CITY OF TORRINGTON

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To: Planning & Zoning Commission
From: Martin J. Connor, AICP, City Planner
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Subject: Section 5.1 Accessory Apartments – Amendments per CT PA 21-29

The Connecticut General Assembly passed PA 21-29 on June 10, 2021 which include provisions effective January 1, 2022 regarding Accessory Apartments, commonly referred to as ADU's. These changes will override any conflicts with our existing Zoning Regulations regarding Accessory Apartments unless both our Planning & Zoning Commission and City Council hold public hearings to opt out of these provisions and approve the opt out provision with a 2/3 majority of each body. I would recommend that the Commission revise the Section 5.1 of our Zoning Regulations on Accessory Apartments to comply with the provisions of PA 21-29 and not opt out. I think accessory apartments offer a great way to improve Torrington's housing stock. Below are the amendments required to bring our Zoning Regulations into compliance with the new State requirements:

Section 5.1 Accessory Apartments – Amendments per CT PA 21-29

2.2 Specific Terms

~~Accessory Apartment - a dwelling unit which is smaller and secondary in nature to the principal dwelling unit and is contained within the same building as the principal dwelling unit.~~

Replace existing Accessory Apartment definition with new definition below:

"Accessory apartment" means a separate dwelling unit that (A) is located on the same lot as a principal dwelling unit of greater square footage, (B) has cooking facilities, and (C) complies with or is otherwise exempt from any applicable building code, fire code and health and safety regulations. (Revised definition directly from PA 21-29)

~~Note: See Sec. 5.7.4; accessory apartments are not allowed on flag lots.~~

5.1 Accessory Apartments Accessory apartments are permitted *in all Zones that allow a single family- detached dwelling* provided all of the following conditions are met:

~~5.1.1 In the R-15s and R-10s zoning districts, a special exception must be obtained for an accessory apartment.~~

5.1.2 The accessory apartment *shall have* ~~has~~ a minimum ~~habitable~~ *net* floor area of 400 square feet ~~and a maximum habitable floor area of 700 square feet.~~ *and a maximum net floor area for of not less than thirty per cent of the net floor area of the principal dwelling, or one thousand square feet, whichever is less.*

~~5.1.3 The principal dwelling unit has a habitable floor area that is at least fifty per cent (50%) greater than accessory apartment. [We use the definition of "habitable space" as defined in the 2003 International Residential Code and subsequent revisions – defined as "A space in a building for living sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces".]~~

5.1.3 ~~5.1.4~~ The accessory apartment is ~~in the same building as the principal dwelling unit. The Commission, however, may allow by special exception the accessory apartment and principal dwelling being in different buildings.~~ attached to or located within the proposed or existing principal dwelling, or detached from the proposed or existing principal dwelling and located on the same lot as such dwelling;

5.1.4 ~~5.1.5~~ Only one accessory apartment and one principal dwelling unit are permitted on a lot.

~~5.1.6 To maintain the appearance of a single family dwelling unit, only one external entrance to the building shall face the front yard. Buildings on corner lots may have one entrance facing each front yard. The Commission, however, may allow by special exception two external entrances to the building to face the front yard.~~

~~5.1.7 To prevent excessive increases in density, the lots on which accessory apartments and principal dwelling units are located shall be larger than the minimum lot size applicable in the zoning district. A. In the R-60, R-40, R-25, R-15, R-15s, R-10s and R-10 zoning districts the lot size shall be 25 percent greater in area than the minimum lot area applicable in the zoning district.~~

5.1.5 ~~5.1.8~~ *The accessory apartment* ~~building~~ shall conform to all front, side and rear yard setbacks applicable to a single family dwelling unit.

5.1.6 ~~5.1.9 The building shall conform to the parking requirements in Section 5.13.~~ *One parking space is required on the property for the accessory apartment.*

~~5.7.4 A flag lot shall be used for no more than one dwelling unit.~~

Language from PA-21-29 related to Accessory Apartments

New definition

(1) "Accessory apartment" means a separate dwelling unit that (A) is located on the same lot as a principal dwelling unit of greater square footage, (B) has cooking facilities, and (C) complies with or is otherwise exempt from any applicable building code, fire code and health and safety regulations;

Sec. 6. (NEW) (Effective January 1, 2022) (a) 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 apartments are allowed, provided at least one accessory apartment shall be allowed as of right on each lot that contains a single-family dwelling and no such accessory apartment shall be required to be an affordable accessory apartment;

(2) Allow accessory apartments to be attached to or located within the proposed or existing principal dwelling, or detached from the proposed or existing principal dwelling and located on the same lot as such dwelling;

(3) Set a maximum net floor area for an accessory apartment of not less than thirty per cent of the net floor area of the principal dwelling, or one thousand square feet, whichever is less, except that such regulations may allow a larger net floor area for such apartments;

(4) Require setbacks, lot size and building frontage less than or equal to that which is required for the principal dwelling, and require lot coverage greater 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 in the municipality;

(6) Be prohibited from requiring (A) a passageway between any such accessory apartment and any such principal dwelling, (B) an exterior door for any such accessory apartment, except as required by the applicable building or fire code, (C) any more than one parking space for any such accessory apartment, or fees in lieu of parking otherwise allowed by section 8-2c of the general statutes, (D) a familial, marital or employment relationship between occupants of the principal dwelling and accessory apartment, (E) a minimum age for occupants of the accessory apartment, (F) separate billing of utilities otherwise connected to, or used by, the principal dwelling unit, or (G) periodic renewals for permits for such accessory apartments; and

(7) Be interpreted and enforced such that nothing in this section shall be in derogation of

(A) applicable building code requirements,

(B) the ability of a municipality to prohibit or limit the use of accessory apartments for short-term rentals or vacation stays, or

(C) other requirements where a well or private sewerage system is being used, provided approval for any such accessory apartment shall not be unreasonably withheld.

(b) The as of right permit application and review process for approval of accessory apartments shall require that a decision on any such application be rendered not later than sixty-five days after receipt of such application by the applicable zoning

commission, except that an applicant may consent to one or more extensions of not more than an additional sixty-five days or may withdraw such application.

(c) A municipality shall not

(1) condition the approval of an accessory apartment on the correction of a nonconforming use, structure or lot, or

(2) require the installation of fire sprinklers in an accessory apartment if such sprinklers are not required for the principal dwelling located on the same lot or otherwise required by the fire code.

(d) A municipality, special district, sewer or water authority shall not

(1) consider an accessory apartment to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless such accessory apartment 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 accessory apartment or impose a related connection fee or capacity charge.

(e) If a municipality fails to adopt new regulations or amend existing regulations by January 1, 2023, for the purpose of complying with the provisions of subsections (a) to (d), inclusive, of this section, and unless such municipality opts out of the provisions of said subsections in accordance with the provisions of subsection (f) of this section, any noncompliant existing regulation shall become null and void and such 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), inclusive, of this section until such municipality adopts or amends a regulation in compliance with said subsections. A municipality may not use or impose additional standards beyond those set forth in subsections (a) to (d), inclusive, of this section. (f) Notwithstanding the provisions of subsections (a) to (d), inclusive, of this section, the zoning commission or combined planning and zoning commission, as applicable, of a municipality, by a two-thirds vote, may initiate the process by which such municipality opts out of the provisions of said subsections regarding allowance of accessory apartments, provided such commission: (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 subsections 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 notice of such decision in a newspaper having a

substantial circulation in the municipality not later than fifteen days after such decision has been rendered. Thereafter, the municipality's legislative body or, in a municipality where the legislative body is a town meeting, its board of selectmen, by a two-thirds vote, may complete the process by which such municipality opts out of the provisions of subsections (a) to (d), inclusive, of this section, except that, on and after January 1, 2023, no municipality may opt out of the provisions of said subsections.