

**TOWN OF MARBLETOWN
EMERGENCY ORDER FOR
SMALL BUSINESS RECOVERY ESTABLISHING EMERGENCY REGULATIONS TO
PERMIT TEMPORARY WAIVERS OF ZONING REGULATIONS AND PROVIDE FOR
OUTDOOR BUSINESS ACTIVITIES**

WHEREAS, on March 7, 2020 Governor Andrew Cuomo issued Executive Order 202 declaring a disaster emergency in the State of New York arising from the 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 Ulster County Executive Patrick Ryan declared a state of emergency in response to the COVID-19 pandemic, 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 24 provides for the declaration of a local emergency that may suspend any local law, ordinance or regulation or part thereof and include other terms and conditions; and

WHEREAS, on June 9, 2020 the Town of Marbletown declared a State of Emergency in response to the COVID-19 Disaster; and

WHEREAS, this emergency ordinance is in response to the COVID-19 disaster emergency declaration, consistent with the requirements of NYS Executive Law Section 24, and is deemed a reasonable, temporary and prudent method to enable businesses in the Town of Marbletown to operate consistent with the Governor's Executive Orders and assist in the recovery from the disaster by mitigating the adverse economic impact that COVID-19 had and continues to have on businesses; now, therefore

I, Richard Parete, Supervisor, of the Town of Marbletown, New York in accordance with the proclamation of a state of emergency executed on the 9th day of June 2020 do hereby declare the following.

During this state of emergency, the following sections of the Town's Zoning statute related to the outdoor commercial activities are suspended:

Section 200-8, 200-46, 200-68 and 200 attachment #2

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 outdoor commercial activities are set in place:

That upon submission of an application as provided for in this Emergency Regulation, the Town Code Enforcement Officer (CEO) shall have the authority to issue temporary emergency outdoor commercial activity permits to existing Town of Marbletown businesses, and in doing so, may waive parts of the Town Code as they relate to the engaging of 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. Outdoor commercial activity shall be conducted only by 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, CEO may revoke any temporary emergency outdoor commercial activity permit for violations of its terms or violations of State or Local Health Department guidelines for the conduct of outdoor activities occurring on-site. and/or local safety requirements. 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 establishments located in zoning districts where they are already approved to operate by right. Business must be existing on the effective date of this Regulation. 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 space. 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 if the outdoor activity complies with all of the terms and conditions of this emergency Regulation.

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

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 for other commercial activity must be clearly delineated by cordon, marking or other means, and must be located entirely on hard surfaces, such as existing patios, sidewalks, paved parking spaces.
 - Tents: All tents shall be (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. No outdoor activities approved under this section shall be open after 11PM Thursday, Friday and Saturday and 10PM Sunday through Wednesday.

- 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 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 area or other commercial activity may obstruct a fire lane or fire equipment.
- l. Except as waived under this Emergency Regulation, 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 – 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.