

ADOPTED 2/15/2022
PUBLISHED 2/17/2022

**RESOLUTION TO OPT OUT OF THE PROVISIONS OF
CONN. GEN. STAT. §8-1BB AND SUBSECTION (D) 5 OF § 8-2, AS AMENDED
BY PUBLIC ACT 21-29 CONCERNING TEMPORARY HEALTH STRUCTURES.**

WHEREAS, Connecticut Public Act 21-29, effective October 1, 2021, amends the provisions of Conn. Gen. Stat. §8-1bb and subsection (d) 5 of § 8-2 to authorize the installation of temporary health care structures in residential zoning districts; and

WHEREAS, a municipality, by vote of its legislative body may opt out of the provisions of Conn. Gen. Stat. §8-1bb and subsection (d) 5 of section 8-2 of the General Statutes, as amended by Public Act 21-29, provided the planning and zoning commission pursuant to Conn. Gen. Stat. §8-1bb (j), (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, the planning and zoning commission of the City of Derby, has complied with the requirements of section (j) of Conn. Gen. Stat. §8-1bb 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 Conn. Gen. Stat. §8-1bb and subsection (d) 5 of section 8-2 of the General Statutes, as amended by Public Act 21-29, authorizing the installation of temporary health care structures in residential zoning districts;

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 temporary healthcare structures 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 Conn. Gen. Stat. §8-1bb and subsection (d) 5 of section 8-2 of the General Statutes, as amended by Public Act 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 temporary healthcare structures 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 temporary healthcare structure actually complies with the provisions of Conn. Gen. Stat. §8-1bb and subsection (d) 5 of section 8-2 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, the Planning and Zoning Commission of the City of Derby votes to opt out of the provisions of this law, and also to consider amending its zoning regulations to include as a prohibited use "temporary healthcare structures pursuant to the amendments made to the General Statutes by Public Act 21-29 with the recognition that such provision 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 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 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