EXTENSION OF
EXECUTIVE ORDER NO. 2 OF 2020 ENTITLED:
STATE OF EMERGENCY DECLARATION

EXECUTIVE ORDER NO. 18 OF 2020

June 12, 2020

The Town of Wallkill State of Emergency Declaration issued by the undersigned and denoted as Executive Order No. 2 of 2020 on March 23, 2020 and effective as of March 25, 2020 per the Order of the New York State Department of Health dated March 25, 2020, and most recently extended through June 14, 2020 by Executive Order No. 17 of 2020, with respect to the outbreak of the novel coronavirus, COVID-19 is hereby extended as set forth herein.

This extension has been ordered due to the need for continued action on the part of the Town of Wallkill by mobilizing resources and taking all steps necessary to protect the public health, safety and welfare of the citizens of the Town.

The State of Emergency and Executive Order No. 2 of 2020 shall remain in effect until 11:59 p.m. on June 19, 2020 unless rescinded by a subsequent order or thereafter extended.

The Wallkill Town Hall will remain open and operational absent further notice. However, the building remains closed to the public with no in-person services being provided under any circumstances. All Town-related business transactions will be conducted via telephone, e-mail and regular mail. Residents are directed 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 as many services offered in person are available online; and

WHEREAS, the Governor, by and through his Executive Orders has identified and put forward a phased reopening plan and modified the previous suspension of certain business activity to allow limited activity including activity associated with the conduct of business outdoors, while still maintaining required closures and other restrictions; and

WHEREAS, the New York State Department of Health and the New York State Liquor Authority has put forth guidelines whereby certain business may open utilizing outdoor areas; and

WHEREAS, New York State Executive Law Section 29-a provides for the directive by the governor during an emergency that may suspend any local law, ordinance or regulation or part thereof and include other terms and conditions; and

WHEREAS, this emergency order is 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

I, Frank DenDanto, III, Supervisor, of the Town of Wallkill, in accordance with the Governor's Executive Order 202.38 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.

As the Chief Executive of the Town of Wallkill, I, Frank DenDanto III, exercise the authority vested to me under the provisions of Article 2-B 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. 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.

SO ORDERED AS OF JUNE 12, 2020

FRANK DENDANTO, III
Town Supervisor