

**RESOLUTION TO OPT OUT OF THE PROVISIONS OF
§ 6 (a) to (d) of PA 21-29 CONCERNING ACCESSORY APARTMENTS.**

WHEREAS, Connecticut Public Act 21-29, effective October 1, 2021, establishes default provisions that allow construction of ADUs (referred to in the Act as “accessory apartments”) on lots accompanying single-family homes, unless a municipality chooses to opt out of this provision. Zoning regulations must be amended by Jan 1, 2023 to follow the law, lest non-compliant sections of zoning regulations would become null and void (in which case the law will govern); and

WHEREAS, a municipality, by vote of its legislative body may opt out of the provisions of § 6 (a) to (d) of PA 21-29 concerning Accessory Apartments, provided the planning and zoning commission pursuant to PA §6 (f), (1) first holds a public hearing in accordance with the provisions of section 8-7d of the General Statutes on such proposed opt-out, (2) affirmatively decides to opt out of the provisions of said sections within the period of time permitted under section 8-7d of the General Statutes, (3) states upon its records the reasons for such decision, and (4) publishes a notice of such decision in a newspaper having substantial circulation in a municipality not later than 15 days after such a decision has been rendered; and

WHEREAS, in addition to allowing ADUs accompanying single-family homes, P.A. 21-29 places limits on other conditions of approval, including:

- a. ADUs cannot be restricted to homeowners or relatives of occupant of primary structure;
- b. Approval process shall not require a public hearing, special permit or special exception; and decisions must be rendered within 65 days of application;
- c. Permission to construct an ADU shall not be conditional to correcting a nonconformity or requiring fire sprinklers if they are not required by the fire code for the principal dwelling;
- d. Regulations shall not require ADUs to have an exterior door, be connected to the primary structure, or have more than one parking space;
- e. Regulations must permit the maximum size of the ADU be 1,000 SF, or 30% of the size of the primary structure, whichever is smaller;
- f. The construction of an ADU may not trigger more restrictive lot coverage requirements than applicable to the primary home, require greater setbacks than are required for the primary home, require greater height,

landscaping, and architectural design standards than apply to single-family dwellings;

- g. ADUs shall not be required to be affordable;
- h. Municipalities may regulate the use of ADUs as short term rentals;
- i. ADUs shall not be required to be served by separate utilities and shared septic systems shall not be considered "community wastewater systems" for regulatory purposes; and
- j. ADUs built or permitted after 1/1/22 that are not deed-restricted do not count toward denominator (total dwelling units) in §8-30g threshold calculation

WHEREAS, the planning and zoning commission of the City of Derby, has complied with the requirements of § 6(f) of Public Act 21-29 prior to acting upon this resolution.

NOW THEREFORE BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF DEBRY, that it declares its affirmative decision to opt-out of the provisions of § 6 (a) to (d) of PA 21-29 concerning Accessory Apartments;

BE IT FURTHER RESOLVED THAT THE PLANNING AND ZONING COMMISSION OF THE CITY OF DERBY bases this decision and declaration on multiple factors including (1) the density of occupation and concentration of structures in many of Derby's residential districts; (2) the incompatibility of accessory apartments within the residential neighborhood which have been designated as historic or are eligible for such a designation; (3) Derby's large number of multi-family housing units and affordable housing options suitable for providing temporary, affordable housing options for individuals likely to be served pursuant to § 6 (a) to (d) of PA 21-29; (4) the failure of Public Act 21-29 to provide the Planning and Zoning Commission of the City of Derby, the Board of Aldermen and Alderwomen and the people of the City of Derby with enough flexibility to regulate accessory apartments in a way that is compatible with the goals of the Derby Zoning Regulations and its Plan of Conservation and Development, (5) the small number of zoning enforcement personnel available to the City of Derby whereby it may be difficult, if not impossible, to assess whether a particular accessory apartment complies with the provisions of the General Statutes, as amended by Public Act 21-29.

AND BE IT FURTHER RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF DERBY, that by adoption of this resolution by the Planning and Zoning Commission of the City of Derby, it votes to opt-out of the provisions of this law, with the recognition that such opt-out shall not be valid and effective until the Board of Aldermen and Alderwomen, as the legislative body of the City of Derby, also holds a vote to opt-out of the provisions of § 6 (a) to (d) of Public

Act 21-29; and

BE IT FURTHER RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF DERBY that the city clerk be directed to publish notice of the passage of this resolution in a newspaper having substantial circulation in the City of Derby not later than fifteen (15) days after this Resolution has been adopted, and following the publication of this Resolution, refer this matter to the Board of Aldermen and Alderwomen for discussion and action.

Dated at Derby, Connecticut this 15th day of February 2022.

Ted Estwan
Chairman, Planning and Zoning Commission

ATTEST:

Marc Garofalo, MPA, CCTC
Derby City Clerk