

## GUIDANCE DOCUMENT #3 April 9, 2020

### Allowance of Suspension of In-Person Voting Requirements for Critical Time Sensitive Municipal Fiscal Deadlines

**1. Executive Order 7S (Section 7.):** On April 1<sup>st</sup> Governor Lamont issued his 19<sup>th</sup> Executive Order which suspended “in-person voting requirements for critical and time sensitive fiscal deadlines”<sup>1</sup>. Like other related “remote” meeting orders, section 7 of Executive Order 7S (“EO 7S.7”) allows certain municipal financial actions to be taken without complying with any town meeting or referendum requirements that may be imposed by statute, charter, ordinance or otherwise. Of course, the intent is to eliminate the need for large numbers of individuals to gather in order to satisfy those town meeting or referendum requirements.

**What are the critical and time sensitive municipal fiscal deadlines covered by EO 7S.7?**

<ul style="list-style-type: none"> <li>• <b>Supplemental, Special or Additional Appropriations</b>, under C.G.S. §7-348 or any comparable provisions of any special act, charter or ordinance</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Issuance of Tax Anticipation Notes</b>, under §C.G.S. 7-405a or comparable provision, special act, municipal charter or ordinance;</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Issuance of Municipal General Obligation Bonds or Notes</b> issued in anticipation of bonding for capital improvements</li> </ul>	

**What actions can be taken?** The legislative body of the municipality **or**, if the legislative body is the town meeting, the board of selectmen, **together with** the budget-making authority of the municipality, **by a majority vote of each such body, may authorize** the (a) special appropriation; (b) issuance of tax anticipation notes or general obligation bonds **in lieu a required town meeting or referendum**. If the amount of the appropriation or issuance is less than 1% of the current municipal budget, then the process is over.

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<sup>1</sup> Please Note: At the present time there is no Executive Order addressing the issue of non-budgetary actions that require town meeting or referenda approval, such as, (1) reallocation of existing designated funds in their capital reserve; (2) approval of STEAP or Town Aid Road grants; (3) approval of the purchase of land.

**If in the amount is in excess of 1% of the current municipal budget.** EO 7S requires each body to make a specific finding that such actions are (1) necessary to permit the orderly operation of the municipality and **(2)** that there is a need to act immediately and during the duration of the public health and civil preparedness emergency in order to **(a)** avoid endangering public health and welfare; (b) prevent significant financial loss; or, (c) otherwise necessary for the protection of persons and property within the municipality.

All otherwise necessary conditions precedent to any such appropriation would still have to be satisfied and any meetings at which these actions are to be taken would be required to comply with the open meeting requirements set forth in EM 7B.

**Can you conduct an approval process or referendum “in a way that significantly reduced the risk of transmission of COVID-19?”** EO 7S.7 seems to create a safe harbor provisions for critical and time sensitive financial issues. What does that mean? Unlike previous executive orders, EO 7S.7 specifically provides that

“[n]othing in this order shall be constructed to prohibit a municipality from conducting any in-person meeting, approval process or referendum, provided such municipality first consults with local or state public health officials and conducts such meeting, approval process or referendum **in a way that significantly reduces the risk of transmission of covid-19.**”

This is a striking departure from the budget adoption process since that subject was covered in executive orders 7C and 7I. EO 7S and appears to condone procedures, such as the drive-through town meeting conducted recently in one town to authorize a special appropriation.

Please consult with your Municipal Attorney to choose the right course. However, in an abundance of caution we would suggest that the best approach would be to rely on EO 7H.2 which set forth a procedure for “written permission from the Department of Emergency Services and Public Protection” in order to obtain validation in the coordinated response effort.

We hope there will be clarification of this point in the near future.  
**Issues Pertaining to Planning, Assessment and Taxation**

**1. Executive Order 71 (Section 15) – Extension of Municipal Deadlines and Waiver of Penalties Related to Municipal Planning Assessment and Taxation:** Section 15 of Executive Order 71 (“EO 71.15”) extends, without penalty, deadlines and waives penalties for municipalities’ failure to file certain information with the state within the statutory deadlines.

<b>Section</b>	<b>Subject Matter</b>
10-261a(c)	Equalized net grand lists for purposes of educational equalization grants <sup>2</sup>
12-63c	Submission of income and expense information applicable to rental income real property
12-110	Sessions of Board of Assessment Appeals
12-111	Appeals to Board of Assessment Appeals
12-117	Extension of time for completion of duties of assessors and board of assessment appeals
12-120	Assessor or board of assessors to send abstract of assessment lists to Secretary of the Office of Policy and Management
12-2b-11	Issuance of Certificate. Renewal of Certification

Moreover, EO 71.15 also suspends penalties in the following provisions:

<b>Section</b>	<b>Subject Matter</b>
10-261b	Data re transfers of real property for preparation of equalized net grand lists
12-19a	Grants in lieu of taxes on state-owned real property, reservation land held in trust by the state for an Indian tribe, certain airports and land taken into trust by the federal government for the Mashantucket Pequot Tribal Nation and the Mohegan Tribe of Indians of Connecticut. Exclusion of property located at Bradley International Airport
12-20b	Valuation of property of private colleges and general hospitals for purposes of state grants in lieu of taxes.

<sup>2</sup> Subsection (c), as follows: “The Secretary of the Office of Policy and Management shall, annually, no later than the first day of May mail to the chief executive officer and the assessor in each town notification concerning the equalized net grand list computed with respect to such town. Within fifteen days following receipt of such notification, any town may appeal to the secretary for a hearing concerning such equalized net grand list, provided such appeal shall be in writing and include a statement as to the reasons for such appeal. The secretary shall, within fifteen days following receipt of such appeal, grant or deny such hearing by notification in writing, including in the event of denial, a statement as to the reasons for such denial. If any town is aggrieved by the action of the secretary following such hearing or in denying any such hearing, such town may, within thirty days, appeal to the superior court for the judicial district in which such town is located. Such appeal shall be a preferred case, to be heard, unless cause appears to the contrary, at the first session, by the court. Upon all such appeals which are denied, costs may be taxed against the town at the discretion of the court, but no costs shall be taxed against the state.”

	Revaluation. Appeals. Connecticut Hospice in Branford. United States Coast Guard Academy in New London
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**2. Executive Order 7I (Section 16 - Suspension of “In-Person” Filing Requirements Related to Municipal Planning, Assessment and Taxation:** Section 16 of Executive Order 7I (“EO 7I.16”) allows hearings of Boards of Assessment Appeals and certain abatement and exemption filings to be done electronically rather than in person, in accordance with the requirements set forth in EO 7B.

Section	Subject Matter
12-110	Sessions of Board of Assessment Appeals
12-111	Appeals to Board of Assessment Appeals
12-117	Extension of time for completion of duties of assessors and board of assessment appeals
12-170aa	§ 12-170aa. Tax relief for certain elderly or totally disabled homeowners. Reductions in real property taxes

**3. Executive Order 7I (Section 17): Suspension of Deadlines and Modification of Public Hearing and Appeals Requirements Pertaining to PILOT for Private Colleges and General Hospital.** Section 17 of Executive Order 7I (“EO 7I.17”) suspends the valuation, revaluation and appeals related to land and buildings for grants and property of private colleges and general hospitals for purpose of the state grants in lieu of taxes program.

**4. Executive Order 7I (Section 18): Suspension<sup>3</sup> of New Reporting Requirements on Property.** Reporting requirements set forth in §85 of P.A. 20-1 for additional specific property data for tax exemptions under C.G.S 12-81(60), (70), (72) and (76) are suspended.

### **Land Use Applications and Proceedings**

**1. Executive Order 7I (section 19): Land Use Applications and Proceedings:** Section 19 of Executive Order 7I (“EO 7I”) applies to municipal proceedings and the “...process of submitting, reviewing, hearing, discussing, deciding, or appealing any municipal decision or action regarding any petition, application or other proposal, or in the adoption or amendment of any municipal plan, regulations or ordinances” under the following specifically delineated chapters of the Connecticut General Statutes

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<sup>3</sup> Actual title references “extension.”

("Covered Laws"):

Chapter	Subject Matter
14	Freedom of Information Act
97a	Historic Districts and Historic Properties
98	Municipal Powers
103	Municipal Sewage System
124	Planning
126	Zoning
246	Motor Vehicles, including C.G.S. 14-55
368k	Crematories
440	Wetlands and Watercourse
444	Coastal Management
4461	Water Resources
	Any related special act(s), and municipal charter, ordinance, resolution, or regulation

E) 7I.19 provides for the following, which are also summarized in the FAQs referred to in our earlier Guidance documents<sup>4</sup>:

Section	Subject Matter
EO 7I.19a	<p><b>Deadline Extensions.</b> Land use applications and proceedings that are constrained by statutory deadlines will have those deadlines extended by up to an aggregate period of ninety (90) days, in addition to any other statutory or regulatory extension provisions<sup>5</sup>. In other words, the time for completing any proceeding, during the period of emergency, as well as rendering a decision, are automatically extended by an aggregate ninety (90) days.</p> <p>Municipal filing deadlines for any submissions or reports to any public or quasi-public agency of the State are also extended by ninety (90) days<sup>6</sup>.</p>
EO 7I.19b	<p><b>Statutory demolition delay</b> timelines are extended by ninety (90) days<sup>7</sup>.</p>
EO 7I.19c + d	<p><b>Electronic Notice.</b> Statutory or regulatory provisions requiring filings or publications of notices and other information are generally suspended to allow such filings or publications to be made on the municipality's website rather than in the town clerk's office or in a newspaper<sup>8</sup>.</p>

<sup>4</sup> The FAQs link: <https://portal.ct.gov/-/media/Coronavirus/COVID-19-FAQs.pdf?la=en>.

<sup>5</sup> FAQs, pp. 37-38 (4/5/20)

<sup>6</sup> FAQs, pp. 37-38 (4/5/20)

<sup>7</sup> Normally required by C.G.S. §7-147j; See, FAQs, pp. 37-38 (4/5/20).

<sup>8</sup> FAQs, pp. 37-38 (4/5/20)

	<p>Some have suggested the following:</p> <ul style="list-style-type: none"> <li>• <b>In lieu of newspaper notice:</b> Single notice published electronically on the appropriate municipal website: <ul style="list-style-type: none"> <li>○ In accordance with the deadline required for posting notice under the Covered Law; and,</li> <li>○ For the duration of the action, meeting or proceeding; and,</li> <li>○ For any notice of decision: for the duration of the applicable appeal period set forth under the Covered Laws.</li> </ul> </li> <li>• <b>In lieu of posting at office of the municipal clerk:</b> Electronic posting on the appropriate municipal website: <ul style="list-style-type: none"> <li>○ So long as the deadline for the posting remains the same; and,</li> <li>○ For the duration of the action, meeting or proceeding for which the notice is posted and, with respect to a notice of decision: the for the duration of the applicable appeal period, as set forth under the Covered Laws.</li> </ul> </li> </ul>
EO 71.19e	<p><b>Physical Posting of Signs.</b> Statutory or regulatory provisions requiring posting of physical signs are suspended (with one exception noted below)<sup>9</sup>. Posting on the municipal website will satisfy this requirement for zoning, inland wetland, planning or historic district petitions, applications or proposals.</p>
EO 71.19f	<p><b>Personal Notice.</b> Statutory or regulatory provisions requiring personal notice by mail to individuals, other boards or commissions, other towns, regional planning organizations or other entities or persons may be made by electronic mail where possible.</p> <p>If electronic mail addresses are unknown for any such recipients, the party obligated to give the notice may :</p> <ul style="list-style-type: none"> <li>• post a sign on the property indicating that an application is pending and giving relevant details or</li> <li>• mail required notices to those individuals or entities at</li> </ul>

<sup>9</sup> FAQs, pp. 37-38 (4/5/20)

	the address provided to them by the municipality <sup>10</sup> .
EO 7I.19g	<b>Filing of Petitions.</b> Statutory or regulatory provisions requiring the filing of any petition, including a petition for an appeal to a legislative body or agency, may be satisfied by electronic filings of and electronic signatures on such petitions <sup>11</sup> . The EO does not change the time period to commence and submit the petition.
EO 7I.19h	<b>Service of Process on Superior Court Appeal.</b> <ul style="list-style-type: none"> <li>• Commencement of an appeal of a municipal decision to Superior Court which requires service on the town clerk or other town official or entity may be satisfied by service by electronic mail by the proper officer.</li> <li>• The time period for filing an appeal has not been changed<sup>12</sup>.</li> <li>• In order to comply, municipalities should post on their website, the email address to be used for the electronic service.</li> </ul>
EO 7I.19i	<b>Appeals of Zoning Enforcements Officer and Inland Wetland Agent.</b> <ul style="list-style-type: none"> <li>• The appeal of a decision of a zoning enforcement officer or an inland wetlands agent may be made by electronic mail rather than regular mail.</li> <li>• The time period for filing such appeals has not been changed<sup>13</sup>.</li> </ul>
EO 7I.19j	<b>Electronic confirmation of all filings.</b> The suspensions and modifications contained in SEO 7I.19 would require the filing or delivery of the applicable confirmations, notices, appeals or other actions to be made within a reasonable time after the applicable office opens for public activity <sup>14</sup> .

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<sup>10</sup> FAQs, pp. 37-38 (4/5/20)

<sup>11</sup> FAQs, pp. 37-38 (4/5/20)

<sup>12</sup> FAQs, pp. 37-38 (4/5/20)

<sup>13</sup> FAQs, pp. 37-38 (4/5/20)

<sup>14</sup> FAQs, pp. 37-38 (4/5/20)