms and conditions of this Emergency Order.

Emergency approvals automatically expire upon the repeal or expiration of this emergency.

### Additional Criteria

a. Occupancy of the outdoor dining area(s) for any single establishment may not exceed 50% of the lowest occupancy loads specified on the establishment's Non-residential Use

Permit/Certificate of Occupancy or Maximum Occupancy Certificate.

Seating area(s) must be accessible for disabled patrons.

Any area used for outdoor dining or service activities must be clearly delineated by cordon, marking or other means, and must be located on firm, level surfaces (such as existing lawns, patios, sidewalks, paved parking spaces, *etc.*).

Tents: All tents shall: (1) be flame-resistant with appropriate labeling affixed to the tent material; (2) remain open on all sides; (3) be located at least 5 feet from any building; and (4) be securely anchored to prevent collapse or uplift during inclement weather.

No cooking or open flame is permitted under any tent.

b. Use of on-site space must show how safe ingress and egress is preserved for both vehicles and pedestrians and that parking standards are not exceeded by more than 25%;

c. Health Department: all State and local health department guidelines for service and social distancing must be followed and shown on the plan. Permits must be obtained where required;

d. Sidewalks: use of sidewalk requires maintaining a six-foot distance between the activity and the open area of the sidewalk;

e. Hours of Operation: outdoor activities are allowed only during normal business hours provided, however, that no outdoor activities approved under this section shall be open after 12:00 Midnight;

f. Sidewalk displays or tables must be secured or removed overnight;

g. Alcohol: Approvals must be obtained as required by the State Liquor Authority including need for gated area and security where required;

h. Pets: Pets are prohibited at outdoor dining activities except as provided in the Americans with Disabilities Act;

i. Use of outdoor speakers, live music, call systems, will be reviewed by the CEO on a case by case basis;

j. All tables, chairs, umbrellas, tents, lighting, and other accessories must be removable and maintained in good visual appearance and condition. The outdoor area must be kept free of trash and debris, and any trash containers must be removed or appropriately stored at the end of each business day;

k. No outdoor dining or service area or other commercial activity may obstruct a fire lane or fire equipment;

l. Except as waived under this Emergency Order, all business operations must otherwise comply with all other state, local and Executive Orders issued by the Governor related to the sale of alcohol, health, and safety requirements.

Applications: Applications shall be submitted to the Code Enforcement Officer and include the following:

- a. Drawing showing the location of all outdoor activities including required social distancing regulations and appropriate ingress and egress as needed for staff and patrons;
- b. Access to restrooms where required;
- c. Proof of required permits from State Liquor Authority or Health Department;
- d. Proposed hours of operation;
- e. Location and type of amplified sound equipment and lighting, if any.

Approval: The Code enforcement officer shall be the responsible to either approve or deny the application based on the criteria above and the adequacy of the plan for the space. The Code Enforcement Officer may consult with the Town Planning Board.

Expiration: Upon the repeal or other expiration of this Emergency Order, all areas used in expansion to conform with this Emergency Order shall be restored to their previous condition.

**IN ADDITION**, by virtue of the authority vested in me by Section 25(1) of Article 2-B of the Executive Law, which states that “upon the threat or occurrence of a disaster, the chief executive of any political subdivision is hereby authorized and empowered to and shall use any and all facilities, equipment, supplies, personnel and other resources of his political subdivision in such manner as may be necessary or appropriate to cope with the disaster or any emergency resulting therefrom”, and in accordance with the applicable Management Rights provisions in any of the collective bargaining agreements now in effect between the Town of Wallkill and its representative employee organizations, I hereby direct all Town Department Heads to arrange, modify or limit the work schedules of their respective departments in such a manner as may be necessary to attempt to minimize the risks to Town employees, residents and visitors associated with the current novel coronavirus, COVID-19 outbreak in accordance with recommendations issued by all relevant medical professionals and/or government agencies.

**Each of the directives contained herein shall run from the date of this Executive Order through May 25, 2021 at 11:59 p.m., subject to extension/early termination by further Order. The suspension of the aforesaid policies and Local Laws shall be imposed in such a manner as to create the minimum deviation from the requirements of said policies and laws consistent with the disaster action deemed necessary.**

As the Chief Executive of the Town of Wallkill, I, Frank DenDanto, III, exercise the authority vested to me under Section 24 of the New York State Executive Law, to preserve the public safety and hereby render all required and available assistance vital to the security, well-being, and health of the citizens of the Town of Wallkill. I hereby direct all departments and agencies of the Town of Wallkill to take whatever steps necessary to protect life and property, public infrastructure and provide such emergency assistance as deemed necessary in accordance with this Order.

Pursuant to New York Executive Law §24, this Declaration and Order shall be published as soon as practicable in a newspaper of general circulation in the area and transmitted to the radio and television media for publication and broadcast.

**SO ORDERED ON APRIL 26, 2021**



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**FRANK DENDANTO, III**  
**Town Supervisor**