

Norwalk Planning & Zoning Commission

125 East Avenue
Norwalk, Connecticut



MEMORANDUM

June 15, 2022

TO: Planning & Zoning Commission - Louis Schulman, Chairman
Common Council
FROM: Bryan Baker, Principal Planner
RE: Opting Out of the Accessory Dwelling Unit Provisions of Public Act No. 21-29

The State of Connecticut passed Public Act No. 21-29 (HB 6107) which revised Section 8-2 of the Connecticut General Statutes which pertains to Zoning. Included in the legislation are requirements and limitations for how accessory apartments or accessory dwelling units (ADUs) can be regulated by a municipality. Below is a summary of the requirements and limitations:

Any zoning regulations adopted pursuant to section 8-2 of the general statutes, as amended by this act, shall:

- 1) *Designate locations or zoning districts within the municipality in which accessory dwelling units are allowed, provided at least one accessory dwelling unit shall be allowed as of right on each lot that contains a single-family dwelling and no such access;*
- 2) *Allow accessory dwelling units to be attached to or located within the proposed or existing principal dwelling, or detached from the proposed or existing principal dwelling;*
- 3) *Set a maximum net floor area for an accessory dwelling unit of not less than thirty percent of the net floor area of the principal dwelling, or one thousand square feet, whichever is less;*
- 4) *Require setbacks, lot size and building frontage less than or equal to that which is required for the principal dwelling;*
- 5) *Provide for height, landscaping and architectural design standards that do not exceed any such standards as they are applied to single-family dwellings;*
- 6) *Be prohibited from requiring (A) a passageway between any such accessory dwelling unit and any such principal dwelling, (B) an exterior door, except as required by building or fire code, (C) any more than one parking space for any such accessory dwelling unit, (D) a familial, marital or employment relationship between occupants of the principal dwelling and accessory dwelling unit, (E) a minimum age for occupants of the accessory dwelling unit, (F) separate billing of utilities, or (G) periodic renewals for permits for accessory dwelling units*

The accessory dwelling unit provisions of the bill take effect on January 1, 2023, unless a municipality opts out, which is done through the following process:

- 1) The Planning & Zoning Commission, by a two-thirds vote, may initiate opting out, proved that:
 - a. The Commission holds a public hearing regarding opting out;
 - b. The Commission affirmatively decides to opt out;

- c. The Commission states the reasons for opting out on the record;
- d. Notice is published in the paper of such decision;
- e. After which, the municipality's legislative body, by a two-thirds vote, may complete the process of opting out

Accessory Dwelling Unit Background

ADUs help to provide affordable housing for both the property owner as well as the tenant by allowing the owner to monetize their property by charging what is likely to be less than rent at an apartment building. Accessory dwelling units can also be used to house seniors and younger family members nearby which helps aging in place, retaining youth and preventing displacement.

Norwalk's existing ADU regulations were written in 1984 with one revision having been made in 1986. The regulation is not achieving its goal of providing additional rental housing given that we only have approximately 259 ADUs on the books in the almost four decades that they have been permitted. Therefore, the passing of PA 21-29 and the current zoning regulation re-write provides a good opportunity to revise the existing ADU regulations to reflect the current housing needs of Norwalk.

Staff has begun to write draft ADU regulations with the goal to increase the number of ADUs by:

- 1) Allowing detached accessory dwelling units (DADUs);
- 2) No longer requiring the single-family residence to have been in existence for at least three years before being eligible for an ADU;
- 3) No longer requiring that all minimum lot dimensions be met for a property to be eligible for an ADU; and
- 4) No longer requiring additional lot size for B Zone properties;
- 5) Only limiting the maximum size of the ADU to 30% of the floor area of the single-family residence of 700 square feet, whichever is less.

A common concern that is mentioned when discussing ADUs, and in particular DADUs, is increasing density and changing the character of single-family neighborhoods. The existing zoning regulations already permit ADUs in all the single-family zones in Norwalk, meaning that DADUs will not change the density from what is already permitted. It is likely that any new ADUs will be added in over a long period of time as there are many considerations that go into constructing an ADU. For example, a homeowner must evaluate the expenses of financing the construction, increase in property tax/mortgage/insurance rates and maintenance against what could reasonably be collected in rent. Regarding single-family character, DADUs are not uncommon structures or features in residential communities. Furthermore, PA 21-29 removed the term "character" from being an allowed regulatory standard for zoning regulations, so ADUs cannot be prohibited on the premise of not being in character with single-family neighborhoods.

Although Staff finds that most of the requirements of PA 21-29 would be beneficial to Norwalk, some further minor restrictions are recommended which would ultimately require Norwalk to opt

out of the legislation to enact. Discussed below is Staff's recommendation and explanation for why the city should opt out, as well as the draft ADU regulations that are in the works.

Staff Recommendation

It is Staff's recommendation that the Planning & Zoning Commission opt out of the provisions of subsections (a) to (d) of Public Act No. 21-29 regarding the allowance of ADUs. The reasons for opting out are the following:

- 1) In ongoing discussions with the Planning & Zoning Commission regarding the **maximum size** of an ADU, the consensus seems to be that 30% of the floor area of the single-family residence or 700 square feet, whichever is less, is a more appropriate size. By restricting the maximum size to less than what is permitted by PA 21-29, the Commission would be required to opt out;
- 2) In ongoing discussions with the Planning & Zoning Commission regarding **setbacks** for an ADU, the consensus seems to be that a DADU should have a greater front setback requirement so that it is located behind the single-family residence and buffered from neighboring properties. By establishing setbacks that are greater than what is required for a single-family residence per PA 21-29, the Commission would be required to opt out;
- 3) In ongoing discussions with the Planning & Zoning Commission regarding the **maximum height** of an ADU, the consensus seems to be that permitting a maximum height of a DADU that is the same as what is allowed for a single-family residence is not preferred. By restricting the maximum height of an ADU to less than what is allowed for a single-family residence, and therefore less than what is permitted by PA 21-29, the Commission would be required to opt out;
- 4) In ongoing discussions with the Planning & Zoning Commission regarding **architectural design** for an ADU, some sort of architectural design standard is desired for a DADU to resemble the single-family dwelling on the property. There are different thresholds of architectural design review to be considered, such as prescriptive zoning text, prohibiting certain structures and/or site plan review applications for architectural review of DADUs. Because Norwalk does not have architectural design standards for single-family residences, the Commission would be required to opt out;
- 5) In ongoing discussions with the Planning & Zoning Commission regarding **periodic renewals** for permits for ADUs, Staff believes that it is good practice to continue to require that affidavits be filed annually with the city stating that the owner of the property continues to reside on the property. The purpose of verifying that the property owner resides on the property is to prevent absentee/corporate landlordism from further reducing Norwalk's housing stock. The city does not require a new permit to be submitted or fee paid, but to err on the side of caution, the Commission would be required to opt out to continue the practice of requiring an annual affidavit to be submitted by a property owner with an ADU.

Draft Resolution

**Whereas the regulatory limitations regarding accessory dwelling units of Public Act No. 21-29 became effective on January 1, 2022; and*

**Whereas Public Act No. 21-29 allows a municipality to opt out of the regulatory limitations regarding accessory dwelling units by January 1, 2023; and*

**Whereas the Planning & Zoning Commission published public notices of the public hearing date on June 3, 2022, and June 9, 2022; and*

**Whereas the Planning & Zoning Commission held a public hearing on June 15, 2022; and*

THEREFORE, BE IT RESOLVED that the Norwalk Planning & Zoning Commission has affirmatively opted out of the accessory dwelling unit provisions of Public Act No. 21-29 for the following reasons:

- 1) That the city is in the process of re-writing the zoning regulations; and
- 2) That Staff has begun to draft accessory dwelling unit regulations that reflect most of the goals of Public Act No. 21-29; and
- 3) That the Commission finds that most of the limitations in regulating accessory dwelling units included in Public Act No. 21-29 are acceptable provided that some additional restrictions are established, ultimately requiring opting out; and
- 4) That the additional restrictions are in relation to:
 - a. The maximum size of an accessory dwelling unit being less than what is allowed by Public Act No. 21-29; and
 - b. The required front yard setback being greater than what is allowed under Public Act No. 21-29; and
 - c. The maximum height of a detached accessory dwelling unit be less than what is allowed by Public Act No. 21-29; and
 - d. That an architectural design standard exist for a detached accessory dwelling unit which is greater than what is required by Public Act No. 21-29; and
 - e. That periodic renewals be required for accessory dwelling units which differs from what is prescribed by Public Act No. 21-29; and

BE IT FURTHER RESOLVED that the notice of this action is forwarded to the Common Council to complete the process of opting out;

BE IT FURTHER RESOLVED that the effective date of this action is June 24, 2022.

ARTICLE 10, Definitions**§ 118-100. Definitions.**

ACCESSORY DWELLING UNIT – a Dwelling Unit having habitable space not greater than 30% of the Principal Building or 700 square feet, whichever is less, which shares ownership and utility connections with the Principal Building; it may or may not be within an Accessory Building.

ARTICLE 42, Accessory Dwelling Units [Added effective 6-4-1982]**§ 118-420. Accessory Dwelling Units. [Amended effective 1-27-1984; 9-26-1986; x-xx-2022]**

A. Purpose and intent.

- a. The intent of this regulation is to encourage the creation of accessory dwelling units in existing single-family zones for the purpose of providing rental housing for the elderly, single persons and small families. Accessory dwelling units are further intended to enable the viability of Norwalk's single-family zones.

B. General.

- a. Accessory dwelling units shall be permitted on properties in the AAA, AA, A and B Residence Zones and may be attached to or detached from a single-family dwelling provided that:
 - i. The accessory dwelling unit is located on the same lot as a single-family dwelling.
 - ii. A property shall be limited to one (1) accessory dwelling unit.
 - iii. The owner of the property must reside on the premises.
 - iv. The minimum rental duration shall be no less than six (6) continuous months.
 - v. Properties utilizing public sewer and/or water shall be subject to approval by Norwalk WPCA and the local water authority. Properties utilizing private water and/or septic systems shall be subject to approval by the Norwalk Health Department.

C. Location and yards.

- a. The location of a **detached** accessory dwelling unit shall be as follows:
 - i. Front setback: Rear half of lot or 70' behind the front property line, whichever is less, provided that the accessory dwelling unit is not located closer to the front property line than the single-family dwelling;
 - ii. Side setback: 10' minimum;
 - iii. Rear setback: 10' minimum
- b. The location of an **attached** accessory dwelling unit shall be as follows:

- i. The same as permitted by Section 118-230. Schedule limiting height and bulk of buildings and size of lot. Residential. City of Norwalk. Part 1.

D. Height limits.

- a. The maximum height of a **detached** accessory dwelling unit shall be as follows:
 - i. 15 feet when located 20 feet or less from a side or rear property line;
 - ii. 20 feet when located more than 20 feet from a side and rear property line.
- b. The maximum height of an **attached** accessory dwelling unit shall be as follows:
 - i. The same as permitted by Section 118-230. Schedule limiting height and bulk of buildings and size of lot. Residential. City of Norwalk. Part 1.

E. Maximum size.

- a. Attached and detached accessory dwelling units shall not exceed 30% of the floor area of the single-family residence or 700 square feet, whichever is less.

F. Design standards.

- a. An accessory dwelling unit, whether attached or detached, shall be designed to maintain the architectural design, style and appearance of the existing single-family dwelling located on the property.

G. Prohibited structures.

- a. Mobile homes, manufactured housing, recreational vehicles, travel trailers, **shipping containers, storage containers** and any other wheeled or transportable structures shall not be used as an accessory dwelling unit.

H. Parking.

- a. Three (3) off-street parking spaces shall be provided: two (2) spaces per principal dwelling and one (1) space per accessory dwelling unit. Such parking shall comply with all applicable sections of Article 120, Off-Street Parking and Loading Regulations.

I. Procedure for approval.

- a. Applications for accessory dwelling units shall be subject to approval by the Zoning Enforcement Officer.
- b. A certificate in the form of an affidavit which verifies that the owner continues to reside on the premises, **minimum rental duration** and that all other conditions met at the time of the original application remain unchanged shall be submitted to the Zoning Enforcement Officer by January 31 of each year.