

COVID-19 Alert

MUNICIPAL LAND USE PROCEDURE AMENDMENTS

MARCH 2020

CONNECTICUT EXECUTIVE ORDER NO. 71 AMENDS MUNICIPAL LAND USE PROCEDURES

Under Executive Order No. 71, Governor Lamont modified procedures and deadlines for municipal land use applications and decisions during the COVID-19 emergency. This order, consistent with public health needs, is aimed at keeping a segment of the Connecticut business community and the land use and development area running as efficiently as possible.

Executive Order No. 71 covers municipal action that directly, or indirectly, deals with land use. Rather than individually modifying or amending statutes or regulations, Executive Order No. 71 consists of amendments that apply to entire chapters of the General Statutes. Specifically, the Order supersedes and modifies every provision in each chapter, and the accompanying state and local regulations, which are inconsistent with the Order. The Order supersedes:

- Chapter 14: Freedom of Information
- Chapter 97a: Historic Districts and Historic Properties
- Chapter 98: Miscellaneous Municipal Powers
- Chapter 103: Municipal Sewer Systems
- Chapter 124: Zoning
- Chapter 126: Municipal Planning
- Chapter 246: Motor Vehicles
- Chapter 368k: Crematories
- Chapter 440: Inland Wetlands and Watercourses
- Chapter 444: Coastal Management
- Chapter 446i: Water Resources and Invasive Plants

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Executive Order No. 7I is designed to work alongside Executive Order No. 7B, which allows municipal public agencies to avoid in-person meetings by conducting them electronically. Executive Order No. 7I will govern the process for filing applications and petitions, issuing notices to interested parties, and the respective agency decisions. Executive Order 7B will govern the conduct of public meetings, where the particular agency will decide on the application or petition.

Executive Order No. 7I contains a number of provisions, each of which will be addressed in turn below.

Section a: Provides an additional 90 days to any provision in the covered laws that allows for extensions of time. In the zoning statutes, for example, the myriad of deadlines related to opening and concluding a public hearing, and making a decision following a hearing, can currently be extended for 65 days. Under section a, this is now expanded to 155 total days. These 155 days can be used during any part of the process (i.e., to open a hearing, close a hearing, or make a decision). The additional 90 days, however, may be imposed by the agency without the applicant's consent.

Section b: Allows for the same extension noted in Section a, but for demolition delays applicable to historic districts and historic properties.

Section c: Permits all notices that normally would be published in a newspaper to be published on the municipality's website. If the relevant statute requires the notice to be published in a newspaper more than once, then the notice must be published on the town's website by the earliest publication deadline. The notice must remain on the municipality's website until the action which it describes has been completed.

Section d: Permits all notices that normally would be filed with a municipal clerk to be published on the town's website. The notice must remain on the town's website until the completion of the action for which such notice is posted. However, the deadline required for posting the notice remains unchanged.

Section e: Permits all notices that would normally be posted via a physical sign to be published on the town's website, as described in Section c.

Section f: Permits all personal notices that would be sent via mail to be satisfied by an email if the recipient email addresses are reasonably available, and the timeframe in the existing law is satisfied. If an email address cannot be located, then the personal

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notice requirement can be met with the posting of a physical sign. The Order specifies the size of the notice, and how long it must be in place. The personal notice requirement can also be met by “regular U.S. mail,” which can be accomplished with the town address list.

Section g: Allows petitions to be signed electronically, including by PDF, other imaging technology, compilation of emails, or other electronic communication. The applicable notice requirements will be satisfied by electronic mail notice of such petition to the designated entity.

Section h: Governs the procedure for bringing a municipal decision appeal to the Superior Court. Section h provides that the statutory deadlines for appeals remain unaffected, but that service of process by a proper officer can be achieved electronically. Section h also states that each town is required to post on its website the email address that the proper officer should use to serve the appeal.

Section i: Permits appeals from a decision by a zoning enforcement officer or an agency for an inland wetland agency to be commenced by regular mail or by electronic mail, to the appropriate office.

Section j: States that once the relevant municipal offices reopen, all documents that were submitted electronically under this Executive Order No. 71, within a reasonable time, should be filed in hard copy to be made a part of the municipality’s records. This section also allows the chair of an agency to waive any town rules about paper filings during an application process.

As always, the attorneys at Reid and Riege are here to help navigate you through these increasingly difficult times.

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