

Attorneys:

- **Michael J. Andreana**
mandreana@pullcom.com
203.330.2235
- **Sandra D. Dawson**
sdawson@pullcom.com
860.424.4348
- **Jessica Grossarth Kennedy**
jkennedy@pullcom.com
203.330.2215
- **Marie V. Phelan**
mphelan@pullcom.com
860.424.4337
- **Erick A. Russell**
erussell@pullcom.com
203.330.2154
- **John F. Stafstrom Jr.**
jstafstrom@pullcom.com
203.330.2210

Governor Lamont’s Executive Order 7JJ Permits Certain Municipal Non-Budgetary Actions Without In-Person Voting if the Actions are Deemed Essential

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by Jessica Grossarth Kennedy

On May 6, 2020, Governor Lamont issued Executive Order No. 7JJ (“Order 7JJ”) permitting a municipality’s legislative body, or in a municipality where the legislative body is a town meeting other than a representative town meeting, the board of selectmen (the “Authorizing Body”), to authorize certain actions without having to comply with any in-person voting requirements, provided certain findings are made and the actions are deemed essential.

Order 7JJ provides that a municipality’s Authorizing Body may take the following actions: (1) adopt or amend ordinances or resolutions only as necessary to complete transactions deemed essential; (2) approve, enter into or amend existing contracts or agreements deemed essential; or (3) option, acquire, transfer, lease, dispose of or sell any real or personal property, or interest therein, as shall be deemed essential with the exception of non-judicial tax sales or other property transfers that would result in the eviction of a residential tenant (collectively, the “Actions”), without complying with any requirements for in-person approval by electors or taxpayers, including town meetings that require votes or referenda, provided that the following findings (collectively, the “Findings”) are made:

- Such Actions are necessary to permit the orderly operation of the municipality; and
- There is a need to act immediately and during the duration of the public health and civil preparedness emergency: (1) in order to avoid endangering public health and welfare, (2) in order to prevent significant financial loss, or (3) if

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such Action is otherwise necessary for the protection of persons and property within the municipality.

Like prior executive orders that require the Findings, in addition to the Findings, Order 7JJ also requires that the Actions be “deemed essential” by the Authorizing Body in order to avoid compliance with the in-person voting requirements. Questions concerning what constitutes an essential action should be directed to our Firm’s Public Finance team as the situation arises.

Order 7JJ does not apply to budgetary or similar essential non-budgetary functions which require the concurrent approval of the municipal budget-making authority and are subject to Executive Order Nos. 7I, Section 13, 7S, Section 7 and 7CC, Section 1.

Unlike Executive Order 7I, which pertains to the municipal budget process, Order 7JJ, like Order 7S and Order 7CC, does not prohibit a municipality from choosing on its own to conduct an in-person meeting, approval process, or referendum, provided it first consults with local and state public health officials and conducts such proceedings in a way that “significantly reduces the risk of transmission of COVID-19.”

Order 7JJ does not apply to special taxing districts, special services districts, and other quasi-municipal entities.

Please contact any member of our Public Finance team to assist you with answering any questions and providing you with support related to the above, including drafting any applicable resolutions.

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