



## Executive Order 9N

On November 24, 2020, Governor Ned Lamont issued Executive Order 9N (the “Order”). The Order took effect on November 26, 2020 and provides for additional enforcement authority regarding violations of size and capacity restrictions of nonresidential properties. The Order also provides that the Commissioner of Public Health has broad discretion in ensuring the enforcement of general statutes, the Public Health Code, and the Order. The Order builds upon Governor Lamont’s continued efforts to mitigate the spread of COVID-19 and the effects of the pandemic.

It is important to note that the Order modifies the following law and previously enacted executive orders to the extent necessary for the adoption and implementation of the Order:

- Section 19a-206 of the Connecticut General Statutes
- Executive Order 7PP, Section 2
- Executive Order 7ZZ, Section 3
- Executive Order 9B, Section 2

### **Additional Enforcement Authority Regarding Violations of Size and Capacity Restrictions**

The Department of Economic and Community Development’s (the “DECD”) Sector Rules, Gatherings Capacity Limits, and other rules issued by the Commissioner of Economic and Community Development set forth limitations pertaining to size and capacity. In particular, the limitations set forth in Phase 2.1 remain in effect. The limitations are available on the DECD website and can be found [here](#).

#### 1. Applicability

Pursuant to the Order, owners or individuals having possession of or control over nonresidential properties who fail to comply with the DECD rules and limitations will be subject to a civil penalty in the amount of \$10,000 per violation (the “Civil Penalty”). The \$500 fine provided in Section 2, subsection b, of Executive Order 9B is inapplicable and is replaced by the greater Civil Penalty authorized by this Order. Certain private gatherings are not subject to the Civil Penalty. This includes gatherings at residential properties, religious, spiritual or worship gatherings, and graduations, provided that such gatherings are not held in a setting specifically governed by DECD rules and limitations.

## 2. Enforcement Authority

Additionally, a Local Health Director, District Health Director, or a Municipal Designee appointed under Executive Order 7PP may impose the Civil Penalty. Further, the enforcement authority that the Order grants to a Local Health Director or District Health Director is not limited to a Public Health Facility, defined as hair salons, barbershops, beauty shops, nail salons, spas, tattoo or piercing establishments, restaurants, eating establishments, private clubs, or any locations licensed for on-premise consumption of alcohol.

## 3. Appeals

Finally, this section of the Order provides for an appeal process for nonresidential properties subject to the Civil Penalty. Persons or entities may appeal the imposition of the Civil Penalty to the Department of Public Health in accordance with Section 19a-229 of the Connecticut General Statutes and the Department of Public Health regulations.

### **Commissioner of Public Health Measures to Ensure Enforcement**

The second provision of the Order modifies Section 19a-2a of the Connecticut General Statutes to provide that the Commissioner of Public Health may take measures to enforce any provision of the general statutes, regulation of the Public Health Code, or Order if it is determined that local health officials are not effectively doing so. The Commissioner has authority to take such action necessary to ensure enforcement of a statute, regulation, or the Order. The Commissioner must inform local health departments and districts of the measures it takes.

The full text of Executive Order 9N can be found at the following link: <https://portal.ct.gov/-/media/Office-of-the-Governor/Executive-Orders/Lamont-Executive-Orders/Executive-Order-No-9N.pdf>.

If you have any questions or need assistance concerning the impact of Executive Order 9N on municipalities, or Municipal Law matters in general, please contact [Robert M. DeCrescenzo](mailto:RdeCrescenzo@uks.com), Esq., at (860) 548-2625 or [rdeCrescenzo@uks.com](mailto:rdeCrescenzo@uks.com) or [Richard D. Carella](mailto:Rcarella@uks.com), Esq., at (860) 548-2681 or [rcarella@uks.com](mailto:rcarella@uks.com). You may also visit our website at: [www.uks.com/services-industries/governmental/](http://www.uks.com/services-industries/governmental/).

If you have any questions or need assistance concerning the impact of Executive Order 9N on businesses, or Employment Law matters in general, please contact [Christopher L. Brigham](mailto:Cbrigham@uks.com), at (203) 786-8310 or [cbrigham@uks.com](mailto:cbrigham@uks.com), [Andrew L. Houlding](mailto:Ahoulding@uks.com) at (203) 786-8315 or [ahoulding@uks.com](mailto:ahoulding@uks.com), [Valerie M. Ferdon](mailto:Vferdon@uks.com) at (860) 548-2607 or [vferdon@uks.com](mailto:vferdon@uks.com), or [Jeffrey E. Renaud](mailto:Jrenaud@uks.com) at (860) 548-2629 or [jrenaud@uks.com](mailto:jrenaud@uks.com).

Updike, Kelly & Spellacy, P.C. would like to thank associate Brooke Tinnerello for her contributions to this client alert.

*Disclaimer: The information contained in this material is not intended to be considered legal advice and should not be acted upon as such. Because of the generality of this material, the information provided may not be applicable in all situations and should not be acted upon without legal advice based on the specific factual circumstances.*