ACCESSORY DWELLING UNITS AND PUBLIC ACT 21-29

1 – Summary from APACT

2 – Wilton Zoning Regulations – Section 29-4.D

3 – Excerpt from Public Act No. 21-29 – Section 6 Accessory apartments

PUBLIC ACT 21-29 Accessory Dwelling Units (ADUs) SUMMARY

ADUs allowed by default, with ability to opt out: PA 21-29 establishes default provisions that allow construction of ADUs (referred to in the Act as "accessory apartments") on lots accompanying singlefamily homes, unless a municipality chooses to opt out of this provision by January 1, 2023.

To opt out, the Zoning Commission (or joint Planning & Zoning Commission) must hold a public hearing, approve the opt out with a 2/3 majority, and publish notice of the decision. The governing body must also vote to opt out with a 2/3 majority (Board of Selectmen in town meeting towns). In municipalities whose ADU regulations conflict with the new State requirements and who do not opt-out by January 1, 2023, the applicable state provision will override any conflicting local requirement.

Limits on ADU requirements: In additional to allowing ADUs accompanying single-family homes, PA 21-29 places limits on other conditions of approval, including:

- ADUs are not restricted to homeowners or relatives of occupant of primary structure
- Approval process shall not require a public hearing, special permit or special exception; and decisions must be rendered within 65 days of application
- Permission to construct an ADU shall not be conditional to correcting a non-conformity or requiring fire sprinklers if they are not required by the fire code for the principal dwelling
- Regulations shall not require ADUs to have an exterior door, be connected to the primary structure, or have more than one parking space
- Regulations must allow maximum ADU size of at least 1,000 sf or 30% of the size of the primary structure, whichever is smaller
- 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
- ADUs shall not be required to be affordable
- Municipalities may regulate the use of ADUs as short term rentals
- 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

2.

WILTON ZONING REGULATIONS: Accessory Dwelling Units (ADU's)

29-4.D. USES PERMITTED IN ALL DISTRICTS

1. Accessory Dwelling Units in Single-Family Residences: A single-family dwelling unit in any district may be converted to allow the inclusion of one additional dwelling unit per lot, subject to the issuance of a zoning permit in accordance with 29-12D; and the following conditions:

a. Maximum Size: The floor area of the accessory dwelling unit may not exceed one fourth of the gross floor area of the building or 750 square feet, whichever is greater. No more than two bedrooms are permitted in the accessory dwelling unit.

b. Occupancy: One of the dwelling units shall be owner-occupied at all times.

c. Location of Units: At least one side of each dwelling unit must be at or above grade. Each unit shall have separate entrances, which can be from a common hall. Both units may be contained within one building, attached by a common wall, floor or ceiling. The accessory unit may also be within an accessory building, or attached to the principal structure by a breezeway or porch. *

d. Adequacy of Facilities: Certification shall be required from the Town Sanitarian that the sewage disposal system is adequate to serve both dwelling units. 29-4.D. 26

e. Outdoor Stairway: No outdoor stairways serving the accessory unit on any floor other than the ground floor shall be visible from a public street.

f. Driveways: No additional driveways shall be created for the purpose of serving an accessory unit.

g. Minimum Lot Size and Yard Requirements: Accessory units shall be located only in structures on lots which are in conformance with minimum area and dimensional requirements of the zoning district within which they are located with the exception that accessory dwelling units may be located on any undersized lot within a two-acre zone that was approved for subdivision or re-subdivision by the Planning and Zoning Commission at a time when lot averaging was permitted under the zoning regulations and the lot was created as a result of lot averaging. The structure which contains the principal accessory unit shall meet all current applicable setback, coverage and bulk requirements. Said exception shall not apply to conservation subdivisions or undersized lots created by way of variance. The undersized lot must be at least 1.8 acres.*

h. Certification of ownership: The owner of the property shall certify to the Commission, in the form of an affidavit that the owner is in residence in one of the dwelling units on the property. Such certification shall be made at the time of the initial application for the Zoning Permit and subsequently on an annual basis.

3

STATE OF CONNECTICUT

Substitute House Bill No. 6107

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 FUTURE.

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.