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The Department of Community Affairs Adds Requirement to Executive Order 122 Mandating that Parties Responsible for Construction Projects Demonstrate to the Municipality that the Construction is “Essential”

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On April 8, 2020, Governor Phil Murphy issued [New Jersey Executive Order No. 122](#) (the Order) which, among other things, ordered and directed all “non-essential construction projects” to cease on April 10, 2020. Under the Order, businesses were permitted to continue performing “essential construction projects” as defined in the Order provided they immediately implemented a number of policies to protect all workers at, and visitors to, the construction site.

The Department of Community Affairs has subsequently issued Guidance requiring that “the person in responsible charge over essential projects” must submit certain documentation to the local construction office in which the person attests:

- How the project qualifies as an essential construction project;
- The measures and precautions put in place to protect workers and visitors; and
- The measures and precautions put in place to address what occurs at the workplace if there is an exposure to COVID-19.

That is, the person responsible for the construction project must demonstrate to the local construction office that the project falls under one or more of the essential construction projects identified and defined in Section 2(a)-(n) of the Order, and that the business has adopted policies that include, at a minimum, the requirements set forth in Section 3(a)-(k) and Section 4(a)-(d) of the Order.

We recommend consulting with counsel to discuss the preparation of submissions to local construction offices required by the Department of Community Affairs to ensure that your construction project can proceed and to avoid any penalties for violations of the Order.

If you have any questions about your operations and any submission to construction officials regarding an “essential construction project” you may be working on, please contact [Don Taylor](#) at 732.855.6434 or dtaylor@wilentz.com, or [Dan Kluska](#) at 732.855.6033 or dkluska@wilentz.com.

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Practice

- Construction Law