



STATE OF CONNECTICUT – COUNTY OF  
TOLLAND INCORPORATED 1786

## TOWN OF ELLINGTON

55 MAIN STREET – PO BOX 187  
ELLINGTON, CONNECTICUT  
06029-0187

[www.ellington-ct.gov](http://www.ellington-ct.gov)

TEL. (860) 870-3120

**TOWN PLANNER'S OFFICE**

FX (860) 870-3122

### **PLANNING AND ZONING COMMISSION REGULAR MEETING AGENDA**

**MONDAY, AUGUST 23, 2021, 7:00 PM**

**IN-PERSON AT TOWN HALL ANNEX MEETING ROOM, 57 MAIN ST, ELLINGTON, CT  
VIRTUAL ATTENDANCE VIA ZOOM MEETING, INSTRUCTIONS PROVIDED BELOW**

#### **I. CALL TO ORDER:**

#### **II. PUBLIC COMMENTS (On non-agenda items):**

#### **III. PUBLIC HEARING(S):**

1. Z202112 - Text amendment to Sections 3.1.2 Residential Uses, 7.1 Accessory Apartments and 10.2 Definitions of the Ellington Zoning Regulations. (Tabled from August 2, 2021 Meeting)
2. Z202113 - Juliano Family One, LLC, owner/Brian Juliano, applicant, request for modification to Special Permit to expand storage yard and Site Plan Modification to expand pavement for parking and outdoor storage, detached signage, landscaping and associated improvements at 100 Windermere Avenue, APN 018-021-0000, in the IP-Zone. (Opening of hearing to be tabled)
3. S202103 – Brooks Crossing Developers, LLC owner/applicant, request for re-subdivision for eleven (11) lots for 55.94 acres off of Jobs Hill Rd between Brook Crossing and Brook Crossing Extension, APN 119-004-0000 (Highfield Estates Phase IV). (Opening of hearing to be tabled)

#### **IV. OLD BUSINESS:** None

#### **V. NEW BUSINESS:** None

#### **VI. ADMINISTRATIVE BUSINESS:**

1. Approval of Planning and Zoning Commission August 2, 2021 Special Meeting minutes.
2. Correspondence:
  - a. Town Planner memo dated July 26, 2021, regarding Public Act 21-1 An Act Concerning Responsible and Equitable Regulation of Adult-Use Cannabis.
  - b. Assistant Planner Enforcement Officer's email dated July 26, 2021, regarding standards for temporary political signs.
  - c. Discussion: Recommendation for use of American Rescue Plan Funds - Connecticut Conference of Municipalities Toolkit enclosed.

#### **VII. ADJOURNMENT:**

Attendance available in-person or online via Zoom Meeting. Instructions to attend virtually listed below. The agenda is posted on the Town's webpage ([www.ellington-ct.gov](http://www.ellington-ct.gov)) under Agenda & Minutes, Planning & Zoning Commission.

#### **Join Zoom Meeting via link:**

<https://us06web.zoom.us/j/83763057438>

Meeting ID: 837 6305 7438

Passcode: 129471

#### **Join Zoom Meeting by phone:**

1-646-558-8656 US (New York)

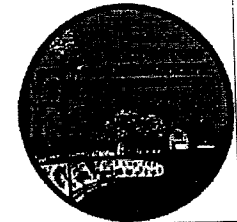
Meeting ID: 837 6305 7438

Passcode: 129471

Next Planning and Zoning Commission Regular Meeting is scheduled for September 27, 2021

2202112

# Town of Ellington Planning Department



55 Main ST., PO Box 187, Ellington, CT, 06029/Phone: 860-870-3120/Fax: 860-870-3122/lhoulihan@ellington-ct.gov

## MEMO

DATE: July 26, 2021

TO: Planning and Zoning Commission

FROM: Lisa M. Houlihan, AICP, Town Planner

SUBJECT: Text Amendment to Section 3.1.2 Residential Uses, Table 6.2.3 Off Street Parking Requirements, and Section 7.1 Accessory Apartments and Public Act 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.

Over the past couple months, we've discussed potential amendments to accessory apartment regulations in lieu of newly passed laws. Enclosed you'll find a draft text amendment reflecting feedback from discussions and a copy of relevant sections of Public Act 21-29.

The proposal was sent to the Capitol Region Council of Governments (CRCOG), and CRCOG finds no apparent conflict with regional plans and policies or the concerns of neighboring towns, and staff commends efforts to encourage and support zoning regulations that permit a greater diversity of housing types and costs.

I've discussed the proposal with John Colonese, Assistant Town Planner Zoning/Wetlands Officer, and discussion resulted in two additional staff-recommended changes. The changes clarify that an accessory apartment associated with a farm is exempt from being a certain percentage of the usable floor area of the primary dwelling unit and include language that an accessory apartment shall have only one main entrance on the street side. The changes are minor in nature and can be considered without providing additional notice.

## TEXT AMENDMENT

July 1, 2021 **Additions are bolded & underlined** / Deletions are ~~stricken through~~ / Otherwise as currently adopted

July 26, 2021 [*Additions are italicized and bracketed*] / Deletions are ~~italicized and stricken through~~

*Amendment to update various sections of the Ellington Zoning Regulations regarding accessory apartments, pursuant to PA-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.*

3.1.2 RESIDENTIAL USES	Rural Agricultural / Residential	Residential	Lake Residential
1. Accessory apartment in accordance with Section 7.1	<b>SP P</b>	<b>SP P</b>	<b>P</b>

Table 6.2.3 Off Street Parking Requirements	
Dwelling - Single Family	2 parking spaces per family unit
<b><u>Accessory Apartment</u></b>	<b><u>1 parking space per accessory apartment</u></b>

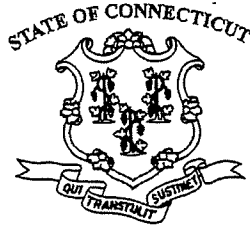
### **Section 7.1 Accessory Apartments**

- A. Accessory Apartments are subject to the following restrictions and conditions:
1. Either the primary dwelling unit or accessory apartment shall be owner-occupied. ~~and one of the dwelling units shall be occupied by a person 60 years of age or older, or a handicapped person.~~
  2. The usable floor area of the accessory apartment shall have a maximum of **be less than** 50 percent of the usable floor area of the primary dwelling unit **and shall be no more than** 1,000 square feet, except when an accessory apartment **is associated with a farm it shall be no more than 1,250 square feet** [~~and shall be exempt from being less than 50 percent of the usable floor area of the primary dwelling unit~~] ~~except that the area of the accessory apartment shall not exceed.~~ These areas shall be exclusive of garages, porches, or basements.
  3. The accessory apartment shall have no more than two bedrooms.
  4. **The accessory apartment shall comply with Section 3.2.3 Minimum Yard Setbacks and Section 3.2.4 Building Height & Lot Coverage.**
  5. **When an accessory apartment is attached to a primary dwelling unit, the following shall apply:**
    - a. The architectural treatment of the total structure shall be as to portray the character of a single-family dwelling unit.
    - b. The [~~accessory dwelling unit~~] ~~structure~~ shall have only one main entrance on the street side of the structure; all other entrances shall be at the side or to the rear.
  6. ~~The primary dwelling unit and the accessory apartment shall have a connecting door between the two dwelling units.~~

Any violation of the terms of the special permit shall be prosecuted in accordance with Connecticut General Statutes.

### **Section 10.2 DEFINITIONS**

**Accessory Apartment.** A subordinate **separate attached or detached** dwelling unit that is intended for use as a complete, independent living facility located in a residence constructed as, and having the character of, a single-family residence, which subordinate dwelling unit does not substantially alter the character and appearance of the residential structure or its conformity with the character of the neighborhood **located on the same lot as a primary dwelling and in compliance with the regulations.**



**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.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 8-1a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(a) "Municipality" as used in this chapter shall include a district establishing a zoning commission under section 7-326. Wherever the words "town" and "selectmen" appear in this chapter, they shall be deemed to include "district" and "officers of such district", respectively.

(b) As used in this chapter and section 6 of this act:

(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;

(2) "Affordable accessory apartment" means an accessory apartment that is subject to binding recorded deeds which contain covenants or

**Substitute House Bill No. 6107**

restrictions that require such accessory apartment be sold or rented at, or below, prices that will preserve the unit as housing for which, for a period of not less than ten years, persons and families pay thirty per cent or less of income, where such income is less than or equal to eighty per cent of the median income;

(3) "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;

(4) "Cottage cluster" means a grouping of at least four detached housing units, or live work units, per acre that are located around a common open area;

(5) "Middle housing" means duplexes, triplexes, quadplexes, cottage clusters and townhouses;

(6) "Mixed-use development" means a development containing both residential and nonresidential uses in any single building; and

(7) "Townhouse" means a residential building constructed in a grouping of three or more attached units, each of which shares at least one common wall with an adjacent unit and has exterior walls on at least two sides.

Sec. 2. Section 8-1c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(a) Any municipality may, by ordinance, establish a schedule of reasonable fees for the processing of applications by a municipal zoning commission, planning commission, combined planning and zoning commission, zoning board of appeals or inland wetlands commission.

**Substitute House Bill No. 6107**

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 provision of said subsection 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 provision of subsection (d) of section 8-2 of the general statutes, as amended by this act.

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;

***Substitute House Bill No. 6107***

(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

**Substitute House Bill No. 6107**

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



***Substitute House Bill No. 6107***

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.

**Substitute House Bill No. 6107**

Sec. 10. Section 7-245 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

For the purposes of this chapter: (1) "Acquire a sewerage system" means obtain title to all or any part of a sewerage system or any interest therein by purchase, condemnation, grant, gift, lease, rental or otherwise; (2) "alternative sewage treatment system" means a sewage treatment system serving one or more buildings that utilizes a method

**Substitute House Bill No. 6107**

of treatment other than a subsurface sewage disposal system and that involves a discharge to the groundwaters of the state; (3) "community sewerage system" means any sewerage system serving two or more residences in separate structures which is not connected to a municipal sewerage system or which is connected to a municipal sewerage system as a distinct and separately managed district or segment of such system, but does not include any sewerage system serving only a principal dwelling unit and an accessory apartment, as defined in section 8-1a, as amended by this act, located on the same lot; (4) "construct a sewerage system" means to acquire land, easements, rights-of-way or any other real or personal property or any interest therein, plan, construct, reconstruct, equip, extend and enlarge all or any part of a sewerage system; (5) "decentralized system" means managed subsurface sewage disposal systems, managed alternative sewage treatment systems or community sewerage systems that discharge sewage flows of less than five thousand gallons per day, are used to collect and treat domestic sewage, and involve a discharge to the groundwaters of the state from areas of a municipality; (6) "decentralized wastewater management district" means areas of a municipality designated by the municipality through a municipal ordinance when an engineering report has determined that the existing subsurface sewage disposal systems may be detrimental to public health or the environment and that decentralized systems are required and such report is approved by the Commissioner of Energy and Environmental Protection with concurring approval by the Commissioner of Public Health, after consultation with the local director of health; (7) "municipality" means any metropolitan district, town, consolidated town and city, consolidated town and borough, city, borough, village, fire and sewer district, sewer district and each municipal organization having authority to levy and collect taxes; (8) "operate a sewerage system" means own, use, equip, reequip, repair, maintain, supervise, manage, operate and perform any act pertinent to the collection, transportation and disposal of sewage; (9) "person" means any person, partnership,

***Substitute House Bill No. 6107***

corporation, limited liability company, association or public agency; (10) "remediation standards" means pollutant limits, performance requirements, design parameters or technical standards for application to existing sewage discharges in a decentralized wastewater management district for the improvement of wastewater treatment to protect public health and the environment; (11) "sewage" means any substance, liquid or solid, which may contaminate or pollute or affect the cleanliness or purity of any water; and (12) "sewerage system" means any device, equipment, appurtenance, facility and method for collecting, transporting, receiving, treating, disposing of or discharging sewage, including, but not limited to, decentralized systems within a decentralized wastewater management district when such district is established by municipal ordinance pursuant to section 7-247.

## Barbra Galovich

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**From:** Timothy Webb  
**Sent:** Tuesday, July 06, 2021 10:42 AM  
**To:** Barbra Galovich; James York; Kim Bechard; Lori Spielman; Mike Caronna; Raymond Martin; Sydney Kern; Westford Lirot  
**Cc:** Lisa Houlihan  
**Subject:** RE: Staff Review - Z202112 - Proposed text amendment to Section 7.1 - Accessory Apartments

Good morning there is no impact to DPW. WPCA would have concerns if the allotted flow for the property is increased and would need to be reviewed by the WPCA

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**From:** Barbra Galovich  
**Sent:** Tuesday, July 06, 2021 9:32 AM  
**To:** James York <JYork@ELLINGTON-CT.GOV>; Kim Bechard <KBechard@ELLINGTON-CT.GOV>; Lori Spielman <lspielman@ELLINGTON-CT.GOV>; Mike Caronna <mcaronna@ncdhd.org>; Raymond Martin <Rmartin@ELLINGTON-CT.GOV>; Sydney Kern <skern@ELLINGTON-CT.GOV>; Timothy Webb <twebb@ELLINGTON-CT.GOV>; Westford Lirot <wlirot@ncdhd.org>  
**Cc:** Lisa Houlihan <LHoulihan@ELLINGTON-CT.GOV>  
**Subject:** Staff Review - Z202112 - Proposed text amendment to Section 7.1 - Accessory Apartments

Hi,

Hope you are doing well. Please see the attached documentation with Staff Review Sheet. This application will be discussed at the PZC meeting on Monday, July 26, 2021.

**Please provide your comments/concerns on or before July 16, 2021.**

Thank you in advance for your review.  
Barbra

Barbra Galovich, CZET  
Land Use Assistant  
Town of Ellington  
55 Main Street  
Ellington, CT 06029  
(860) 870-3120

July 23, 2021

TO: ELLINGTON PLANNING AND ZONING COMMISSION

**REPORT ON ZONING REFERRAL Z-2021-61: Proposed zoning amendment pertaining to accessory apartments as a permitted use in the Rural Agricultural/Residential and Residential zones.**

**COMMISSIONERS:** Receipt is acknowledged of the above-mentioned referral. Notice of this proposal was transmitted to the Policy and Planning Division of the Capitol Region Council of Governments under the provisions of Section 8-3b of the Connecticut General Statutes, as amended.

**COMMENT:** The staff of the Regional Planning Commission of the Capitol Region Council of Governments has reviewed this zoning referral and finds no apparent conflict with regional plans and policies or the concerns of neighboring towns. Staff commends the efforts around accessory apartments which furthers CRCOG policy to encourage and support changes to zoning regulations to permit a greater diversity of housing types and costs.

The public hearing date has been scheduled for 7/26/2021.

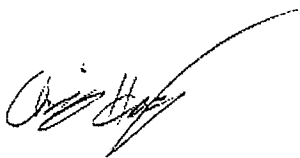
In accordance with our procedures this letter will constitute final CRCOG action on this referral. Questions concerning this referral should be directed to Christopher Henchey.

**DISTRIBUTION:** Planner: Somers, Enfield, East Windsor, South Windsor, Vernon, Tolland, Stafford, Willington

Respectfully submitted,

Jennifer Bartiss-Earley, Chairman  
Regional Planning Commission

Brendan Malone, Vice Chairman  
Regional Planning Commission



Christopher Henchey  
Transportation Planner



STATE OF CONNECTICUT – COUNTY OF TOLLAND  
INCORPORATED 1786

## TOWN OF ELLINGTON

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TEL. (860) 870-3120 TOWN PLANNER'S OFFICE FX (860) 870-3122

**PLANNING AND ZONING COMMISSION  
SPECIAL MEETING MINUTES  
MONDAY, AUGUST 2, 2021, 6:00 PM  
TOWN HALL ANNEX, 57 MAIN STREET, ELLINGTON, CT  
REMOTE MEETING ATTENDANCE PROVIDED WITH ZOOM MEETING**

**MEMBERS PRESENT:** IN PERSON: CHAIRMAN ARLO HOFFMAN, , SECRETARY ROBERT SANDBERG, JR, REGULAR MEMBERS RICCI HIRTH, WILLIAM HOGAN, F. MICHAEL FRANCIS AND MICHAEL SWANSON, AND ALTERNATE KEN RADZIWON

**MEMBERS ABSENT:** VICE CHAIRMAN SEAN KELLY AND ALTERNATE JON MOSER

**STAFF PRESENT:** IN PERSON: JOHN COLONESE, ASSISTANT TOWN PLANNER AND BARBRA GALOVICH, RECORDING CLERK

**I. CALL TO ORDER:** Chairman Hoffman called the meeting to order at 6:00 pm.

**II. PUBLIC COMMENTS** (On non-agenda items): None

**III. PUBLIC HEARING(S):**

1. Z202111 – Big Y Foods, owner/ applicant, request for a Special Permit and Site Plan Modification for the construction of a 5,000 sf building for a restaurant and a 5,152 sf building for a four bay car wash on West Road, APN 046-001-0000 and APN 037-004-000 in a PC - Planning Commercial Zone.

**Time:** 6:01 pm

**Seated:** Hoffman, Sandberg, Jr, Hirth, Hogan, Francis, Swanson, and Radziwon

David Ziaks, FA Hesketh & Associates, Inc., 3 Creamery Brook, East Granby, CT, Ed Pepin, Pepin Associates Architects, LLP, 45 Wintonbury Avenue, Bloomfield, CT, Matt D'Amour and Tony Coppola, Big Y Foods, Inc. 2145 Roosevelt Avenue, Springfield, MA were present to represent the application.

Mr. D'Amour explained the project originally started around four years ago and phase 1 is complete. Big Y Foods is ready to move forward with phase 2. They are seeking approval for a four bay car wash and a restaurant.

Mr. Ziaks stated the Big Y Express, phase 2 project is located across from the Big Y supermarket on West Road and noted the fueling station, convenience store, café, retail store along with one standalone building have been completed. They are proposing to construct a four bay car wash and a 5,000+/- restaurant with an outdoor patio for dining. Mr. Ziaks reviewed the traffic flow pattern within the site. He noted the lighting and landscaping will be consistent with phase 1. The requirement for the parking spaces of both phase 1 and phase 2 is 136 spaces, they have accounted for 147 spaces as noted on the plans. Mr. Ziaks briefly reviewed the project narrative provided with the application.

Mr. Pepin shared the colored rendering of the proposed car wash and restaurant. He noted the restaurant floor plan is an outline only, until a tenant lease agreement is in place. The car wash will have two automatic touchless wash bays, a maintenance room and office in the middle and two additional self-service wash bays. The building materials for the car wash and restaurant will match the colors and materials of phase 1.

Commissioner Francis inquired about the roof mechanicals. Mr. Pepin explained the mechanicals will be located over the maintenance room/office of the car wash and will be located in the middle of the roof for the restaurant. Mr. Pepin stated he believes the proposed roof lines will adequately screen the mechanicals on both buildings.

Alternate Radziwon asked if there will be any changes to the restaurant. Mr. Pepin explained there may be minor changes, such as the numbers of doors opening to the patio and doorway locations to the rear of the building. Commissioner Francis asked how the vacuum area will be shielded. Mr. Pepin stated there will be 10 vacuum units, and noted there is a detail for the vacuum in the plan. He added that the area will have landscaping throughout.

Alternate Radziwon asked about the dumpster pad locations. Mr. Ziaks confirmed that the proposed dumpster pad location allows for enough of a turning radius for the dump trucks to maneuver around. Alternate Radziwon asked about the existing design of the entrance area to the site and questioned if it should be redesigned to accommodate for traffic heading towards phase 2. The commission discussed with the applicant's representatives the safety of navigating through the entrance drive and interior travel way west of the center island. It was determined that the applicant would work with the Town Engineer and Planning Department staff on a potential realignment of the entrance drive and interior travel way.

Commissioner Francis asked about interior access management between parcels. Mr. Colonese noted that the plan indicates the possible future access to the adjacent parcel. He added that this may need to be formalized with an easement agreement.

Mr. Colonese reviewed the possible conditions with the commission. Alternate Radziwon proposed to have steel backed timber guardrails installed. The applicant agreed to use this type of guardrail within the site.

Trisha Collins, 15 Green Street, asked about the special permit process for the car wash. Mr. Colonese stated the commission can decide to specially permit the car wash use through Section 4.1.1 of the Zoning Regulations. She asked about the front yard setback from the street and how tall the trees in front grow. Secretary Sandberg said it's roughly 102 feet to the car wash building. Mr. Ziaks noted that some of the proposed trees will be about 6 to 8 feet in height when planted. Susann McCarthy, 15 Green Street, asked about the waste water being discharged through the sewer. Vice Chairman Hogan explained that the discharge is regulated by the Water Pollution Control Authority. Mr. D'Amour stated the car wash will have underground tanks which will recycle water so there is less discharge. Ms. Collins inquired about the driveway curbing and if they intend on painting the curbing to be more visible. Alternate Radziwon stated the proposed lighting plan should be more than adequate to see the curbs.

Commission Swanson asked about the arms for the vacuums and if they will have lighting on them. Mr. D'Amour stated there are no lights built into the arms of the vacuums. Commission Swanson also asked about the trees on the site. Mr. Ziaks stated there will be a combination of trees and shrubs planted to match phase 1.



Mr. Colonese reviewed the attached signage shown on the plans. The commission was agreeable to allowing staff to evaluate the signage through a zoning permit process, when the final sign plans are submitted for the specific tenants. Mr. D'Amour stated the car wash hours of operation will be Monday thru Saturday 5:00 am to 10 pm and Sundays will be 5:00 am to 9:00 pm.

**MOVED (HOGAN) SECONDED (SWANSON) AND PASSED UNANIMOUSLY TO CLOSE THE HEARING FOR Z202111** – Big Y Foods, owner/ applicant, request for a Special Permit and Site Plan Modification for the construction of a 5,000 sf building for a restaurant and a 5,152 sf building for a four bay car wash on West Road, APN 046-001-0000 and APN 037-004-000 in a PC - Planning Commercial Zone.

**MOVED (HOGAN) SECONDED (FRANCIS) AND PASSED UNANIMOUSLY TO APPROVE W/CONDITIONS FOR Z202111** – Big Y Foods, owner/ applicant, request for a Special Permit and Site Plan Modification for the construction of a 5,000 sf building for a restaurant with outdoor dining and a 5,152 sf building for a four bay car wash on West Road, APN 046-001-0000 and APN 037-004-000 in a PC - Planning Commercial Zone.

**CONDITIONS OF APPROVAL:**

- Parcel 037-004-0000 & 046-001-0000 shall be formally merged and required legal documentation filed on the land records;
  - Zoning Permit shall be obtained prior to occupancy and changes in occupancy;
  - Special permit granted for retail, car wash, and restaurant with outdoor dining;
  - Lighting shall be compliant with dark sky standards, downlight, shall not project off site and is subject to staff review and approval prior to installation;
  - Subject to meeting comments from the Town Engineer and Fire Marshal;
  - In accordance with Town ordinance, applicants shall pay cost of services for engineer and legal review of pre and post approval requirements;
  - All deeds, easements, and other legal documents needed to effectuate the plan are subject to review and approval by the Town Attorney;
  - Realignment of the entrance drive and interior travel way west of the center parking aisle is subject to review and approval by Town Engineer and Planning Staff.
  - Steel backed timber guardrails shall be installed throughout site;
  - Hours of operation for car wash will be Monday through Saturday 5:00 am – 10:00 pm and Sunday 5:00 am - 9:00 pm.
2. Z202112 - Text amendment to Section 3.1.2 – Residential Uses, Section 7.1 Accessory Apartments and Section 10.2 - Definitions of the Ellington Zoning Regulations.

**MOVED (SANDBERG) SECONDED (HOGAN) AND PASSED UNANIMOUSLY TO TABLE THE OPENING OF THE PUBLIC HEARING TO THE AUGUST 23, 2021 7:00 PM REGULAR MEETING AT THE ELLINGTON TOWN HALL ANNEX, 57 MAIN STREET FOR Z202112** - Text amendment to Section 3.1.2 – Residential Uses, Section 7.1 Accessory Apartments and Section 10.2 - Definitions of the Ellington Zoning Regulations.

**IV. OLD BUSINESS: None**

**V. NEW BUSINESS: None**

**VI. ADMINISTRATIVE BUSINESS:**

1. Approval of Planning and Zoning Commission June 28, 2021 Regular Meeting Minutes.

**MOVED (FRANCIS) SECONDED (SWANSON) AND PASSED UNANIMOUSLY TO APPROVE THE JUNE 28, 2021 REGULAR MEETING MINUTES AS WRITTEN.**

2. Correspondence: None

**VII. ADJOURNMENT:**

**MOVED (FRANCIS) SECONDED (SWANSON) AND PASSED UNANIMOUSLY TO ADJOURN THE PLANNING & ZONING COMMISSION REGULAR MEETING AT 7:03 PM.**

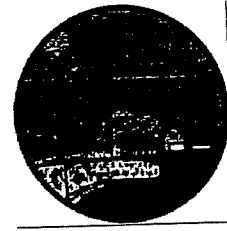
Respectfully submitted,

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Barbra Galovich, Recording Clerk

# Town of Ellington Planning Department

55 Main ST., PO Box 187, Ellington, CT, 06029/Phone: 860-870-3120/Fax: 860-870-3122/lhoulihan@ellington-ct.gov



## MEMO

DATE: July 26, 2021  
TO: Planning and Zoning Commission  
FROM: Lisa M. Houlihan, AICP, Town Planner  
SUBJECT: Public Act 21-1 - An Act Concerning Responsible and Equitable Regulation of Adult-Use Cannabis

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Recently, a new law passed enabling adult-use cannabis. I've conducted some research on PA 21-1, and enclose the following for your reference:

- Naugatuck Valley Council of Governments Summary of PA 21-1;
- Connecticut Chapter of American Planning Association Summary of PA 21-1;

As detailed in the attached, there's two main mechanisms to regulate adult-use cannabis: zoning regulation and ordinance. Zoning may regulate certain aspects (e.g. growing, manufacturing, packaging, processing, delivery, sales, etc), while ordinance can address other parts (e.g. consumption on public property, etc). Recently, I shared a similar memo with Lori Spielman, First Selectman, and provided her with the same reference material for distribution to the Board of Selectmen and potentially the Town Ordinance Committee.

You may recall at the last Planning and Zoning Commission (PZC) meeting, a resident spoke during public forum about his interest to cultivate cannabis. An informal poll of commissioners present at the meeting disclosed consensus support to allow cultivation of cannabis, but no definitive statement was rendered for dispensing it. Notably, the new law limits one license for cultivation and one license for dispensary per population between 0 to 25,000, and one more of each for every additional 25,000 in population or fraction thereof. According to 2019 estimates from the Connecticut Department of Public Health, Ellington's population is 16,467.

Currently, the Ellington Zoning Regulations include provisions to permit a licensed medical marijuana production facility in industrial zones by special permit and a licensed medical marijuana dispensary in commercial zones by special permit. Additionally, regulations limit one of each town-wide at any one time and do not allow them within 500' of any public or private school, municipal park, public or private recreation facility, daycare, place of worship, hospital, veteran's home or camp or military establishment.

Please review this material over the next month in preparation for discussion at the regularly scheduled meeting on August 23, 2021.

/enclosures



July 6, 2021

**MEMORANDUM: 07062021 Public Act No. 21-1 Cannabis Act Summary**

To: NVCOG Chief Elected Officials  
From: Keith Rosenfeld, Regional / Municipal Planner  
Subject: Public Act No. 21-1 Cannabis Act Summary

The purpose of this memo is to provide the Naugatuck Valley Council of Governments (NVCOG) communities with an update and summary of the **Responsible and Equitable Regulation of Adult-Use Cannabis Act (Cannabis Act)** and its potential impacts to NVCOG towns and cities. This summary is intended for **informational purposes only**. The NVCOG suggests contacting your town attorney regarding all CGS Sections and Public Acts referenced in this memo.

Our aim is to help our member communities understand and respond to the impacts of the Cannabis Act and inform future municipal legislative actions concerning cannabis sale and consumption. Research concerning the Cannabis Act has been guided by documents produced by the State of Connecticut Office of Legislative Research (OLR) and OFA, and discussions with the Governor's Office and the Office of Policy and Management. The memo is organized by key dates when certain aspects of the legislation become effective. Legislative updates and clarification can be found online at [www.ct.gov/cannabis](http://www.ct.gov/cannabis).

#### **Key points about the Cannabis Act**

- **Production and retail sale of cannabis can be controlled by municipal zoning and ordinance**  
The newly signed Cannabis Act makes numerous changes related to criminal justice, licensing, employment, tax, traffic enforcement, and other laws to establish legal adult recreational use of cannabis (marijuana). However, it is important to understand that municipalities retain the ability to control cannabis production, retail sale and consumption in certain areas via a combination of zoning regulations and specific municipal ordinances. For example, local officials can control the number and locations of cannabis retailers through zoning. Municipalities can also determine where smoked or vaped cannabis can or cannot be consumed (e.g., by prohibiting consumption in city parks or beaches, or on sidewalks or streets). Personal consumption of cannabis by adults on private property remains within the purview of State regulation and has been decriminalized by the terms of the act.
- **Two main tools for control: zoning regulation and ordinance**  
The NVCOG communities have two main tools to regulate cannabis establishments and cannabis consumption in their communities: 1) zoning and 2) local ordinance.

Zoning regulation can restrict or regulate the growing of cannabis, its manufacturing processes, its packaging, processing, delivery, and retail sale.

Local ordinance changes can be used to regulate the recreational consumption of cannabis on public property.

If you have any further questions, please contact me at 203-294-9040.

## MUNICIPAL ORDINANCES

### STARTING JULY 1, 2021

- For municipalities with a population of more than 50,000 people, if they regulate the public use of cannabis, the community must designate a location in the municipality where public consumption is allowed.
- If a municipality is considering prohibiting the public consumption of cannabis on public spaces, this is regulated through the enactment (or amendments to) a municipal ordinance prohibiting such activity in public spaces. NVCOG urges our member communities to review their current code of ordinances to determine if they are sufficient to regulate the consumption of cannabis.

### EFFECTIVE October 1, 2021

- The Cannabis Act extends the existing law's prohibition on smoking and e-cigarette use in certain establishments and all municipally-controlled properties to include cannabis, hemp, and electronic cannabis delivery systems (ECDS). § 86&87
- The Cannabis Act allows municipalities to ban cannabis smoking (including e cigarette use) at outdoor sections of restaurants. Through regulations, municipalities may set fines for violations, up to (1) \$50 for individuals or (2) \$1,000 for businesses.

## ZONING REGULATIONS

### STARTING JULY 1, 2021

- **Regulation Review**  
Although May 2022 has been identified as the first date when retail marijuana businesses would be allowed to open, it is imperative that NVCOG communities review their current zoning regulations beforehand to determine what regulations are currently in place regarding cannabis and potential amendments that may be needed to regulate the location of cannabis production and retail sale. § 148
- Under the law, a "cannabis establishment" is a producer, dispensary facility, cultivator, micro-cultivator, retailer, hybrid retailer (i.e., licensed to sell both recreational cannabis and medical marijuana), food and beverage manufacturer, product manufacturer, product packager, delivery service, or transporter. § 1

### STARTING SEPTEMBER 1, 2021

- In September 2021, with the approval of the Connecticut Department of Consumer Protection and approval from the local zoning commission, existing medical marijuana dispensaries may become "hybrid retailers" to also serve adult-use consumers.
- The chief zoning official of a municipality shall report, in writing, any zoning changes adopted by the municipality regarding cannabis establishments pursuant to this subsection to the Secretary of the Office of Policy and Management and to the department not later than fourteen days after the adoption of such changes.

### WHAT COMMUNITIES CANNOT DO

Cannabis Act bars municipalities or local officials from:

- Prohibiting the delivery of cannabis to (1) consumers or (2) qualifying medical marijuana patients or their caregivers, if the delivery is made by someone authorized to do so under the bill (e.g., retailers, dispensary facilities, or delivery services).
- Prohibiting the transport of cannabis to, from, or through the municipality by anyone licensed or registered to do so.
- Prohibiting the delivery of cannabis when the delivery is made by a retailer, hybrid retailer, dispensary facility, delivery service, micro-cultivator or other person authorized to make such delivery pursuant to Cannabis Act.
- Conditioning any official action on, or accepting any donations from, any cannabis establishment or applicants for cannabis establishment licenses in the municipality.
- Negotiating or entering into a local host agreement with a cannabis establishment or license applicant.

SUGGESTED DEFINITIONS RELATED TO CANNABIS ESTABLISHMENT USES:

**Cannabis Establishment** - A producer, dispensary facility, cultivator, micro-cultivator, retailer, hybrid retailer (i.e., licensed to sell both recreational cannabis and medical marijuana) of products containing cannabis; or a manufacturer, packager, delivery service, or transporter of products containing cannabis, including cannabis-infused food and beverage products.

**Cannabis Producer** - An individual or business that possesses a state or municipal license to grow, harvest, dry, trim, cure, and package cannabis.

**Cannabis Cultivator** - An individual or business producing cannabis flowers.

**Cannabis Micro-Cultivator** - An individual or business that produces cannabis flowers in a limited-sized grow space.

**Cannabis Food and Beverage Manufacturer** - An individual or business that produces cannabis-infused foods and beverages.

**Cannabis Product Manufacturer** - An individual or business that participates in any aspect of the cannabis extraction and infusion processes, including processing, preparing, holding, storing, packaging, or labeling of cannabis products. Cannabis manufacturing also includes any processing, preparing, holding, or storing of components and ingredients.

**Cannabis Product Packager** - An individual or business that focuses on assisting the proper and accurate packaging of cannabis products into pre-weighted containers and pre-rolled joints.

**Cannabis Dispensary Facility** - Regulated locations in which a person can purchase cannabis and cannabis related items for medical or recreational use.

**Cannabis Retailer** - An individual or business that sells, supplies, or offers recreational cannabis products for sale directly to consumers.

**Cannabis Hybrid Retailer** - An individual or business that sells, supplies, or offers cannabis recreational and medical products for sale directly to consumers

**Cannabis Delivery Service or Transporter** - Any number of companies or individuals that are involved in the distribution of cannabis by way of delivery. This could be either mail-order delivery, or hand delivery.

**SAMPLE ZONING REGULATION**

Defined uses may be placed in a table of permitted uses with their approval based on one of the following levels.

- Allowed after Site Plan approval by the Zoning Commission, subject to the conditional permit requirements of your local zoning regulations.
- Allowed by Special Permit or Exception approved by the Zoning Commission subject to any specific standards applicable requirements in these regulations.
- Allowed by Special Permit or Exception granted by the Zoning Board of Appeals.

Welcome to the Connecticut Chapter of the American Planning Association (CCAPA)

# 2021 Legislative Activity

## SB1201 AN ACT CONCERNING RESPONSIBLE AND EQUITABLE REGULATION OF ADULT-USE CANNABIS.

Passed the House and Senate.

Provisions include

### § 35 — FINAL LICENSE

Among other requirements, requires that applicants for final cannabis establishment licenses certify that they have any necessary local zoning approval for the cannabis establishment operation.

§ 37 Cultivation of cannabis does not qualify as agriculture or farming.

§ 83 Municipal electors may petition for referendum on whether to allow local sale of recreation marijuana. Existing establishment would not be affected.

§ 84 Municipalities may regulate the burning of cannabis products on municipal property, and in the outdoor sections of restaurants. Municipalities with more than 50,000 residents must designate a place where public consumption of cannabis is permitted.

§ 148 — MUNICIPAL ZONING AUTHORITY AND APPROVAL REQUIREMENTS  
Authorizes municipalities to enact certain zoning regulations or ordinances for cannabis establishments; temporarily prohibits municipalities from granting zoning approval for more retailers or micro-cultivators than a number that would allow for one of each for every 25,000 residents; allows the DCP commissioner to set a cap in the future. **If municipalities take no action through zoning regulations or ordinances, these establishments must be zoned as similar uses would be.**

The bill allows municipalities to amend their zoning regulations or local ordinances to take the following actions regarding cannabis establishments:  
1. prohibit them from opening; 2. reasonably restrict their hours and signage; or 3. restrict their proximity to religious institutions, schools, charitable institutions, hospitals, veterans' homes, or certain military establishments.

The bill requires municipal chief zoning officials to report these zoning changes to the OPM secretary and DCP. They must report in writing within 14 days after adopting the change. The bill generally prohibits any restrictions on cannabis establishment hours, zoning, or signage from applying to existing businesses until five years after the restriction is adopted. This delay does not apply if the business converts to a different license type.

A "cannabis establishment" is a producer, dispensary, manufacturer, retailer, packager, or delivery service/transporter. A cultivator is a large grower with an establishment not less than 15,000 square feet of grow space. A delivery service delivers cannabis products, a hybrid retailer is licensed to sell cannabis and medical marijuana, a food and beverage manufacture acquires cannabis to produce food and beverages, a micro-cultivator has a grow space of 2,000 to 10,000 square feet, a retailer sells cannabis to consumers and research programs.

**From:** John Colonese  
**Sent:** Monday, July 26, 2021 4:31 PM  
**To:** Douglas Harding; kdurao@icloud.com  
**Cc:** Lisa Houlihan  
**Subject:** Temporary Signs - Ellington Zoning Regulations  
**Attachments:** TEMP SIGN GUIDE EFFECTIVE 2019\_07-01.pdf

Dear Doug & Keith,

With the upcoming election the intention of this email is to forward the zoning regulations for temporary political signs. Of note, the zoning regulations allow for a maximum of 12 square feet for temporary signs, and allow for an exemption for political signs from the number of signs permitted on a property at any one time.

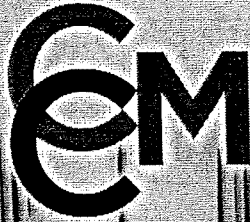
As your committees meet please review the attached guide. If you have any questions, feel free to contact the Planning Department.

Also, if you are not the appropriate contact for this information please let me know and I will forward it to the correct person or persons. Thank you.

Kind regards,

John D. Colonese, CZEO  
Assistant Town Planner/Zoning & Wetlands Enforcement Officer  
P.O. Box 187  
57 Main Street  
Ellington, CT 06029  
Phone (860) 870-3120  
[jcolonese@ellington-ct.gov](mailto:jcolonese@ellington-ct.gov)





Connecticut Conference  
of Municipalities



# AMERICAN RESCUE PLAN TOOLKIT



# CCM ARP ADVISORY COMMITTEE MUNICIPAL TOOLKIT

## OVERVIEW

As municipal leaders begin to determine how best to use the funding provided by the American Rescue Plan (ARP), CCM's ARP Advisory Committee has developed the following toolkit to help guide thinking around these actions. Allocating these funds should provide an opportunity for local leaders to engage partners in their town and region to jumpstart a long and large economic recovery from the Covid-19 pandemic and its effects. It also lets us address long-term issues that we haven't had the ability to adequately deal with before, while balancing ever changing local needs with declining support from the state and federal governments.

This toolkit is intended to be a resource and supplement formal information provided by federal and state government agencies. CCM encourages local officials to continue to refer to the Interim Rule issued by the Department of Treasury for formal guidance.



**Governor Lamont spoke at the ARP Advisory committee's recent meeting held at CCM's offices in New Haven**

- and nonprofits as well as aid to affected industries such as tourism, travel, and hospitality;
- Providing government services previously cut due to pandemic-related revenue shortfalls, and;
- Making needed investments in water, sewer, or broadband infrastructure.

**Funds explicitly cannot be used for:**

- Paying down unfunded pension liabilities
- Applying as matching funds toward other federal grants
- Paying interest or principal on outstanding debt, or for consent decrees/legal settlements
- Contributing to rainy day funds

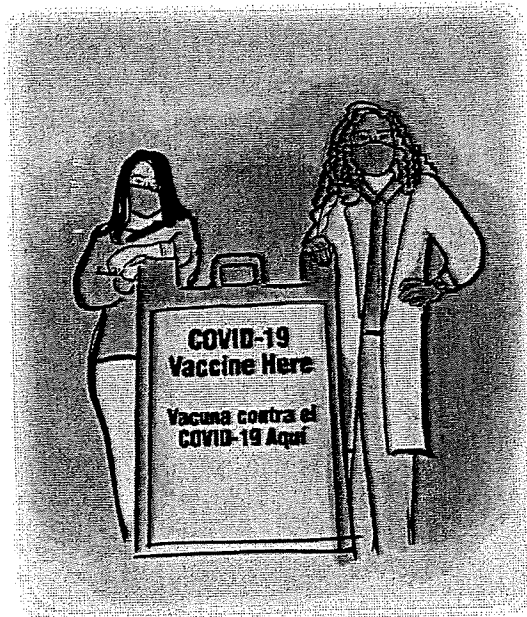
The Department of Treasury created an Interim Rule to guide eligible uses for the ARP funding. Eligible uses can be segregated into five broad categories and broken down further based on the following:

- **Non-exclusive lists of allowable expenditures** (Categories include intervention for Qualified Census Tracts, public health, direct aid, community & economic development, infrastructure)
- **Encouraged expenditures** (Categories include addressing racial disparities, inequities, disproportionate harm)
- **Prohibited expenditures** (Categories include pension funds, legal settlements, federal match requirements)

**ELIGIBLE USES ARE SEPARATED INTO FIVE CATEGORIES:**

- **Support public health response:**
  - To contain and mitigate the spread of COVID-19 including vaccination, medical expenses, testing and contact tracing,

- quarantine costs and other related activities.
- Behavioral healthcare services, including mental health or substance abuse treatment, crisis intervention and other related services.



- Provide payroll and benefits for public health and public safety officials on their work related to COVID-19 response. This includes retroactive pay.
- **Address negative economic impacts:**
  - Assistance to business and households including assistance to families, those unemployed, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality through grants or loans.
  - Rebuilding public sector capacity by rehiring staff and implementing economic relief programs.
- **Investments in water and sewer:**
  - Projects eligible under the Clean Water State Revolving Fund
  - Construct, improve, and repair

**Table 2: Reporting requirements by recipient type**

Recipient	Interim Report	Project and Expenditure Report	Recovery Plan Performance Report
States, U.S. territories, metropolitan cities and counties with a population that exceeds 250,000 residents	By August 31, 2021, with expenditure summary by category	By October 31, 2021, and then 30 days after the end of each quarter thereafter <sup>9</sup>	By August 31, 2021, and annually thereafter by July 31 <sup>10</sup>
Metropolitan cities and counties with a population below 250,000 residents which received more than \$5 million in SLFRF funding			Not required
Tribal Governments		By October 31, 2021, and then annually thereafter <sup>11</sup>	
Metropolitan cities and counties with a population below 250,000 residents which received less than \$5 million in SLFRF funding			
NEUs	Not required		

additional details and clarification for each recipient’s compliance and reporting responsibilities, and should be read in concert with the Award Terms and Conditions, the authorizing statute, the Interim Final Rule (IFR), and other regulatory and statutory requirements.

All eligible recipients are required to have a DUNS Number previously issued by Dun & Bradstreet (<https://www.dnb.com/>) and an active registration with the System for Award Management (SAM) (<https://www.sam.gov>). These are for systems used for receipt of funds (for metropolitan cities) and reporting (for all).

General reporting requirements will be based on the statutory eligible uses. Within those statutory uses, reporting recipients will need to align them to single expenditure category (with a choice of 66 different categories). Document-

tation and evidence will need to be provided to ensure compliance within each category. Records and financial documents will need to be maintained for five years after program (December 2026).

Generally, recipients will be subject to Uniform Administrative Requirements, Cost Principles, and Audit Requirements which are outlined in the Uniform Reporting Guidance. If funds are transferred to a third party, the municipality is still responsible for reporting of subrecipients and subawards. Therefore, municipalities will need to develop robust internal controls and effective monitoring to ensure compliance. This includes developing written process/procedures for reporting, monitoring and risk assessment, along with compliance with Civil Rights requirements, manage and monitor subrecipients for compliance, ensure proper reporting requirements,

area nonprofits. Funding can also support other forms of engagement with residents and communities.

- **Grants/Loans:** The pandemic has drained many nonprofits of resources, including funding they may have saved for capital projects that would increase the efficiency of their programs. Investments in these projects – one-time expenditures – frees up nonprofit dollars that can be used for services and to improve the community in which they work.
- **Grief counseling** for people who have lost loved ones due to Covid (or other reasons during Covid)
- **Tourism venues** often need to make structural changes and, having been closed, need funding for those. They may also need funds to subsidize performances and exhibits which, due to social distancing, cannot draw large enough crowds to support all the related costs.
- **Funding for existing mobile crisis teams designated by DMHAS and DCF** (Emergency Mobile Psychiatric Services) to add crisis clinicians to respond to community needs and which could be imbedded with police.
- **Programs for Substance Abuse Prevention and Treatment.** People with substance use disorders are more likely to catch COVID, get seriously ill or die from COVID and are more likely to become homeless. Substance use has been increasing during the pandemic.
- **Mental Health First Aid:** Similar in concept to CPR, Mental Health First Aid trains people in the community in ways to

respond to mental health and substance abuse crises, e.g., training for trauma care.

- **Funding is needed** for Triage Therapists in outpatient clinics to handle increased caseloads and for psychiatrists and APRNs for medication management in clinics. Funding for regular



clinical services will be needed due to the increased stresses brought by the pandemic.

- **School-based Mental Health Clinics.** Note that these are different from school-based health clinics that are in many communities. The mental health clinics can serve mental health and substance use needs of students and families that are growing as the pandemic continues.

**Use existing delivery channels for efficiency:** It would be prudent to spend your aid on direct assistance, programs and investments, rather than using precious resources to create new offices or delivery systems. If that means working with outside partners, including nonprofits or nearby communities that are already engaged in the work so you can leverage their



The CDC has a vision of creating a food tech hub that harnesses the region's many food-related assets into a business accelerator with shared production and storage infrastructure, a startup fund to support diverse entrepreneurs, and a workforce development center to prepare people to attain and advance in a career. Parts of ARP run through the Economic Development Administration (EDA) and the Department of Agriculture have programs that could support such initiatives; the city and county should consider how its allocation could be used to complement this work.

This effort includes, **coordinating with state and federal programs.** The state is using its federal aid and its own resources to address a wide range of urgent needs, such as rent and mortgage relief, small business relief, support for child care, access to public transportation, and much more. Work closely with the state and your COGS to complement each other. If businesses and residents in your community already qualify for state funding, look at ways you can augment this or repurpose your aid to address community needs in other ways, rather than spending resources unnecessarily.

**Convene all stakeholders and build consensus.** Decisions on how to spend ARPA funds will likely be concentrated in the hands of municipal CEOs, but the power to act should not short-circuit an open process to bring all stakeholders in the community together to engage in dialogue about needs, resources and priority-setting, including government colleagues, nonprofits, businesses and others.

True engagement and listening will minimize friction and encourage collaboration over ARP's three-and-a-half-year lifespan.

Some examples of those that should be convened at the local level include:

- Boards of Selectman
- Chambers of Commerce (and other economic development groups or commissions)
- Local non-profits (in particular those focused on housing and food assistance)
- Local tourism groups
- Municipal attorney or legal counsel (to ensure compliance)
- Public health officials
- Local Internet Service Providers (ISPs)
- Public works and/or water and sewer officials
- Councils of Government (COGs)

**Be organized and transparent:**

Beyond the ARP at the very local level, drawing Long-Term Recovery Committees, these can execute strategic investments and monitor impact. These councils should be public/private partnerships that include small businesses, neighborhood leaders, social service agencies, philanthropic leaders, and corporate heads. They would be tasked with aggregating and supplementing existing recovery plans, setting goals, recommending investments, and tracking results. Furthermore, these Committees can serve as a unified voice to liaise with implementing agencies.

**Build Capacity: Create intermediaries that can get stuff done**

Focus on creating intermediaries with the capacity, capital and community standing to drive the growth of business growth. In con-

**Prioritize short-term investments with lasting benefits:** Consider multiple ways to provide assistance and choose the path that will go farther and last longer. For example, using ARPA funds to support struggling businesses and households could be coordinated with education and training on financial planning (assuming that would be an allowable use).

**Identify and address pre-COVID inhibitors to growth:** ARPA allows investments in certain types of infrastructure, including water, sewer and broadband. If the quality of these systems has hampered your growth in the past, then it would make sense to consider such investments. Capital investments that improve water quality and access, or close the digital divide, can also make great economic sense and free up funds for future investments as well.

**Measure progress throughout**

**to inform ongoing plans:** This is a best practice that will be very helpful to allow adjustments over the next several years, ensuring ARPA's success.

The most effective strategic plans have four key phases:

1. make sense of the situation (investigate all angles with all stakeholders);
2. make a plan (choosing what to do and what not to do);
3. make it happen (making sure everyone is aligned with your strategy); and
4. make revisions and repeat steps 1-4. It is impossible to make revisions and improve if you do not measure whether you are hitting your targets or achieving expected results. Making changes is not an admission of failure, it is a commitment to excellence and a best practice

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## REFERENCES

- Beckwith, G. (2021, April). *Unprecedented federal aid places great opportunity and immense responsibility on local leaders*. Retrieved May 25, 2021, from Massachusetts Municipal Association: <https://www.mma.org/advocacy/unprecedented-federal-aid-places-great-opportunity-and-immense-responsibility-on-local-leaders/>
- Berube, A., & Bylerly-Duke, E. (2021, May 13). *Four takeaways on new guidance for state and local fiscal relief under the American Rescue Plan*. Retrieved May 25, 2021, from Brookings Institution: <https://www.brookings.edu/blog/the-avenue/2021/05/13/four-takeaways-on-new-guidance-for-state-and-local-fiscal-relief-under-the-american-rescue-plan/>
- Katz, B., & Higgins, C. (2021, March 12). *Deploying the American Rescue Plan*. Retrieved May 25, 2021, from The New Localism: <https://www.thenewlocalism.com/newsletter/deploying-the-american-rescue-plan/>
- Whitehead, B., & Parilla, J. (2021, March 23). *How should local leaders use their American Rescue Plan funding?* Retrieved May 25, 2021, from Brookings Institution: <https://www.brookings.edu/blog/the-avenue/2021/03/23/how-should-local-leaders-use-their-american-rescue-plan-funding/>

Four Steps for Calculating Lost Revenue:

1. Identify revenues collected in the most recent full fiscal year prior to the public health emergency (i.e., last full fiscal year before January 27, 2020), called the base year revenue.
2. Estimate counterfactual revenue, which is equal to base year revenue \* [(1 + growth adjustment) ^ (n/12)], where n is the number of months elapsed since the end of the base year to the calculation date, and growth adjustment is the greater of 4.1 percent and the recipient's average annual revenue growth in the three full fiscal years prior to the COVID-19 public health emergency.
3. Identify actual revenue, which equals revenues collected over the past twelve months as of the calculation date
4. The extent of the reduction in revenue is equal to counterfactual revenue less actual revenue. If actual revenue exceeds counterfactual revenue, the extent of the reduction in revenue is set to zero for that calculation date.

The Government Finance Officers Association (GFOA) developed a beta-tested revenue replacement calculator modeled off the US Treasury and US Census guidance on revenue calculation: <https://www.nlc.org/wp-content/uploads/2021/06/GFOA-Rev-Calculator.xlsx>

### **3. ONCE REVENUE LOSS IS DETERMINED, WHAT TYPES OF “GOVERNMENT SERVICES” CAN THE FUNDING BE USED FOR?**

Government services can include, but are not limited to, maintenance of

infrastructure (including roads); modernization of cybersecurity (including hardware, software, and protection of critical infrastructure); health services; environmental remediation; school or educational services; and the provision of police, fire, and other public safety services.

### **4. CAN THE FUNDS BE USED RETROACTIVELY FOR ACCEPTABLE INFRASTRUCTURE PROJECTS?**

Generally, no. Most uses under the Interim Final Rule permits funds to cover costs incurred beginning on March 3, 2021 unless otherwise specified in certain sections.

### **5. CAN FUNDS BE USED FOR GRANTS TO BUSINESSES AND OTHER ECONOMIC DEVELOPMENT INVESTMENTS?**

Recipients must demonstrate that funding uses directly address a negative economic impact of the COVID-19 public health emergency, including funds used for economic or workforce development.

Assistance to small business and non-profits includes, but is not limited to:

- Loans or grants to mitigate financial hardship such as declines in revenues or impacts of periods of business closure, for example by supporting payroll and benefits costs, costs to retain employees, mortgage, rent, or utilities costs, and other operating costs;
- Loans, grants, or in-kind assistance to implement COVID-19 prevention or mitigation tactics, such as physical plant changes to enable social distancing, enhanced cleaning efforts, barriers or partitions, or COVID-19



- and financial assistance.
- **Capacity-building efforts** such as additional intervention workers; training and professional development for intervention workers; and hiring and training workers to administer the community violence intervention programs.
- **Building stronger neighborhoods and communities, including:** supportive housing and other services for individuals experiencing homelessness, development of affordable housing, and housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity;
- **Addressing educational disparities exacerbated by COVID-19, including:** early learning services, increasing resources for high-poverty school districts, educational services like tutoring or afterschool programs, and supports for students' social, emotional, and mental health needs; and
- **Promoting healthy childhood environments, including:** child care, home visiting programs for families with young children, and enhanced services for child welfare-involved families and foster youth.

Programs or services that address or mitigate the impacts of the COVID-19 public health emergency on education, childhood health and welfare include:

- Summer education and enrichment programs in these communities, which include many communities currently struggling with high levels of violence;
- Programs that address learning loss and keep students productively engaged;

- Enhanced services for foster youths and home visiting programs; and
- Summer camps and recreation.

## 7. CAN CELLULAR NETWORKS BE CONSIDERED ELIGIBLE UNDER BROADBAND?

While the IFR encourages fiber investment, it does not require it – but it does require that broadband projects be capable of 100/100 Mbps service or, if that is not possible, a minimum of 100/20 Mbps service with the ability to scale to 100/100 Mbps. Projects also need to be focused on locations currently lacking 25/3 Mbps service.

## 8. DO TOWNS AND CITIES NEED PRE-APPROVAL FOR PROJECTS?

Recipients do not need approval from Treasury to determine whether an investment in a water, sewer, or broadband project. Each recipient should review the Interim Final Rule (IFR), along with the preamble to the Interim Final Rule, in order to make its own assessment of whether its intended project meets the eligibility criteria in the IFR. A recipient that makes its own determination that a project meets the eligibility criteria as outlined in the IFR may pursue the project as a project without pre-approval from Treasury. Local government recipients similarly do not need state approval to determine that a project is eligible. However, recipients should be cognizant of other federal or state laws or regulations that may apply to construction projects independent of funding conditions and that may require pre-approval.

There are multiple ways that investments in improving outdoor spaces could qualify as eligible uses. These programs and services could include services designed to build stronger neighborhoods and communities and to address health disparities and the social determinants of health. The Interim Final Rule provides a non-exhaustive list of eligible services to respond to the needs of communities disproportionately impacted by the pandemic, and recipients identify other uses of funds that do so, consistent with the Rule's framework. For example, investments in parks, public plazas, and other public outdoor recreation spaces may be responsive to the needs of disproportionately impacted communities by promoting healthier living environments and outdoor recreation and socialization to mitigate the spread of COVID-19.

In addition, recipients may provide assistance to small businesses in all communities. Assistance to small businesses could include support to enhance outdoor spaces for COVID-19 mitigation (e.g., restaurant patios) or to improve the built environment of the neighborhood (e.g., façade improvements).

#### **14. CAN FUNDS BE USED TO ASSIST SMALL BUSINESS STARTUPS AS A RESPONSE TO THE NEGATIVE ECONOMIC IMPACT?**

A recipient could assist small business startups with additional costs associated with COVID-19 mitigation tactics (e.g., barriers or partitions; enhanced cleaning; or physical plant changes to enable greater use of outdoor space). Funds can be used to respond to

a negative economic impact of COVID19 by assisting businesses that have faced increased costs to starting the business due to the pandemic, or that the small business had lost expected startup capital due to the pandemic. In addition, funds can be used for job training for unemployed individuals and initiatives to support small business startups and individuals seeking to start small businesses.

#### **15. HOW CAN I USE FUNDS TO PREVENT AND RESPOND TO CRIME, AND SUPPORT PUBLIC SAFETY?**

The Interim Final Rule provides several ways for recipients to “respond to” this pandemic-related gun violence, ranging from community violence intervention programs to mental health services to hiring of public safety personnel. Below are some examples of how the funds can be used address public safety:

- Rehire police officers and other public servants to restore law enforcement to pre-pandemic levels or paying overtime where the funds are directly focused on advancing community policing strategies.
- In communities where an increase in violence is a result of the pandemic, funding Community Violence Intervention (CVI) programs, advancing additional enforcement efforts to reduce gun violence exacerbated by the pandemic.
- Investing in technology and equipment to allow law enforcement to more efficiently and effectively respond to the rise in gun violence resulting from the pandemic