



**NAUGATUCK VALLEY
COUNCIL of GOVERNMENTS**

49 Leavenworth Street, 3rd Floor, Waterbury, CT 06702 • 203-757-0535 • 203-735-8688 • nvcogct.gov

July 7, 2021

MEMORANDUM: 07072021 Public Act No. 21-29 Outline and Summary

To: NVCOG Chief Elected Officials
From: Savannah-Nicole Villalba, AICP Candidate, Regional / Municipal Planner
Subject: Public Act No. 21-29 Outline and Summary

The purpose of this memo is to provide member municipalities with knowledgeable, objective, and informed guidance regarding **Public Act No. 21-29, An Act Concerning the Zoning Enabling Act, Accessory Apartments, Training for Certain Land Use Officials, Municipal Affordable Housing Plans and a Commission on Connecticut's Development and Future¹**, hereby referred to in this memo as **P.A. 21-29**. This memo outlines **what the law says** and provides information about **implementation and potential municipal actions**.

Eight topics are addressed:

Topic One: As of Right Accessory Apartments	2
Topic Two: Application and Technical Consultant Fees	3
Topic Three: Zoning Enabling Act CGS § 8-2	3
3a. - Reorganization and Minor Changes	3
3b. - Required Goals and Considerations	4
3c. - Prohibited Provisions	5
3d. - Options for Promoting Conservation	5
3e. - Regulating Mobile Manufactured Homes	6
Topic Four: Zoning Enforcement Officer Certification	6
Topic Five: Biennial Training for Certain Land Use Officials	7
Topic Six: Affordable Housing Planning Requirement	7
Topic Seven: Water Pollution Control Plans	8
Topic Eight: Commission on Connecticut's Development and Future	8

This memo is intended for **informational purposes only**. The Naugatuck Valley Council of Governments suggests **contacting your town attorney** regarding all CGS Sections and Public Acts referenced in this memo.

If you have any questions, please feel free to contact to me at (203) 489-0514.

¹ Link to Public Act No. 21-29: <https://www.cga.ct.gov/2021/act/Pa/pdf/2021PA-00029-R00HB-06107-PA.PDF>

Topic One: As of Right Accessory Apartments

P.A. No. 21-29 Relevant Sections: §§ 1, 6, 7 and 10

Effective Date(s): October 1, 2021, for §§ 1, 7, and 10, and January 1, 2022, for §6.

What does the law say?

- **Definitions.**
CGS §8-1a currently only defines “municipality.” The revised CGS §8-1a will **also define** accessory apartment (also referred to as an accessory dwelling unit, or “ADU”), affordable accessory apartment, as of right, cottage cluster, middle housing, mixed-use development, and townhouse.
- **Regulation Adoption Requirement.**
 - o The bill **requires municipalities** that exercise power under the Zoning Enabling Act (CGS §8-2) **to adopt regulations (1) allowing one ADU as of right on each lot that contains a single-family dwelling and (2) designating other areas where ADUs are allowed.**
 - o Municipalities **cannot require** as of right ADU’s sharing a lot with a single-family home to be preserved for lower-income families.
 - o Municipalities **cannot use or impose** additional standards set beyond those in P.A. No. 21-29 §6 (a) to (d).
- **As of Right Permitting.**
 - o Municipalities **cannot condition ADU approval** on the correction of a nonconforming use, structure, or lot or require fire sprinklers unless they are also required in the principal dwelling or by the fire code.
 - o The bill specifies that it **does not supersede applicable building code requirements** or other requirements where a well or private sewerage system is being used, so long as approval for any such accessory apartment shall not be unreasonably withheld.
 - o Municipalities, special districts, and sewer or water authorities **cannot (1) consider an ADU to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the ADU was constructed with a new single-family dwelling on the same lot or (2) require the installation of a new or separate utility connection directly to an ADU or impose related connection fee or capacity charges.**
 - o The bill specifies that as of **October 1, 2021**, “community sewerage system” as currently defined in CGS §7-245 **will not include** a system serving only a principal dwelling and ADU located on the same lot.
- **Housing Stock Calculation Under CGS §8-30g.**
The Department of Housing annually creates a list identifying the housing stock in each municipality that qualifies as affordable housing under the Affordable Housing Land Use Appeals Procedure. This bill specifies that ADUs built or permitted after **January 1, 2022** but are not subject to deed restrictions that qualify them as affordable housing, **will not increase a municipality’s base (market-rate) housing stock calculation.**

Implementation and Potential Municipal Action.

- **Regulation Adoption Requirement.**
 - o If a municipality fails to adopt new regulations or amend existing regulations by **January 1, 2023** and does not opt-out following the procedure set in §6(f), **any noncompliant existing regulation shall become null and void.** A municipality shall approve or deny applications for accessory apartments in accordance with the requirements for regulations set forth in the provisions of subsections (a) to (d) of P.A. No. 21-29 §6 until such municipality adopts or amends a regulation in compliance with said subsections.
 - o There is an **opt-out process** for the as of right accessory apartment legislation. It is found in P.A. No. 21-29 §6(f). This process must be completed before **January 1, 2023.**
- **As of Right Permitting.**
The process must require the zoning or planning and zoning commission to decide on accessory apartment applications **within 65 days after application unless** an applicant approves an extension or withdraws the application.
- **Housing Stock Calculation Under CGS §8-30g.**
We are **presuming** that **municipalities will provide** the Department of Housing with information on ADUs to be excluded from the base housing stock calculation.

Topic Two: Application and Technical Consultant Fees

P.A. No. 21-29 Relevant Sections: § 2

Effective Date: October 1, 2021

What does the law say?

- The current law **allows** municipalities to set by ordinance reasonable fees for processing applications submitted to the planning, zoning, or planning and zoning commission; the zoning board of appeals; or the inland wetlands commission.
- The **bill allows for municipalities to adopt regulations establishing technical consultant fees** for applications made to the abovementioned boards and commissions.

Implementation and Potential Municipal Action.

- The **technical consultant fees**:
 - o **Must be used** to pay consultants who have expertise in land use to review particular aspects of an application (e.g. traffic or stormwater) for the benefit of the commission or board.
 - o **Must be accounted for separately and may only be used for technical review costs.** The fees cannot be used to pay a consultant who is a salaried employee of the municipality, commission, or board.
 - o **Leftover amounts**, including any interest accrued, **must be returned to the applicant** within 45 days after the review is complete.
- The bill **prohibits a fee schedule that imposes higher fees on developments built following an appeal** brought under the Affordable Housing Land Use Appeals Procedure (CGS §8-30g). It also prohibits using a fee schedule charging more because a residential building has more than four units, including higher fees per unit, per square footage, per unit of construction cost, or the like.
- Section 2 Subsection (b) states that “a municipality may, by regulation, require...” Municipalities may create and adopt a fee schedule that allows them to **include the additional technical consultant fees**. The process of amending a fee schedule may be done **by local ordinance or regulation amendment**, depending on the specific municipality.

Topic Three: Zoning Enabling Act CGS § 8-2

3a. - Reorganization and Minor Changes

P.A. No. 21-29 Relevant Sections: §§ 3 and 4

Effective date: October 1, 2021

What does the law say?

- P.A. No. 21-29 § 4 makes **various minor, technical, and conforming changes to the Zoning Enabling Act** (CGS §8-2). CGS §8-2 applies to municipalities that exercise zoning powers under the statutes (as opposed to a special act).
- **Noteworthy changes**:
 - o **Long Island Sound.**
If a municipality is “contiguous to, or on a navigable waterway that drains to” the Long Island Sound its regulations **must consider** a proposed development’s environmental impact on the Long Island Sound’s “coastal resources” as defined by the Coastal Management Act (CGS §22a-93).
 - o **Traffic Analyses.**
Municipalities **may use vehicle miles traveled and vehicle trips generated standards** instead of, or in addition to, a “level of service” traffic calculation when assessing (1) a proposed development’s anticipated traffic impact and (2) potential mitigation strategies such as reducing the amount of required parking for a development or requiring public sidewalks, crosswalks, bicycle paths, bicycle racks, or bus shelters (including off-site).
 - o **Zone Tools.**
Floating zones, overlay zones, and planned development districts are now **explicitly allowed** as opposed to the current statutes in which Connecticut courts have held that CGS §8-2 implicitly grants municipalities the power to use said techniques.
 - o **Temporary Health Care Structures.**
There are **technical and conforming changes** to the temporary health care structure law.

(Topic 3a continued)

Implementation and Potential Municipal Action.

- Traffic Analyses.

If a municipality wants to include vehicle miles traveled and vehicle trips generated as desired traffic calculations, a municipality should **amend their site plan and special exemption permit regulations** to include these calculations as a requirement of the application.

3b. - Required Goals and Considerations

P.A. No. 21-29 Relevant Sections: § 4

Effective Date: October 1, 2021

What does the law say?

- Required Purposes.

The bill **eliminates the requirement** that zoning regulations be designed **to prevent the overcrowding of land and avoid undue concentration of population**. The bill requires that **regulations be designed to do the following:**

- Protect the state's **historic, tribal, cultural and environmental resources**.
- Consider the **impact of permitted land uses on contiguous municipalities and on the planning region**.
- Address **significant disparities in housing needs and access to educational, occupational, and other opportunities**.
- Promote **efficient review of proposals and applications**; and
- Affirmatively further the purpose of the **federal Fair Housing Act**.

- Consideration of Character.

- The bill **eliminates the requirement** that zoning regulations be made with (1) reasonable consideration as to the character of the district and its peculiar suitability for particular uses and (2) a view toward conserving the value of buildings.
- The bill will instead **require** that regulations shall be drafted with "reasonable consideration to the **physical site characteristics** of the district and its **peculiar suitability** for particular uses and with a view to **encouraging the most appropriate use of land** throughout a municipality."

- Provide Housing Opportunities.

- The bill **requires** that zoning regulations **provide for, rather than encourage**, the development of housing opportunities for all residents of the municipality and local planning region, including opportunities for multifamily dwellings, consistent with soil types, terrain, and infrastructure capacity.
- The bill **requires** that zoning regulations **expressly allow, rather than encourage**, housing that meets the needs identified in the state's Consolidated Plan for Housing and Community Development and Plan of Conservation and Development.

Implementation and Municipal Action.

- Required Purposes.

Amend zoning regulations to ensure they meet the required purposes and **do not include purposes that have been eliminated**.

- Consideration of Character.

Regulations cannot be applied to deny a land use application (including site plans, special permits or exemptions, or other zoning approval) based upon (1) a **district's character** unless the character is expressly articulated in regulations with clear and explicit physical standards for site work with structures or (2) the **immutable characteristics, source of income, or income level of an applicant or end user** (other than age or disability, in the case of age-restricted or disability-restricted housing).

- **If a community wants to keep character as a threshold for decision making**, they should ensure their regulations expressly articulate with clear and explicit physical standards for site work with structures.

(Topic 3b continued)

- **Provide Housing Opportunities.**

Amend zoning regulations to ensure that (1) zoning provides for the development of housing opportunities, including opportunities for multifamily dwellings, **consistent with soil types, terrain, and infrastructure capacity, for all residents of the municipality and the planning region in which the municipality is located** and (2) zoning expressly allows the development of housing that **meets the needs identified in the state plans** listed above.

3c. - Prohibited Provisions

P.A. No. 21-29 Relevant Sections: § 4 and 5

Effective Date: October 1, 2021

What does the law say?

- The bill **prohibits** zoning regulations from:
 - o **Prohibiting cottage food operations in a residential zone.** Cottage food operations are operations in which food products are prepared in a private residential dwelling's home kitchen and for sale directly to the consumer.
 - o **Establishing minimum floor area requirements for buildings that are greater than those required under applicable building, housing, or other codes.**
 - o **Placing a fixed numerical or percentage cap on the number of dwelling units permitted in multifamily housing over four units, middle housing, or mixed-use developments.**
 - o **Parking Space Requirements.** Regulations are prohibited from requiring more than one parking space for each studio or one-bedroom dwelling unit or more than two parking spaces for each dwelling unit with two or more bedrooms unless the municipality opts out.

Implementation and Potential Municipal Action.

- **Review your regulations** to ensure your municipality will not have any considerations in your regulations that will be prohibited as of October 1, 2021. **Parking Spaces.** If a community is seeking to opt out of the parking spaces for dwelling units regulation, they should follow the procedure outlined in **Public Act No. 21-29 §5.**

3d. - Options for Promoting Conservation

P.A. No. 21-29 Relevant Sections: § 4

Effective Date: October 1, 2021

What does the law say?

- **Expansion of Options to Promote Conservation.** Current law allows zoning regulations to encourage the use of certain energy conservation tools, including solar. The bill allows for regulations to **require or promote options** for promoting conservation and expands the energy conservation tools to include distributed generation or freestanding wind and combined heat and power.
- **Expansion of Conservation Tools to Incentivize Developer's Use.** The bill expands the conservation tools that municipalities can incentivize developer's use of to **include any solar and other renewable forms of energy; combined heat and power; water conservation, including demand offsets; and other energy consumption techniques.**

Implementation and Potential Municipal Action.

- If interested in expanding these tools, review and revise zoning and subdivision regulations accordingly.

(Topic 3 continued)

3e. - Regulating Mobile Manufactured Homes

P.A. No. 21-29 Relevant Sections: § 4

Effective Date: October 1, 2021

What does the law say?

- The bill **prohibits** zoning regulations adopted pursuant to CGS §8-2 from imposing on manufactured homes, **including mobile homes**, and associated lots or parks, **conditions** that are **substantially different** from those imposed on (1) single family dwellings and associated lots; (2) multifamily dwellings; or (3) lots with multifamily dwellings, cluster developments, or planned unit developments.
- **Note.** Both **manufactured homes** and **mobile homes** must be **built to federal standards** and have a narrowest dimension of **twenty-two feet (22')** or more.

Implementation and Potential Municipal Action.

- Ensure your zoning regulations do not impose substantially different conditions than regulations for the housing types listed above.
- Consult with your town attorney and building official to ensure that current regulations regarding mobile homes are consistent with the new legislation.

Topic Four: Zoning Enforcement Officer Certification

P.A. No. 21-29 Relevant Sections: § 8

Effective Date: October 1, 2021 and January 1, 2023 – CAZEO Requirement

What does the law say?

- **CAZEO Training Required for Zoning Enforcement Officers.**
 - o Beginning **January 1, 2023**, and annually thereafter, all zoning enforcement officers (ZEOs) will be required to obtain certification from the Connecticut Association of Zoning Enforcement Officers (CAZEO).
 - o This requirement **applies to existing and newly appointed ZEOs** working in municipalities that exercise zoning authority under the statutes.
- **Power of a ZEO.**
 - o A zoning or combined planning and zoning commission may reserve their enforcement power to itself, or it **may delegate** said power to a ZEO.
 - o ZEOs may be responsible for: (1) **investigating** zoning violations and issuing cease and desist orders and (2) **reviewing and providing an advisory opinion** on applications for special permits, site plans, subdivisions, and variances.

Implementation and Potential Municipal Action.

- **CAZEO Training Required for Zoning Enforcement Officers.**
 - o It appears that the bill authorizes un-certified ZEOs to be appointed, but it requires that they **obtain certification as soon as practicable**.
 - o Ensure that ZEOs are certified by CAZEO or are on the path to certification. Any municipality with a ZEO who is not currently CAZEO certified should begin to plan certification for January 2023.

Topic Five: Biennial Training for Certain Land Use Officials

P.A. No. 21-29 Relevant Sections: § 9

Effective Date: June 10, 2021

January 1, 2022 – Office of Policy and Management will establish guidelines for training in collaboration with the Connecticut land use training providers.

January 1, 2023 – Training requirement begins

January 1, 2024 – Training requirement will be met

March 1, 2024 – land use boards and commissions will annually submit to its municipal legislative body a statement affirming its members' compliance with the bill's training requirement.

What does the law say?

- Training Requirements.

Beginning **January 1, 2023**, each member of a local planning commission, zoning commission, planning and zoning commission, or zoning board of appeals **must complete at least four hours** of training **biennially**.

- **Members serving on a commission as of January 1, 2023**, must complete their initial training by **January 1, 2024**. **Members not serving by January 2023** must complete their training **within one year** after being elected or appointed to the board or commission.

- Training Topic Requirements.

- The training **must include one hour** of training on **affordable and fair housing**.
- Training **may also cover**:
 - Process and procedural matters, including the conduct of effective meetings and public hearings and the Freedom of Information Act;
 - The interpretation of site plans, surveys, maps, and architectural conventions; and
 - The impact of zoning on the environment, agriculture, and historic resources.

- Training Reporting Requirements.

Starting **March 1, 2024**, each board or commission shall annually submit to its municipal legislative body a statement affirming its members' compliance with the Public Act's training requirements.

Implementation and Potential Municipal Action.

- Education requirement may be achieved by either attending training opportunities held by Connecticut's land use training providers (e.g. CAZEO, CCM, CCAPA, CLEAR's Land Use Academy, or the Connecticut Bar Association) that are compliant with this bill's requirements or through holding events for their commissioners through their town counsel.

Topic Six: Affordable Housing Planning Requirement

P.A. No. 21-29 Relevant Sections: § 12

Effective Date: June 10, 2021, and June 1, 2022 – Affordable Housing Plans must be adopted.

What does the law say?

- Adoption of an Affordable Housing Plan.

- **At least once every five years** a municipality must **prepare or amend and adopt** an affordable housing plan specifying how the municipality will increase the number of affordable housing developments in its jurisdiction.
- The **first plan** must be prepared and adopted by **June 1, 2022**.

- Posting and Notice.

- Municipalities must post their draft plan or updates online, **even if they do not hold a public hearing** on the draft plan or updates.
- Requires that municipalities **submit** their Affordable Housing Plans to the **Office of Policy and Management**.

- Noncompliance.

If a municipality **does not comply** with the plan amendment deadlines, the Chief Elected Official must **submit a letter to the Office of Policy and Management** and in the explanation specify a date by which the plan will be amended.

(Topic six continued)

Implementation and Potential Municipal Action.

- **Adoption of an Affordable Housing Plan.**
 - o Municipalities may submit their affordable housing plans as part of their local Plan of Conservation and Development.
 - o Municipalities may choose to submit their affordable housing plan early to coincide with a POCD submission, so long as their next Affordable Housing Plan submission is five years later.

Topic Seven: Water Pollution Control Plans

P.A. No. 21-29 Relevant Sections: § 11

Effective Date: October 1, 2021

What does the law say?

- Subsection (b) of Section 7-246 of Chapter 103 allows for municipal water pollution control authorities to delineate areas in the water pollution control plans they create as those (1) served by the municipal sewerage system, (2) where sewage facilities are planned, and (3) where sewers should be avoided.
- The bill allows water pollution control authorities to “designate and delineate specific allocations of capacity to serve areas that are able to be developed for residential or mixed-use buildings containing four or more dwelling units.”

Topic Eight: Commission on Connecticut’s Development and Future

P.A. No. 21-29 Relevant Sections: § 13

Effective Date: June 10, 2021.

What does the law say?

- Section 13 of P.A. 21-29 is new and establishes a Commission on Connecticut’s Development and Future within the Legislative Department. Said commission “shall evaluate policies related to land use, conservation, housing affordability and infrastructure.” Subsections (b) through (e) outline the substantive process for said commission.
 - o Subsection (f)(1) states that not later than January 1, 2022 and not later than January 1, 2023, the commission shall submit a report to the joint standing committees of the General Assembly and to the Secretary of the Office of Policy and Management “having cognizance of matters related to planning and development, environment, housing and transportation,” in accordance with the provisions of section 11-4a in the general statutes regarding the following areas outlined in (a) through (e).
 - o Subsection (2) states that if the commission is unable to meet the January 1, 2022 deadline they can make a request for an extension and shall submit an interim report.
 - o Subsection (3) states that the commission shall terminate on the date it submits the final report or January 1, 2023, whichever is later.