

# PUBLIC ACT 21-29 REGIONAL SURVEY

ACCESSORY DWELLING UNITS | COMMISSIONER TRAINING



**CRCOG**

The 2021 session of the Connecticut General Assembly produced some of the most significant land use and zoning reforms seen in decades, with many of the notable provisions contained in Public Act 21-29 (PA 21-29). PA 21-29 requires allowing accessory dwelling units (ADUs) by-right in all lots accompanying single-family homes and a reduction of required parking minimums. Both provisions contain an option for municipalities to opt out if action was taken by January 1, 2023. CRCOG has long supported the creation of more ADUs as a means to increase housing choice and is [cited](#) in the Regional Plan of Conservation and Development as a recommended policy.

Additionally, the law establishes ongoing training requirements for members serving on a planning commission, zoning commission, combined planning/zoning commission, or zoning board of appeals. As of January 1, 2023, members must complete four hours of training by January 1, 2024, and complete additional training every two years thereafter.

**In late December, CRCOG sent a survey to area planning directors to better understand how each community has chosen to approach the opt-out provisions for ADUs and parking minimums, as well as gain a better understanding of what types of land use commissioner training would be most beneficial. The results are below.**

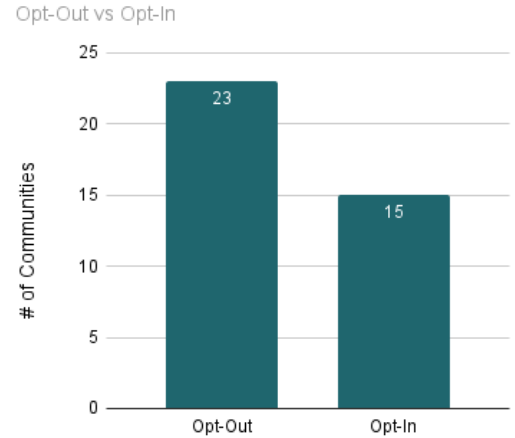
## ACCESSORY DWELLING UNITS

PA 21-29 establishes default provisions that allow construction of accessory dwelling units on lots accompanying single-family 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 have held a public hearing and approve the opt-out with a 2/3 majority. The governing body must also vote to opt out with a 2/3 majority. In municipalities whose ADU regulations conflict with the new State requirements and who do not opt-out by January 1, 2023, the applicable State provisions will override any conflicting local requirement. **See Appendix A for Summary of ADU Provisions.**

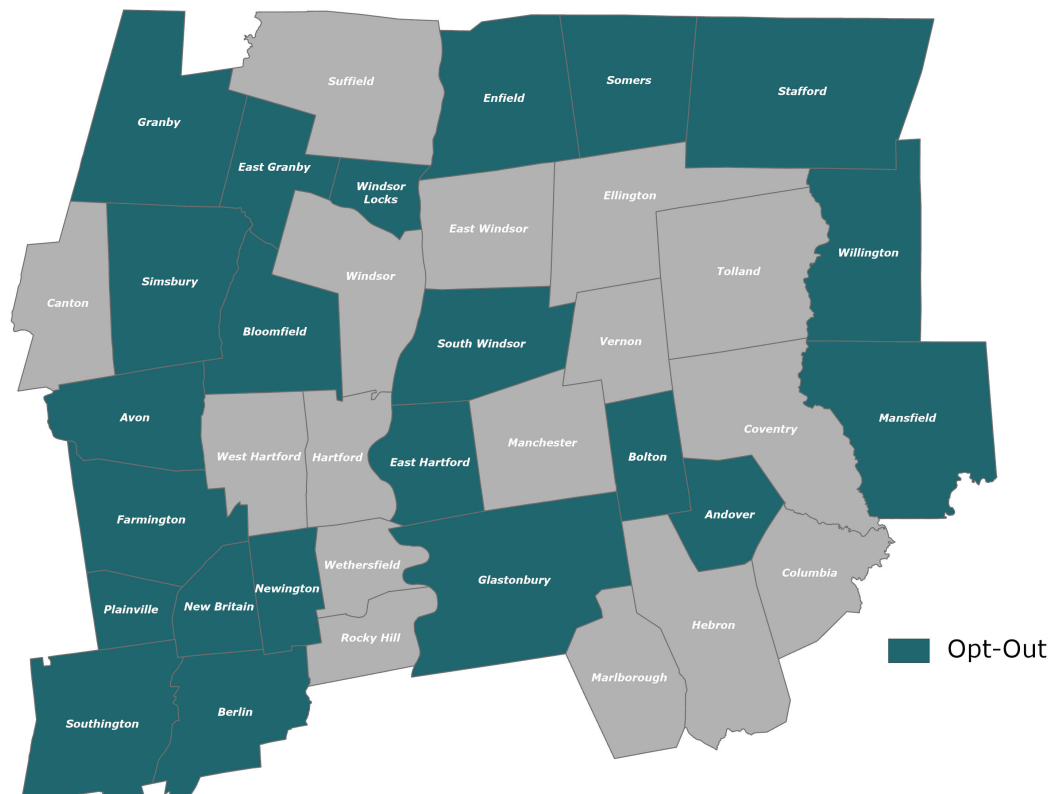
## Capitol Region Survey Response

**23 communities (about 60%) chose to opt out of the ADU provision.** It is worth noting, however, that all 23 communities still allow ADUs in some form within their community. Various reasons were cited for opting out of the State requirement. The majority of communities opting out expressed a desire to develop their own regulations regarding ADUs. Communities with smaller lot sizes such as Enfield and New Britain were concerned with dimensional requirements and setbacks in certain districts. Some communities preferred to retain a Special Permit or Exception process (public hearing) for ADUs rather than allowing them as of right, while some expressed reservations about detached units.

### ADU Provision Status



**Figure 1: Communities opting out of the ADU provision of PA 21-29**



## Select Comments on ADU Opt-Outs

Andover	<p>“Our community currently allows ADU’s but was not interested in allowing an ADU on any lot with a single-family home. Andover has some very small lots on Andover Lake and thought that allowing ADU’s on those small lots would be detrimental to the water quality of the lake.”</p>
Berlin	<p>“Our existing regulations have had provisions for ADUs for several decades. We are looking at those regulations to determine if there are aspects the commission and community is interested in modifying.”</p>
Bloomfield	<p>“Bloomfield has strict regulations at the moment, but wants to create more relaxed customized regulations, without being bound to the state statutes.”</p>
Enfield	<p>“The PZC believed that we had certain high-density neighborhoods that the ADUs would not properly fit into. We are going to be re-writing our zoning regulations, and plan on allowing ADUS in certain areas.”</p>
Glastonbury	<p>“Our regulations already accommodate ADUs and largely align with the state provisions. The town would like more time to determine the need for further modifications.”</p>
Granby	<p>“The Commission decided to change their regulations which are more in line with the provisions outlined in PA 21-29 but wanted to continue to require special permit approval for detached apartments (attached is permitted by right).”</p>
New Britain	<p>“Our community drafted our own customized ADU ordinance to encourage construction of in-law-style units and prohibit stand-alone structures; our average single-family lot size is significantly smaller than 95% of the municipalities in CT and the community felt that stand-alone structures were inappropriate on small single-family lots.”</p>
Willington	<p>“The Commission will likely adopt regulations that are very similar to what was specified in the Act, but we felt the need to opt out to prevent the Town from being subject to any subsequent changes in the Act after 1/1/23.”</p>

It is important to note that several communities who chose to opt out have either adopted their own provisions similar to the State requirements (Bolton, Mansfield, New Britain, South Windsor) or plan to in the near future (Bloomfield, Enfield). At a minimum, PA 21-29 prompted communities to have these conversations and through that process, several communities took the opportunity to newly create, expand, and/or streamline their prior ADU regulations. Despite the majority of CROG communities choosing to opt out of the State ADU provision, there appears to be a net positive impact on ADU regulations as one way to increasing housing choice as all communities in the region allow ADUs in some form or fashion.

Unfortunately, consistently tracked regional data on permitted ADUs is not readily available. As part of this survey, we asked communities how many ADUs they have approved in their towns; answers vary widely as some towns estimated per year, over the last several years, or since they first allowed ADUs. Anecdotally, it appears most towns believe they approve approximately three per year, but more research is needed to confirm this.

## PARKING MINIMUMS

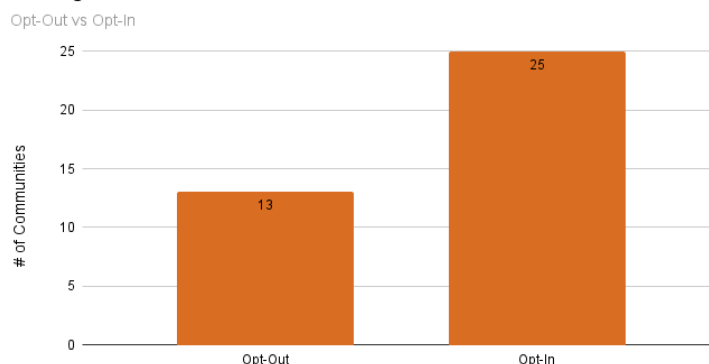
Public Act 21-29 mandates that zoning regulations must not require parking in excess of 1 space per studio or 1-bedroom unit, or 2 spaces for units with more bedrooms. Developments with a greater need for parking would have the option to include additional spaces if necessary – PA 21-29 simply requires that local zoning regulations only require stated parking minimums.

Again, municipalities could opt out of this requirement through a two-step process requiring action by both the (planning and) zoning commission and the governing body – similar to the ADU opt-out. **See Appendix Section B for Summary of Parking Minimum Provisions.**

### Capitol Region Response

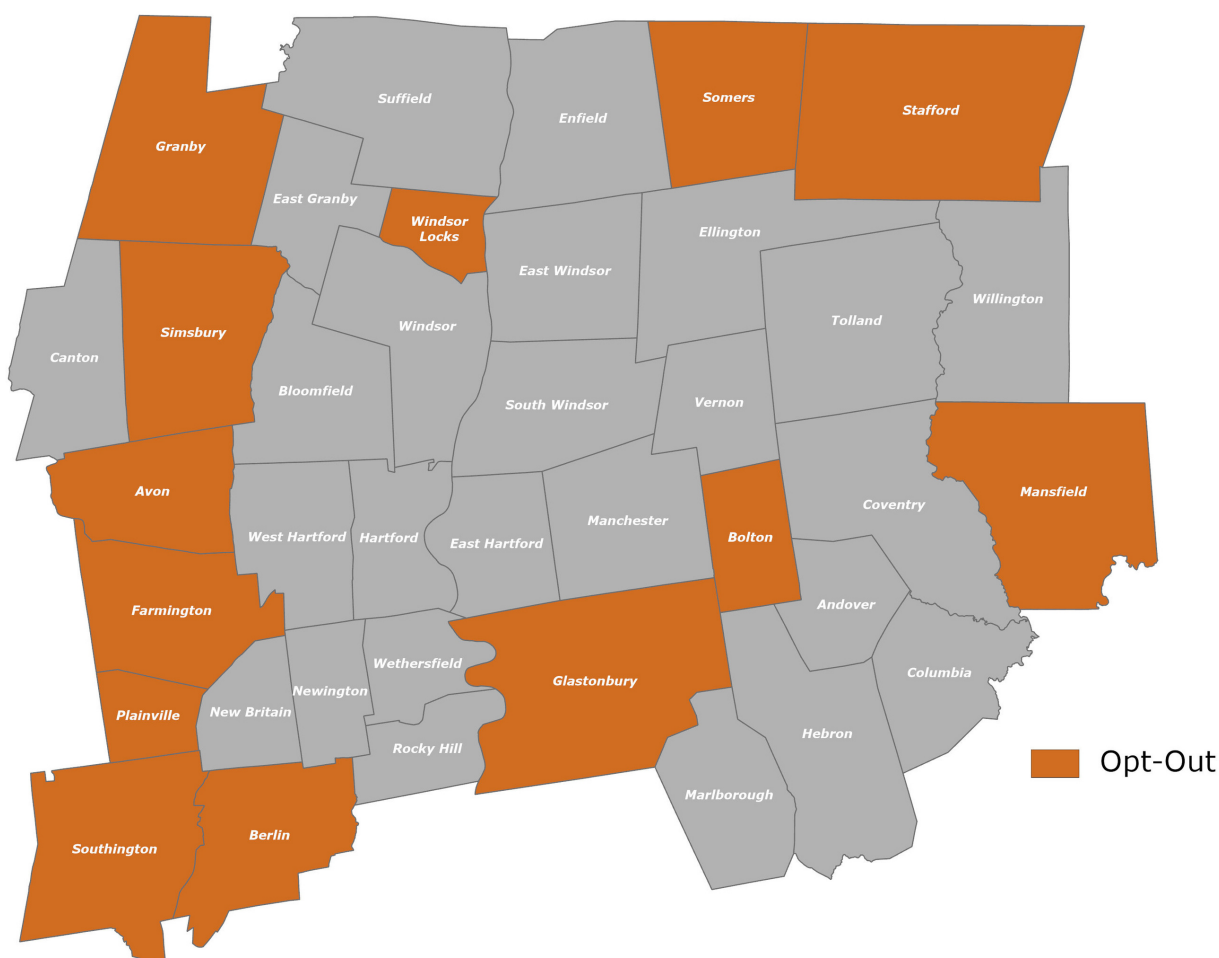
**Only 13 towns (34%) chose to opt out of the minimum parking provision** with the majority of towns (66%) either opting in or not taking action regarding this provision. This did not appear to be a particularly controversial topic, reflecting a broader national and State consensus recognizing the impact of parking requirements on the viability of various developments.

Parking Minimum Provision Status



[Research](#) and [experience](#) have shown excessive parking requirements often make many projects financially unviable, limiting development and in many cases greater housing choice. Respondents also noted their own municipal parking regulations provide greater flexibility towards reducing required parking than the State requirements. Hartford eliminated all parking requirements in 2017, while numerous Capitol Region communities have lower minimum parking requirements in certain districts, provisions for shared parking, fee-in-lieu provisions and multiple other tools to reduce the footprint of surface parking.

**Figure 2: Communities opting out of the reduced parking minimum provision in PA 21-29**



## Selected Comments on Parking Minimum Opt-Outs

Avon	“Current regs match 21-29 but prohibit on street pkg.”
Berlin	“While the decision to opt out details the reasoning; one of the factors is that the commission had received expert testimony that supports parking requirements and has made some amendments.”
Bolton	“Amended our Regs to meet the new requirements - amendments to the Zoning Regulations to comply with the 2021 Legislative changes concerning ADUs, Outdoor Dining, and Minimum Floor Area (Sections 2, 3,6,8,9, and 11) which were approved by the Planning and Zoning Commission at their regular meeting on 10/13/21, and are effective 11/01/21.”
Farmington	“Parking regulations were revised to meet the goals of PA 21-29, but were modified to better fit the community”
Glastonbury	“Parking decisions are best considered by the Town Planning and Zoning Commission”
Granby	“The commission feels developers will not provide enough parking unless mandated.”
Mansfield	“We wanted the option to revise our regulations based on Mansfield’s needs.”
Plainville	“After thoughtful consideration, and recent reductions of their own volition, the Commission felt the current regs are better suited to the community.”
Simsbury	“Local control; we are satisfied our parking standards currently suit our community”
Somers	“Current regulations of our community go beyond the provisions of PA 21-29 in terms of reducing parking requirements.”
Southington	“Commission did not see the need to change the existing regulations”
Windsor Locks	“Our community wants to come up with our own regulations.”

# LAND USE COMMISSIONER TRAINING

PA 21-29 establishes ongoing training requirements for land use commissioners. Beginning January 1, 2023, each member of a Planning & Zoning Commission, Planning Commission, Zoning Commission or Zoning Board of Appeals must complete at least four hours of training every two years. At least one hour must address affordable and fair housing policies.

## Commissioner Training FAQs

**Is there a reporting requirement to the State regarding completion of the required training? Is there a best practice for tracking/reporting Commissioner training?**

*OPM has not yet established reporting requirements or tracking guidelines. CRCOG recommends keeping internal records of commissioner trainings in the event such reporting requirements are established via statute.*

**Will the town need to provide this on their own or will other organizations be putting on trainings?**

*The Public Act did not empower any agency to certify trainings. Commissions and municipalities should use the Land Use Training Guidelines from OPM when making determinations about appropriate training opportunities.*

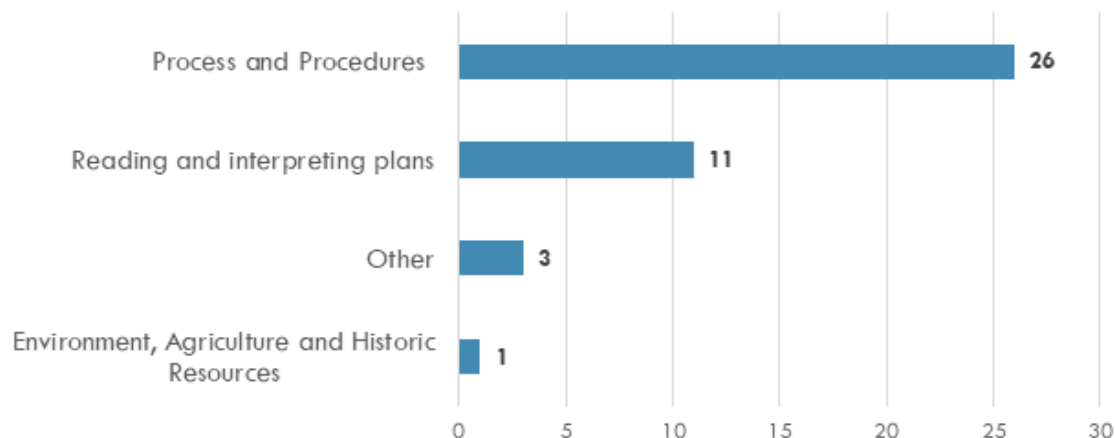
CRCOG is working with the Office of Policy & Management to identify topics and educators to provide this training. Recognizing that multiple organizations are already planning to offer housing-related training opportunities, the CRCOG survey asked which of the following topics would be of most interest or benefit to area boards and commissions:

1. **Process and Procedures** | Commissioner roles and responsibilities, planning and running a public meeting, commissioner conduct
2. **Reading and Interpreting Plans** | Site Plans, Surveys, Maps and Architectural Conventions
3. **Environment, Agriculture and Historic Resources** | Inland Wetlands and Watercourses, Aquifer Protection, Flood Management, Historic District Commissions and Historic Buildings/Places

**See Appendix Section C for Summary of Land Use Commissioner Training Requirements.**

## Capitol Region Survey Response

### Which Areas of Training Would Most Benefit Your Commissioners?



Training in process and procedures for land use commissioners was by far the most important priority, with 26 respondents (63%) citing that area as a critical need. This largely reflects an understandable desire to protect municipalities from litigation stemming from procedural violations during the permitting process. Several respondents cited concerns about the availability and convenience of training opportunities, given the existing time commitments of volunteer commissioners. **It is important to note that this survey was taken by municipal staff, not commissioners.** When planning or helping to facilitate their training curriculum, it is assumed staff will confer with their commission members to determine appropriate training opportunities.

CRCOG's quarterly Regional Planning Commission (RPC) meetings are one potential venue for commissioners to attend the required training. When training is offered, the meetings could be opened to non-RPC members to enable a greater number of Capitol Region land use commissioners to participate and meet their training requirements. CRCOG could partner with organizations such as the Connecticut Association of Zoning Enforcement Officials (CAZEO), Connecticut Conference of Municipalities (CCM), the Connecticut Chapter of the American Planning Association (CCAPA), the University of Connecticut's (UConn) Land Use Academy, the Connecticut Bar Association, and others to provide this training.

UConn CLEAR, in collaboration with OPM has established a [Connecticut Land Use Commissioner Training Calendar](#) to help municipalities and commissioners find appropriate training opportunities throughout the State. Training providers are encouraged to submit events to this calendar.



## SUMMARY

One goal of PA 21–29 was to increase housing affordability and housing choice through facilitating the creation of ADUs. While the initial perception of 60% of CRCOG communities opting out of the ADU provision suggests a reluctance to embrace State–level reform, the practical impacts of the opt–out provisions are likely to be minimal, as most communities in the region allow ADUs, albeit with varying degrees of permissiveness and flexibility. **The ADU requirement in PA 21–29 sparked necessary conversations in communities to rethink the status quo** – some adopted new ADU regulations where there were none, others expanded where ADUs were allowed, and/or streamlined the process.

A comprehensive review of ADU approvals would provide a clearer sense of their impact on increased housing supply and choice. **While ADUs are a good tool to have in the “toolbox” they are not a singular solution, as practical considerations limit the scope of their impact.** Only well–resourced and relatively determined property owners can afford to invest the necessary time and money to add an ADU, with the resulting per square foot asking rents unlikely to make a large–scale dent in regional affordability challenges. Communities should be mindful of the limitations of ADUs and remain open to additional policies addressing housing affordability and choice.

Reducing parking minimums seems to be an area of broad consensus and many communities have already produced bolder reforms than the State requirement. Land use commissioner training is seen as an appropriate and beneficial requirement, although there are practical concerns with the availability of training and tracking compliance.

Please feel free to reach out to CRCOG’s Regional Planning & Development staff if there are specific follow–up questions or research topics related to this legislation.

# APPENDIX

## A. Summary of Accessory Apartment Provisions in Public Act 21-29

- A new set of statutory requirements were adopted mandating authorization of certain accessory apartments using the following definitions:
  - “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.”
  - “As of right” means able to be approved in accordance with the terms of a zoning regulation or regulations and without requiring that a public hearing be held, a variance, special permit or special exception be granted or some other discretionary zoning action be taken, other than a determination that a site plan is in conformance with applicable zoning regulations.”
- Effective January 1, 2022, all zoning regulations shall:
  - 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.
  - 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.
  - Set a maximum net floor area for an accessory apartment of not less than thirty percent 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.
  - 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.
  - 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.
  - 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) 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.
  - The accessory dwelling regulations do not override: (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.
  - A decision on an as of right accessory apartment application must be made within sixty-five days after receipt of such application by the applicable zoning commission unless the applicant consents to one or more extensions of not more than an additional sixty-five days.

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- *Municipal regulations cannot:*
  - *Condition the approval of an accessory apartment on the correction of a nonconforming use, structure or lot.*
  - *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.*
- *A municipality, special district, sewer or water authority cannot:*
  - *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.*
  - *Require the installation of a new or separate utility connection directly to an accessory apartment or impose a related connection fee or capacity charge.*
- *Municipal opt-out process for accessory apartment requirements:*

*A municipality can opt-out of the statutory accessory apartment regulation requirements under the following procedures taken before January 1, 2023:*

- *PZC or ZC, by 2/3 vote, votes to initiate the opt-out process.*
- *Public hearing is held.*
- *The commission decides to opt out within the ordinary statutory deadlines for considering an application (65 days after close of hearing) stating on the record the reasons for the decision (although the 2/3 vote is required to “initiate” the procedure, we believe a 2/3 vote is required to approve).*
- *Publishes notice of decision.*
- *The opt out is ratified by a 2/3 vote of the town’s legislative body or its board of selectman if the town meeting is the legislative body.*
- *Failure to adopt or opt out of compliant accessory apartment regulations:*

*If a municipality fails to adopt new regulations or amend existing regulations or opt out by January 1, 2023, any noncompliant existing regulation that would apply to accessory apartments becomes 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) of the new accessory dwelling statute.*

*Summary from Halloran Sage, “Significant Land Use Legislation Passed in the 2021 Session”*

## **B. Parking Minimum Provisions in Public Act 21-29**

*Municipal zoning regulations cannot require more than one parking space for a studio or 1 BR or more than two parking spaces for a dwelling unit with 2 or more BR unless a town opts out using the following procedure:*

- *PZC or ZC, by 2/3 vote, votes to initiate the opt-out process.*
- *Public hearing is held.*
- *The commission decides to opt out within the ordinary statutory deadlines for considering an application (65 days after close of hearing) stating on the record the reasons for the decision (although the 2/3 vote is required to “initiate” the procedure, we believe a 2/3 vote is required to approve).*
- *Publishes notice of decision.*
- *The opt out is ratified by a 2/3 vote of the town’s legislative body or its board of selectman if the town meeting is the legislative body*

*Summary from Halloran Sage, “[Significant Land Use Legislation Passed in the 2021 Session](#)”*

## **C. Training Requirements for Municipal Land Use Agencies**

- On and after January 1, 2023, each member of a PZC, PC, ZC or ZBA shall complete at least four hours of training:
  - Those in office on 1/1/2023 must complete four hours by 1/1/2024, and every other year thereafter.
  - For those taking office after 1/1/2023, must complete four hours of training not later than one year after taking office and every other year thereafter.
- Training content:
  - Must contain at least one hour on affordable and fair housing policies.
  - May include process and procedure, including FOIA, interpretation of site plans and maps, impact of zoning on environment, agriculture and historic resources.
  - Training guidelines must be established by OPM prior to 1/1/2022 Training may be provided by various entities such as CAZEO, CCM, CCAPA, Land Use Academy of UConn CLEAR, CBA, COGs, etc.
- Reporting:
  - Commissions must report compliance annually to legislative body (or Board of Selectmen in town meeting towns)

Summary from Halloran Sage, "[Significant Land Use Legislation Passed in the 2021 Session](#)"