

# TOWN OF ROCHESTER

50 Scenic Drive • P.O. Box 65 • Accord, NY 12404  
Area Code 845

Town Clerk 626-7384  
Supervisor 626-3043  
Highway Dept 626-7221  
Assessor 626-0920  
Transfer Station 626-5273



Code Enforcement 626-2433  
Planning Board 626-2434  
Zoning Board 626-2434  
Court House 626-2522  
Youth Commission 626-2115

June 15, 2020

Kathleen Gundberg  
Town of Rochester Town Clerk  
PO Box 65  
Accord, NY 12404

Victoria A. Fabella, Clerk  
Ulster County Legislature  
244 Fair Street  
Kingston, New York 12401

Hon. Nina Postupack  
Ulster County Clerk  
244 Fair Street  
Kingston, New York 12401

Secretary of State Rossana Rosado Department of State  
One Commerce Plaza  
99 Washington Avenue  
Albany, New York 12231-0001

Dan O'Hara, Director  
Office of Emergency Management  
1220 Washington Avenue  
Building 22, Suite 101  
Albany, New York 12226-2251

RE: Emergency Order No. 1-2020 and State of Emergency Declaration

Dear Ms. Gundberg, Ms. Fabella, Ms. Postupack, Ms. Rosado, and Mr. O'Hara:

Enclosed for filing please find an original emergency order of Town of Rochester Supervisor Michael Baden entitled "Emergency Order No. 1-2020, Pursuant to Section 24 of the Executive Law of the State of New York.

Very truly yours,

  
Michael Baden, Town of Rochester Supervisor



**Department  
of Health**

**ANDREW M. CUOMO**  
Governor

**HOWARD A. ZUCKER, M.D., J.D.**  
Commissioner

**SALLY DRESLIN, M.S., R.N.**  
Executive Deputy Commissioner

June 12, 2020

Mike Baden, Supervisor  
Town of Rochester  
50 Scenic Drive  
Accord, New York 12404

RE: Approval of Town of Rochester Emergency Order No. 1-2020

Dear Supervisor Baden:

Pursuant to Executive Orders 202.5 and 202.19, the Town of Rochester Emergency Order No. 1-2020 has been reviewed by the New York State Department of Health and is hereby **APPROVED**.

Please note that suspension of any of local laws, ordinances or regulations made pursuant to Executive Law § 24(2) shall be in effect for five (5) days from the date of the order, unless extended.

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## EMERGENCY ORDER NO. 1-2020

**WHEREAS**, on March 07, 2020, Governor Andrew Cuomo declared a State of Emergency throughout New York State relating to the 2019-Novel Coronavirus (COVID-19) pandemic; and

**WHEREAS**, on March 13, 2020 the President of the United States declared a national emergency, beginning March 1 2020 in response to the spread of COVID-19; and

**WHEREAS**, on March 12, 2020, April 12, 2020, and May 12, 2020, in order to preserve the public safety, security, well-being and health of the citizens of this municipality, Ulster County Executive Patrick K. Ryan proclaimed a State of Emergency for all of Ulster County; 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**, during this state of emergency, the Governor has implemented numerous limitations on the food service industry intended to slow the spread of COVID-19; and

**WHEREAS**, the Governor has recently issued guidance permitting outdoor dining by the food service industry, subject to 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**, it is imperative to support the reopening and recovery of food service establishments to address the economic disaster caused by the COVID-19 pandemic; and

**WHEREAS**, Section 24 of the Executive Law of the State of New York permits the suspension of any local laws, ordinances or regulations, or parts thereof subject to federal and state constitutional, statutory, and regulatory limitations, which may prevent, hinder or delay necessary action in coping with a disaster or recovery therefrom subject to certain standards and limitations, and

**WHEREAS**, on June 9, 2020, Patrick K. Ryan, Ulster County Executive, issued Executive Order 19-2020 directing that to support the reopening of food service establishments and to cope with the economic disaster caused by the Covid-19 pandemic, and subject to Federal, State, and Constitutional statutory and regulatory limitations, as well as State and County health and sanitary laws, rules, and regulations, all cities, towns, and villages within the territorial limits of the County of Ulster may reopen food service establishments pursuant to the requirements set forth in the Governor's executive orders and related guidance; and further ordered that Cities, towns, and villages within Ulster County are encouraged to use their authority under Executive Law 24 to reopen such establishments without regard to the strict adherence to any local land use laws, rules, and regulations that would hinder the economic recovery of the food service industry; and further ordered that all cities, towns, and villages may request assistance from the County in connection with utilizing Executive Law 24 to support the reopening of food services establishments; 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 food service establishments in the Town of Rochester 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, MICHAEL BADEN**, Town Supervisor of the Town of Rochester, in accordance with the aforementioned and in furtherance of my statutory duties, do hereby direct the following:

**ORDERED**, that to support the reopening of food service establishments in the Town of Rochester and to cope with the economic disaster caused by the Covid-19 pandemic, and subject to Federal, State, and Constitutional statutory and regulatory limitations, as well as State and County safety, health and sanitary laws, rules, and regulations, all food service establishments may reopen pursuant to the requirements set forth in the Governor's executive orders and related guidance; and be it further

**ORDERED**, during this state of emergency, on-premises outdoor service of food and beverages at existing food service establishments as of the effective date of this Order shall be permitted where they are already approved to operate by right or by non-conforming use; and be it further

**ORDERED**, outdoor service of food and beverage shall be conducted only by such commercial businesses located on the site or may be extended to contiguous lots under the same ownership; and be it further

**ORDERED**, allowance of property for this use shall not establish a pre-existing use and such use shall cease upon expiration of this Executive Order, unless the food service establishment shall have previous approval; and be it further

**ORDERED**, all such uses shall be subject to any COVID-19 restrictions and limitations of State and local permitting agencies and guidelines that they may issue, including all State and local health department guidelines for service and social distancing and approvals as required by the State Liquor Authority; and be it further

**ORDERED**, 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; and be it further

**ORDERED**, outdoor dining spaces may operate only during normal business hours provided, however, that no outdoor activities shall be open after 11:00 PM; and be it further

**ORDERED**, 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; and be it further

**ORDERED**, 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; and be it further

**ORDERED**, this Executive Order shall take effect immediately and remain in effect for 5 (five) days pursuant to New York State Executive Law Section 24 or such five day periods as this order may be renewed or until all restrictions on the food service industry resulting from the Governor's executive orders related to the COVID-19 pandemic have been repealed, revoked, or expired.

Signed this 15th day of June 2020, at Accord, New York



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Michael Baden, Town of Rochester Supervisor