

Regulations of Connecticut State Agencies

TITLE 8. Zoning, Planning, Housing, Economic and Community Development and Human Re-

Agency

Department of Economic and Community Development

Subject

Affordable Housing Land Use Appeals Procedures

Inclusive Sections

§§ 8-30g-1—8-30g-11

CONTENTS

Sec. 8-30g-1.	Definitions
Sec. 8-30g-2.	Promulgation of list of municipalities exempt from section 8-30g of the Connecticut General Statutes
Sec. 8-30g-3—8-30g-4.	Repealed
Sec. 8-30g-5.	Repealed
Sec. 8-30g-6.	State certificate of affordable housing completion; moratorium on applicability of section 8-30g of the Connecticut General Statutes to certain affordable housing applications
Sec. 8-30g-7.	Affordability plans and conceptual site plans
Sec. 8-30g-8.	Maximum housing payment calculations in set-aside developments
Model Deed Restrictions for Affordable Housing Land Use Appeals Procedure	
Sec. 8-30g-9.	Model deed restriction for a set aside development
Sec. 8-30g-10.	Model deed restriction for promulgation of the affordable housing appeals list
Sec. 8-30g-11.	Dwelling units subject to existing restrictions

Affordable Housing Land Use Appeals Procedures

Sec. 8-30g-1. Definitions

The following definitions apply to Sections 8-30g-1 through 8-30g-11 inclusive, of the Regulations of Connecticut State Agencies:

(1) “Affirmative fair housing marketing plan” means a plan to attract, as tenants or purchasers of both market-rate and price-restricted units in an affordable housing development, members of racial and ethnic groups who reside within the metropolitan statistical area or non-metropolitan statistical area within which the affordable housing development is located, but who are least likely to apply, as defined in section 8-37ee of the Regulations of Connecticut State Agencies, for occupancy within such development;

(2) “Affordable housing appeals list” means the list, promulgated by the commissioner pursuant to section 8-30g(k) of the Connecticut General Statutes and section 8-30g-2 of the Regulations of Connecticut State Agencies, of those municipalities that are exempt from the affordable housing land use appeals procedure;

(3) “Assisted Housing” means “assisted housing” as defined in section 8-30g of the Connecticut General Statutes;

(4) “Commissioner” means the commissioner of Economic and Community Development;

(5) “Covenant or Restriction” means an enforceable requirement, in the form of a covenant, restriction or similar mechanism, contained in a deed that is recorded on the land records of the municipality in which the subject dwelling unit or set aside development is located;

(6) “Department” means the Department of Economic and Community Development;

(7) “Dwelling unit” means any house or building, or portion thereof, which may include legally approved accessory apartments, which is occupied, is designed to be occupied, or is rented, leased, or hired out to be occupied, as a home or residence of one or more persons;

(8) “Elderly unit” means a unit located in a residential development that complies with the requirements for age-restricted housing stated in 42 USC 3607 and corresponding regulations;

(9) “Housing unit-equivalent points” means the point value, as established in section 8-30g of the Connecticut General Statutes, assigned to a dwelling unit for the purpose of obtaining a state certificate of affordable housing completion;

(10) “Median income” means “median income” as defined in section 8-30g of the Connecticut General Statutes;

(11) “Moratorium” means a time period during which certain applications for affordable housing development, as provided in section 8-30g of the Connecticut General Statutes, are not subject to the procedure stated in section 8-30g of the Connecticut General Statutes for appeals to the superior court;

(12) “Municipality” means “municipality” as defined in section 8-30g of the Connecticut General Statutes;

(13) “Person” means any individual, partnership, corporation, association, governmental

Regulations of Connecticut State Agencies

TITLE 8. Zoning, Planning, Housing, Economic and Community Development and Human Re-
§8-30g-2 *Department of Economic and Community Develop-*

subdivision, agency, or public or private organization of any type;

(14) “Set-aside development” means “set-aside development” as defined in section 8-30g of the Connecticut General Statutes;

(15) “State certificate of affordable housing completion” means a document issued by the department, that a municipality has satisfied the requirements, as set forth in sections 8-30g-1 through 8-30g-11, inclusive, of the Regulations of Connecticut State Agencies, necessary for a moratorium on the applicability of section 8-30g of the Connecticut General Statutes to certain applications for affordable housing development. A certificate is not effective until it has been published in the Connecticut Law Journal in accordance with section 8-30g of the Connecticut General Statutes; and

(16) “Total Estimated Dwelling Units” means the number of dwelling units in the municipality, based on the most recent United States decennial census published by the United States Census Bureau.

(Effective December 27, 1990; Amended April 29, 2002; Amended May 3, 2005)

Sec. 8-30g-2. Promulgation of list of municipalities exempt from section 8-30g of the Connecticut General Statutes

(a) The Commissioner shall promulgate, annually, a list containing each municipality in the state and identifying those municipalities in which at least ten percent (10%) of all dwelling units in the municipality are:

- (1) Assisted housing;
- (2) Currently financed by Connecticut Housing Finance Authority mortgages; or
- (3) Subject to deeds containing covenants or restrictions which require that such dwelling units be sold or rented at, or below, prices which:

(A) Will preserve the units as housing for individuals or families whose annual income is less than or equal to eighty percent (80%) of the median income; and

(B) Are calculated, consistent with section 8-30g-8 of the Regulations of Connecticut State Agencies, by limiting assumed annual household expenditures for housing to no more than thirty percent (30%) of such household annual income.

(4) Mobile manufactured homes located in mobile manufactured home parks or legally approved accessory apartments which homes or apartments are subject to a covenant or restriction substantially in compliance with section 8-30g-10 of these regulations.

(b) To be counted as assisted housing:

(1) The housing unit must be occupied by persons receiving either state rental assistance under sections 17b-812 to 17b-814, inclusive, of the Connecticut General Statutes or Federal Rental Assistance under 42 USC 1437f; or

(2) The housing must meet the following conditions:

(A) It must be receiving or will receive financial assistance under a governmental program, which assistance may come from federal, state, or local government, or any combination of these levels of government;

(B) The assistance must be for construction or substantial rehabilitation of low and

Regulations of Connecticut State Agencies

TITLE 8. Zoning, Planning, Housing, Economic and Community Development and Human Re- <i>Department of Economic and Community Develop-</i>	§8-30g-2
--	----------

moderate income housing, as defined by the income eligibility rules of the governmental program providing the financial assistance. "Construction" refers to the creation of a new dwelling unit or units which did not previously exist. "Substantial rehabilitation" refers to rehabilitation of existing structures or units for which the cost of rehabilitation equals at least twenty-five thousand dollars and 00/100 (\$25,000.00) per unit or twenty-five percent (25%) of the fair market value of the property, whichever is less; and

(C) The housing must be for low or moderate income persons, as defined by the income eligibility rules of the governmental program providing the financial assistance. Any such housing must restrict occupancy of some or all units to persons of low and moderate income. If only a portion of the units in the housing are restricted to occupancy by low or moderate income persons, only the number of units so restricted shall be included on the list. If such restrictions are in effect for a limited period of time, such housing shall be considered as assisted housing only for the period of time that such restrictions are in effect.

(c) To be counted as housing subject to deed covenants or deed restrictions:

(1) The covenants or restrictions must provide that the housing units must, at time of initial occupancy by each new household, be occupied by persons and families:

(A) Whose annual income does not exceed eighty percent (80%) of the median income; and

(B) For whom the maximum cost of such housing has been calculated by limiting assumed annual household expenditures for housing to no more than thirty percent (30%) of such household annual income.

(i) For rental housing, the cost of housing includes the cost of rent, common charges in the case of a rental in a common interest community; and heat and utility costs, excluding television, telecommunications, and information technology services. Heat and utility costs may be calculated by reasonable estimate.

(ii) For ownership housing, the cost of housing includes periodic mortgage payments; real property taxes; real property insurance; common charges in the case of a common interest community; and heat and utility costs, excluding television, telecommunications, and information technology services. Heat and utility costs may be calculated by reasonable estimate.

(2) The covenants or restrictions must run with the land and be binding on each subsequent owner of the property. If such covenants or restrictions are in effect for only a limited period of time, such housing shall be counted for purposes of the list only for the time period that such covenants or restrictions are in effect. If such covenants or restrictions cover only a portion of the units, only those units shall be included on the list.

(d) In order for an accessory apartment as defined in section 8-30g(k) of the General Statutes to be eligible to be counted for purposes of the affordable housing appeals list, it shall be legally approved in accordance with the criteria set forth in section 8-30g(k) of the General Statutes. The municipality in which such accessory apartment is located shall be responsible for inspecting such accessory apartment to ensure it meets the criteria for legal approval, and shall maintain a list of deed restricted legally approved accessory apartments.

Regulations of Connecticut State Agencies

TITLE 8. Zoning, Planning, Housing, Economic and Community Development and Human Re-
§8-30g-2 *Department of Economic and Community Develop-*

Such list of legally approved accessory apartments shall be submitted to the commissioner in addition to other data submitted for purposes of promulgating the affordable housing appeals list.

(e) The list shall be promulgated at the beginning of each calendar year and shall cover housing occupied by September 30 of the previous calendar year. A notice of availability of the list shall be published in the Connecticut Law Journal every year.

(f) The list shall be compiled using the following information to determine the number of qualifying units in a municipality: The Department's Construction Activity Information System; Connecticut Housing Finance Authority's mortgages; the Department of Social Services' Rental Assistance Program; privately-owned properties with deed restrictions and covenants and the list of deed restricted legally approved accessory apartments, provided by individual municipalities; and statistics on assisted housing provided by the Department, individual municipalities, Connecticut Housing Finance Authority, Farmers' Home Administration, and the United States Department of Housing and Urban Development.

(g) The determination of whether a municipality shall be included in the list set forth in subsection (a) above shall be made based on the following calculation:

$$\frac{(\text{Assisted Units} + \text{CHFA mortgages} + \text{Deed restricted units} + \text{Deed restricted mobile manufactured homes located in mobile manufactured home parks} + \text{Deed restricted legally approved accessory apartments})}{\text{Total Estimated dwelling units}} \times 100\%$$

If the result of the calculation is ten percent (10%) or more, the municipality shall be included in the list.

(h) Any person who wishes to challenge the inclusion of a municipality on the list of municipalities in which the provisions of section 8-30g are not available, or any municipality that wishes to challenge its exclusion from the list, may do so by giving written notice to the commissioner and, in the case of a challenge to inclusion, to the chief elected official of the affected municipality. Such notice shall include a detailed statement of the reasons for the challenge, and an identification of the dwelling units in question, if known.

(i) Upon receipt of such a challenge, the commissioner may undertake any investigation deemed necessary to resolve the challenge. Within forty-five (45) business days after receipt of the challenge, unless the commissioner extends such period to accommodate his investigation, the commissioner shall transmit his findings to the person initiating the challenge and to the chief elected official of the affected municipality.

(j) If the commissioner finds that a municipality was erroneously included or excluded

Regulations of Connecticut State Agencies

TITLE 8. Zoning, Planning, Housing, Economic and Community Development and Human Re-
Department of Economic and Community Develop- §8-30g-6

from the list, the list shall be amended.

(Effective January 3, 1992; Amended April 29, 2002; Amended May 3, 2005)

Sec. 8-30g-3—8-30g-4. Repealed

Repealed April 29, 2002.

Sec. 8-30g-5. Repealed

Repealed January 3, 1992.

Sec. 8-30g-6. State certificate of affordable housing completion; moratorium on applicability of section 8-30g of the Connecticut General Statutes to certain affordable housing applications

(a) As provided in section 8-30g(l) of the Connecticut General Statutes, certain applications for affordable housing development shall be subject to a moratorium for a period of three years from the publication by the Department of notice of issuance of a state certificate of affordable housing completion, or during a period of qualification for provisional approval of a state certificate of affordable housing completion.

(b) The chief elected official of any municipality may apply to the commissioner for a state certificate of affordable housing completion.

(c) An application for a state certificate of affordable housing completion shall include at least the following:

(1) A letter to the commissioner signed by the chief elected official of the municipality;

(2) A letter from an attorney representing the municipality, stating an opinion that the application complies with section 8-30g of the Connecticut General Statutes and this section as in effect on the day the application is submitted;

(3) On a form provided by the Department, a summary calculation of the housing unit-equivalent points required of the applicant municipality in order to qualify for a state certificate;

(4) Documentation of the existence of the required housing unit-equivalent points, in accordance with the specifications of subsection (e) of this section;

(5) The justification for claiming such points, with reference to the descriptions and point schedule set forth in section 8-30g of the Connecticut General Statutes and subsection (i) of this section;

(6) Certification by the applicant municipality that for each unit for which housing unit-equivalent points are claimed, a valid certificate of occupancy has been issued by the building official of such municipality and is currently in effect, provided that copies of such certificates of occupancy need not be submitted;

(7) Certification that the municipality has identified and deducted, or otherwise excluded from the total housing unit-equivalent points claimed, all units that as a result of action by the municipality, municipal housing authority, or municipal agency, no longer qualify, as of the date of submission of the application, as providing housing unit-equivalent points,

Regulations of Connecticut State Agencies

TITLE 8. Zoning, Planning, Housing, Economic and Community Development and Human Re-
§8-30g-6 *Department of Economic and Community Develop-*

without regard to whether the units were originally constructed before or after July 1, 1990;

(8) All documentation reflecting compliance with the notice, publication, and other procedural requirements set forth in subsection (j) of this section;

(9) A fee sufficient to reimburse the department for its costs of publication of notices as set forth in sections 8-30g-1 to 8-30g-11, inclusive, of the Regulations of Connecticut State Agencies.

(d) The applicant municipality shall bear the costs of application notice, publication, and procedural compliance with respect to an application for a state certificate of affordable housing compliance.

(e) Documentation of the existence of the housing unit-equivalent points necessary to qualify for a state certificate of affordable housing completion shall include the following:

(1) A numbered list of all dwelling units that furnish the basis of housing unit-equivalent points being counted toward the qualifying minimum;

(2) The address of each such unit; and

(3) The housing unit-equivalent points and classification claimed for each such unit.

(f) Each dwelling unit claimed to provide housing unit-equivalent points toward a state certificate of affordable housing completion by virtue of a deed restriction, recorded covenant, zoning regulation, zoning approval condition, financing agreement, affordability plan or similar mechanism shall be documented as an enforceable obligation with respect to both income qualifications and maximum housing payments, that is binding at the time of application for at least the duration required by section 8-30g of the Connecticut General Statutes at the time of the development's submission to a commission, by the submission of a copy of one or more of the following:

(1) Deed restriction or covenant;

(2) Zoning, subdivision or other municipal land use approval or permit containing an applicable condition or requirement;

(3) Report, if less than one (1) year old, submitted to the municipality pursuant to section 8-30h of the Connecticut General Statutes;

(4) Local, state or federal financing, subsidy, or assistance agreement; or

(5) Affordability plan, if adopted by the municipality and made binding.

(g) The commissioner may, in the commissioner's sole discretion, request any additional information deemed necessary to determine the housing unit-equivalent point value of any dwelling unit claimed by the municipality or the applicant municipality's overall calculation of housing unit-equivalent points. The commissioner may also, in the commissioner's sole discretion, accept alternative documentation.

(h) As provided in section 8-30g(l) of the Connecticut General Statutes, the housing unit-equivalent points required for a certificate shall be equal to two percent (2%) of all dwelling units in the municipality, but no less than seventy-five (75) housing unit-equivalent points. Units and housing unit-equivalent points that serve as the basis of approval of a state certificate, whether a provisional approval or issuance by the commissioner, shall not be the basis of a subsequent application. The housing unit-equivalent points necessary for a

Regulations of Connecticut State Agencies

TITLE 8. Zoning, Planning, Housing, Economic and Community Development and Human Re-
Department of Economic and Community Develop- §8-30g-6

state certificate shall be calculated using as the denominator the total estimated dwelling units in the municipality as reported in the most recent United States decennial census.

(i) As provided in section 8-30g(l) of the Connecticut General Statutes, dwelling units whose occupancy is restricted to maximum household income limits that comply with section 8-30g of the Connecticut General Statutes and that qualify, based on binding restrictions on maximum sale or resale price or rent, as price-restricted dwelling units in compliance with section 8-30g of the Connecticut General Statutes, shall be awarded unit-equivalent points toward a state certificate as follows:

Type of Unit	Housing Unit-Equivalent Point Value Per Unit
Market-rate units in a set-aside development	0.25
Elderly units, owned or rented, restricted to households at or below 80% of median income	0.50
Family units, owned, that 80% of median income	1.00
are restricted to households 60% of median income	1.50
with annual income no more than: 40% of median income	2.00
Family units, rented, that 80% of median income	1.50
are restricted to households 60% of median income	2.00
with annual income no more than: 40% of median income	2.50

(j) Applications for a state certificate of affordable housing completion shall be submitted and processed as follows:

(1) A municipality intending to submit to the department an application for a state certificate of affordable housing completion shall publish in the Connecticut Law Journal and in a newspaper of general circulation in the municipality a notice of its intent to apply and the availability of its proposed application for public inspection and comment. Such notice shall state the location where the proposed application, including all supporting documentation, shall be available for inspection and comment, and to whom written comments may be submitted. Such application and documentation shall be made available in the office of the municipal clerk for no less than twenty (20) calendar days after publication of notice. If, within the comment period, a petition signed by at least twenty-five (25) residents of the municipality is filed with the municipal clerk requesting a public hearing with respect to the proposed application, either the municipality's legislative body or its zoning or planning commission shall hold such a hearing. A copy of all written comments received, responses by the municipality to comments received, and a description of any modifications made or not made to the application or supporting documentation as a result of such comments, shall be attached to the application when submitted to the

Regulations of Connecticut State Agencies

TITLE 8. Zoning, Planning, Housing, Economic and Community Development and Human Re-
§8-30g-6 *Department of Economic and Community Develop-*

commissioner.

(2) As soon as practicable after submission of an application, the department shall notify the applicant in writing whether the application is complete with respect to the information required. If the application is deemed complete, it shall be considered received on the date of original submission. If the application is not complete, the department shall identify in writing the additional information necessary, and the application shall be considered received on the date the department receives the additional information requested. If the applicant fails or refuses to correct any deficiencies within a reasonable time, the department shall deny or reject the application.

(3) If the department requests additional information, the time limits for publishing notice of receipt of the application as specified in subsection (6) of subsection (j) of this section and issuing a decision as specified in section 8-30g of the Connecticut General Statutes shall commence when the department receives the requested information and the application is complete.

(4) After determining that it has received a complete application, the Department shall promptly publish in the Connecticut Law Journal a notice of receipt of such application. Such application, including all supporting documentation, shall be made available to the public. Written public comment shall be accepted by the department for a period of thirty (30) days after such publication.

(5) The department shall evaluate the application, including all documentation submitted and public comments received, to accurately determine the number, classification and housing unit-equivalent points, if any, of all dwelling units claimed. The department shall calculate the total housing unit-equivalent points based on the values assigned in section 8-30g of the Connecticut General Statutes. The department may, as necessary, verify or modify the housing unit-equivalent point total claimed by the municipality. The department shall determine whether the municipality has satisfied the minimum criteria for a state certificate of affordable housing completion. The department shall also determine whether all units which must be deducted or otherwise excluded from total housing unit-equivalent points pursuant to subsection (c)(7) of this section have been properly counted and whether proper adjustment has been made.

(6) The department shall provide the municipality, within ninety (90) days of receipt of a complete application as specified in sections 8-30g-1 to 8-30g-11, inclusive, of the Regulations of Connecticut State Agencies, with a written decision stating the reasons for approval or rejection, and shall make such decision available to the public. If the department approves the application, it shall publish in the Connecticut Law Journal a notice of its issuance of a state certificate of affordable housing completion.

(k) If the department fails to act within the time set by section 8-30g(l) of the Connecticut General Statutes, the application shall be deemed as having been granted provisional approval. A moratorium shall then take effect upon the date of completion of publication by the municipality of a notice of the provisional approval in both the Connecticut Law Journal and a newspaper with general circulation in the municipality. The latter notice shall

Regulations of Connecticut State Agencies

TITLE 8. Zoning, Planning, Housing, Economic and Community Development and Human Re-
Department of Economic and Community Develop- §8-30g-6

be at least one-eighth page, shall be published in a conspicuous manner, and shall clearly use the words “provisional approval.” The municipality shall promptly provide the department with a certified copy of the published notice. The department shall act on a provisionally-approved application as soon as practicable. Upon issuing its decision, the department shall issue a written notice to the municipality and shall publish a notice of its decision in the Connecticut Law Journal and a newspaper with general circulation in the municipality. The provisionally-approved moratorium shall terminate upon issuance of written notice of disapproval to the municipality. Dwelling units claimed toward a state certificate of affordable housing completion that is provisionally approved, or provisionally approved and later denied by the department, may be claimed again on a subsequent application, so long as the moratorium resulting from provisional approval was in effect for less than one hundred eighty (180) days.

(l) The commissioner may revoke a state certificate of affordable housing completion at any time upon determining, after written notice to the municipality and a reasonable opportunity for response or explanation, that an application contained materially false, misleading, or inaccurate information or was otherwise approved without compliance with the criteria of Section 8-30g [FN1] and sections 8-30g-1 to 8-30g-11, inclusive, of the Regulations of Connecticut State Agencies. The commissioner shall issue written notice of a decision to revoke a certificate of affordable housing completion and shall publish a notice of revocation in the Connecticut Law Journal. Such revocation shall be effective upon issuance of written notice to the municipality. Use of dwelling units and housing unit-equivalent points claimed toward a certificate of affordable housing that is approved and later revoked pursuant to this subsection shall be at the sole discretion of the commissioner. If a municipality, in the judgment of the commissioner, knowingly or intentionally misrepresented any portion of an application for a state certificate, the commissioner may, in addition to revocation, refuse to approve a re-application for a state certificate for up to three (3) years from revocation.

(m) The department shall prepare and update periodically a list of all municipalities that have been issued a state certificate of affordable housing completion or have obtained provisional approval by publication of valid notices. Such list shall identify the expiration date of each state certificate or provisional approval. The department shall make such list available to the public. Such list shall be updated each time a municipality is issued a certificate or obtains provisional approval.

(n) A municipality that has been issued a state certificate of affordable housing completion may, at any time, submit an application for another moratorium, provided that such application shall be considered a new application, shall comply in full with these regulations, and may not utilize any dwelling unit that provided housing unit-equivalent points for any previous state certificate. Any application intended to maintain a moratorium without interruption at the expiration of a previously-approved state certificate shall be submitted so as to allow the department sufficient time to process the application in

Regulations of Connecticut State Agencies

TITLE 8. Zoning, Planning, Housing, Economic and Community Development and Human Re-
§8-30g-7 *Department of Economic and Community Develop-*

accordance with these regulations.

(Adopted effective April 29, 2002; Amended May 3, 2005)

Sec. 8-30g-7. Affordability plans and conceptual site plans

(a) An affordability plan shall include at least the elements set forth in section 8-30g(b)(1) of the Connecticut General Statutes and shall at a minimum contain or comply with the following:

(1) The designation of the person who will be qualified and responsible for administration of the affordability plan shall include identifying responsibility for:

(A) Ensuring that households applying for affordable units qualify within applicable maximum income limits;

(B) Assuring the accuracy of sale or resale prices or rents, and providing documentation where necessary to buyers, sellers, lessors, lessees and financing institutions;

(C) Maintaining minimum percentages in a set-aside development;

(D) Reporting compliance to the municipality; and

(E) Executing the affirmative fair housing marketing plan.

(2) A proposed procedure by which sellers, purchasers, lenders or title insurers may, upon request and in a timely manner, obtain written certification of compliance with applicable set aside, household income, sale, or resale price limitations or requirements.

(3) With respect to an affirmative fair housing marketing plan filed in accordance with an affordable housing development application, the provisions of sections 8-37ee-1 et seq. of the Regulations of Connecticut State Agencies, and particularly sections 8-37ee-301 and 302, shall serve as the basis for such plan, provided that such regulations, including the procedures therein, shall be guidelines, not requirements. Collection and dissemination of information about available price restricted and market rate dwelling units shall include, at a minimum:

(A) Analyzing census and other data to identify racial and ethnic groups least represented in the population;

(B) Announcements/advertisements in publications and other media that will reach minority populations;

(C) Announcements to social service agencies and other community contacts serving low-income minority families in the region (including churches, civil rights organizations, housing authorities, and legal services organizations);

(D) Assistance to minority applicants in processing applications;

(E) Marketing efforts in geographic area of high minority concentrations within the housing market area;

(F) Beginning marketing efforts prior to general marketing of units, and repeating again during initial marketing, at fifty percent (50%) completion, and thereafter at reasonable period intervals with respect to resales or re-rentals; and

(G) Collection of basic racial and ethnic information for all residents and persons on the wait list for the development.

Regulations of Connecticut State Agencies

TITLE 8. Zoning, Planning, Housing, Economic and Community Development and Human Re-
Department of Economic and Community Develop- §8-30g-8

(4) In an affordability plan or affirmative fair housing marketing plan for an affordable housing development, preferences in application procedures or occupancy for existing residents of the subject municipality shall not be utilized unless members of racial and ethnic groups identified as least likely to apply receive equally-weighted preferences.

(5) The maximum sale price, resale price, or rent for any affordable unit in a set-aside development shall be determined as set forth in section 8-30g-8 of the Regulations of Connecticut State Agencies.

(6) In an affordability plan for a set-aside development, a description of the projected sequence in which price-restricted dwelling units will be built and offered for occupancy shall consist of a narrative and schematic plan describing the construction sequence of the proposed site development plan, the location of price-restricted and market-rate dwelling units within that sequence, and a demonstration that such sequence will result in compliance with the set-aside requirements of section 8-30g of the Connecticut General Statutes and sections 8-30g-1 through 8-30g-11, inclusive, of the Regulations of Connecticut State Agencies.

(7) A commission, by regulation, may require that an affordable housing application that petitions for a rezoning of the property that is the subject of the application shall be accompanied by a conceptual site plan. Any such regulation, however, shall not require the submission of the type of plans, studies, calculations or similar detailed information that will otherwise be required in connection with site development, subdivision or resubdivision plans which, when approved, will serve as the basis for issuance of a building permit.

(Adopted effective April 29, 2002; Amended May 3, 2005)

Sec. 8-30g-8. Maximum housing payment calculations in set-aside developments

(a) The maximum price for any affordable unit that is sold or resold within a set-aside development, for the period of affordability restrictions, to a household earning eighty percent of the median income or less, shall be determined as follows:

(1) Step 1. Determine area median income and the statewide median as published by the U.S. Department of Housing and Urban Development for the subject municipality, and use the lesser of these figures.

(2) Step 2. Adjust median income identified in Step 1 by family size by assuming that 1.5 persons will occupy each bedroom of an affordable unit, except in the case of a studio or zero-bedroom unit, in which case 1.0 person shall be assumed. Family size adjustment shall be made with reference to the following percentages:

NUMBER OF PERSONS IN FAMILY	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>
PERCENTAGE ADJUSTMENT	70%	80%	90%	100%	108%	116%	124%	132%
				(BASE)				

The family size adjustment that involves a half person (such as 4.5 persons) shall be

Regulations of Connecticut State Agencies

TITLE 8. Zoning, Planning, Housing, Economic and Community Development and Human Re-
§8-30g-8 *Department of Economic and Community Develop-*

calculated by taking the midpoint between the relevant figures above and below the half. For example, the adjustment for a 4.5 person household is 104 percent.

(3) Step 3. Calculate eighty percent (80%) of Step 2.

(4) Step 4. Calculate thirty percent (30%) of Step 3, representing that portion of household income deemed to be used for housing costs.

(5) Step 5. Divide step 4 by twelve (12) months to determine the maximum monthly housing payment.

(6) Step 6. Determine by reasonable estimate monthly housing expenses, including real property taxes; real property insurance; any common interest ownership or similar fee required of all unit purchasers or owners; and heat and utility costs, excluding television, telecommunications, and information technology services.

(7) Step 7. Subtract Step 6 from Step 5 to determine the amount available for mortgage principal and interest.

(8) Step 8. Using the amount resulting from Step 7, apply a mortgage term and interest rate that is commercially reasonable and available to households likely to apply to purchase such units, in order to determine the financeable amount.

(9) Step 9. Calculate down payment, which shall comply with subsection (c) of this section.

(10) Step 10. Add Steps 8 and 9 to determine the maximum sale or resale price.

(b) For a unit required to be sold or resold to a household earning sixty percent (60%) or less of the median income, the formula stated above shall be used, except that in Step 3, sixty percent (60%) shall be used instead of eighty percent (80%).

(c) The maximum allowable down payment used in calculating the maximum sale or resale price of an affordable unit that is sold shall be the lesser of twenty percent (20%) of the total sale price or twenty percent (20%) of the Connecticut Housing Finance Authority (CHFA) maximum sales price limit for a comparably-sized unit in the area, as published by CHFA.

(d) The maximum monthly payment for a rental unit in a set-aside development, for the period of affordability restrictions, for a household earning eighty percent of the median income or less, shall be determined as follows:

(1) Step 1. Determine area median income and the statewide median as published by the U.S. Department of Housing and Urban Development for the subject municipality, and use the lesser of these figures.

(2) Step 2. Adjust median income identified in Step 1 by family size by assuming that 1.5 persons will occupy each bedroom of an affordable unit, except in the case of a studio or zero-bedroom unit, in which case 1.0 person shall be assumed. Family size adjustment shall be made with reference to the following percentages:

NUMBER OF PERSONS IN FAMILY	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>
-----------------------------------	----------	----------	----------	----------	----------	----------	----------	----------

Regulations of Connecticut State Agencies

TITLE 8. Zoning, Planning, Housing, Economic and Community Development and Human Re-	
Department of Economic and Community Develop-	§8-30g-8

PERCENTAGE	70%	80%	90%	100%	108%	116%	124%	132%
ADJUSTMENT				(BASE)				

The family size adjustment that involves a half person (such as 4.5 persons) shall be calculated by taking the midpoint between the relevant figures above and below the half. For example, the adjustment for a 4.5 person household is 104 percent.

(3) Step 3. Calculate eighty percent (80%) of Step 2.

(4) Step 4. Calculate thirty percent (30%) of Step 3, representing that portion of household income deemed to be used for housing costs.

(5) Step 5. Divide Step 4 by twelve (12) months to determine the maximum monthly housing payment.

(6) Step 6. Determine the fair market rent for a unit with the same number of bedrooms in the subject municipality as published by the U.S. Department of Housing and Urban Development.

(7) Step 7. Multiply the U.S. Department of Housing and Urban Development fair market rent as determined in Step 6 by one hundred twenty percent (120%).

(8) Step 8. The maximum monthly housing payment for occupants of the subject rental unit shall be the lesser of the calculations in Steps 5 and 7.

(9) Step 9. Determine by reasonable estimate monthly expenses for heat and utility costs for which the tenant is directly responsible, excluding television, telecommunications, and information technology services, but including any other periodic fees for which the tenant is directly responsible, such as common charges in the case of a common interest ownership community.

(10) Step 10. Deduct the estimate of tenant-paid utilities and fees determined in Step 9 from the maximum monthly housing payment in Step 8, which will result in the maximum amount that the developer/owner may charge for this rental unit as the monthly contract rent.

(e) For a unit required to be rented to a household earning sixty percent (60%) or less of the median income, the formula stated above shall be used, except that in Step 3, sixty percent (60%) shall be used instead of eighty percent (80%), and in Step 7, the U.S. Department of Housing and Urban Development fair market rent shall be used instead of one hundred twenty percent (120%) of the U.S. Department of Housing and Urban Development fair market rent.

(f) The elements of annual household income, and documentation of such income, used for the purposes of determining whether a household's annual income qualifies it for occupancy of a price-restricted unit, shall be conducted using the guidelines published by the U.S. Department of Housing 24 CFR 5.609.

(Adopted effective April 29, 2002; Amended May 3, 2005)

Model Deed Restrictions for Affordable Housing Land Use Appeals Procedure

Sec. 8-30g-9. Model deed restriction for a set aside development

(a) On or after the effective date of this subsection, a covenant or restriction imposed upon or otherwise made applicable to a set aside development or dwelling units within a set aside development as defined in subsection 8-30g-1(14) of the Regulations of Connecticut State Agencies shall satisfy sections 8-30g-1, 8-30g-7 and 8-30g-8, if the covenant or restriction has a term of at least forty years and contains substantially the following language:

(1) For a set aside development consisting of dwelling units to be rented:

“This development is a set aside development as defined in section 8-30g of the Connecticut General Statutes and in accordance with the applicable regulations for state agencies that were in effect on the date of the original application for initial local approval _____ (insert appropriate date), containing affordable housing dwelling units, and is therefore subject to limitations on the maximum annual income of the household that may rent the designated affordable housing dwelling units, and on the maximum rental that may be charged for such affordable housing dwelling units. These limitations shall be strictly enforced, and may be enforced by the zoning enforcement authority of [the municipality] against the record owner of the development or the person identified in the affordability plan as responsible for the administration of these limitations.

For the duration of this covenant or restriction, no less than fifteen percent (15%) of the dwelling units in this development shall be rented to persons and families whose annual income is less than or equal to eighty percent (80%) of the median income as defined in subsection 8-30g-1(10) of the Regulations of Connecticut State Agencies, and such units may be rented only at a rental equal to or less than the rental determined using the formula for maximum monthly rental amount stated in section 8-30g-8(d) of the Regulations of Connecticut State Agencies. In addition, no less than fifteen percent (15%) of the dwelling units shall be rented to persons and families whose annual income is less than or equal to 60 percent (60%) of the median income as defined in subsection 8-30g-1(10) of the Regulations of Connecticut State Agencies, and such units may be rented only at a rental equal to or less than the rental determined using the formula for maximum monthly rental amount stated in section 8-30g-8(e) of the Regulations of Connecticut State Agencies.”

(2) For a dwelling unit within a set aside development in which individual, designated units are sold or resold as affordable housing dwelling units:

“This dwelling unit is an affordable housing dwelling unit within a set aside development as defined in section 8-30g of the Connecticut General Statutes and in accordance with the applicable regulations for state agencies that were in effect on the date of the original application for initial local approval _____ (insert appropriate date), and is therefore subject to a limitation, at the date of purchase, on the maximum annual income of the household that may purchase the unit, and is subject to a limitation on the maximum sale or resale price. these limitations shall be strictly enforced, and may be enforced by the person identified in the affordability plan as responsible for the administration of these

Regulations of Connecticut State Agencies

TITLE 8. Zoning, Planning, Housing, Economic and Community Development and Human Re-
Department of Economic and Community Develop- §8-30g-10

limitations or the zoning enforcement authority of [the municipality].

For the duration of this covenant or restriction, this dwelling unit may be sold only to persons and families whose annual income does not exceed _____% (insert 60% or 80% as applicable) percent of ‘median income’ as defined in subsection 8-30g-1(10) of the Regulations of Connecticut State Agencies, applicable to this unit as specified in an affordability plan as on file with the [municipality]. In addition, this unit may be sold or resold only at a price equal to or less than the price determined using the formula stated in section 8-30g-8(a), or the formula stated in section 8-30G-8(B), as applicable, of the Regulations of Connecticut State Agencies.

(b) In order to assist in any determination that the sale or resale price of an affordable housing dwelling unit complies with applicable limitations, any owner, seller, purchaser or prospective purchaser of such dwelling unit may be required by the administrator of the affordability plan to provide documentation of the annual income of the person or family who will occupy the dwelling unit and of compliance with applicable sale price or resale price limitations, which documentation shall be available upon request to the zoning enforcement authority of [the municipality].

(Adopted effective May 3, 2005)

Sec. 8-30g-10. Model deed restriction for promulgation of the affordable housing appeals list

(a) On or after the effective date of this subsection, a dwelling unit that is not otherwise counted as part of a set aside development shall qualify to be counted for the purpose of preparing and promulgating the affordable housing appeals list if the unit is subject to a covenant or restriction that contains substantially the following language and meets the duration requirements of subsection (b) of this section:

(1) For a dwelling unit that is rented:

“This unit is an affordable housing dwelling unit and is therefore subject to a limitation on the maximum annual income of the household that may rent the unit, and is subject to a limitation on the maximum rental that may be charged for the unit. these limitations shall be strictly enforced, and may be enforced by the zoning enforcement authority of [the municipality] or owner or landlord of this unit.

For the duration of this covenant or restriction, this dwelling unit shall be rented to persons or families whose annual income is equal to or less than eighty percent (80%) of the median income as defined in subsection 8-30g-1(10) of the Regulations of Connecticut State Agencies, and may be rented only at a rental equal to or less than the rental determined using the formula for maximum monthly rental amount, including utilities, stated in section 8-30g-8(d) of the Regulations of Connecticut State Agencies.”

(2) For a dwelling unit that is sold or resold:

“This dwelling unit is an affordable housing dwelling unit and is therefore subject to a limitation at the date of purchase on the maximum annual income of the household that may purchase the unit, and is subject to a limitation on the maximum sale or resale price.

Regulations of Connecticut State Agencies

TITLE 8. Zoning, Planning, Housing, Economic and Community Development and Human Re-
§8-30g-11 *Department of Economic and Community Develop-*

These limitations shall be strictly enforced, and may be enforced by the zoning enforcement authority of [the municipality].

For the duration of this covenant or restriction, this dwelling unit may be sold only to a household or family whose annual income is equal to or less than 80 percent (80%) of the median income as defined in subsection 8-30g-1(10) of the Regulations of Connecticut State Agencies, and may be sold or resold and only at a price equal to or less than the price determined using the formula stated in section 8-30g-8(a) of the Regulations of Connecticut State Agencies.”

(b) A covenant or restriction recorded for the purpose of qualifying a dwelling unit on the affordable housing appeals list shall have a minimum duration of twelve months, provided that any covenant or restriction imposed on an accessory apartment as defined in section 8-30g(k) of the Connecticut General Statutes or mobile manufactured home shall have a minimum duration of ten years. A covenant or restriction imposed on a newly-constructed or substantially rehabilitated unit shall qualify the dwelling unit for the affordable housing appeals list when the covenant or restriction is recorded on the land records and a certificate of occupancy has been issued for such unit, and a covenant or restriction imposed on an existing dwelling unit shall qualify the unit for the affordable housing appeals list when the covenant or restriction has been recorded on the land records.

(c) In order to assist in any determination that an affordable housing dwelling unit complies with applicable limitations and qualifies to be counted on the affordable housing appeals list, any owner, landlord or administrator of a rental unit, or any owner, seller, purchaser or prospective purchaser of an ownership unit, may be required to provide documentation of the annual income of the person or family who will occupy the dwelling unit and of compliance with applicable sale price or resale price limitations, which documentation shall be available to the zoning enforcement authority of [the municipality].

(Adopted effective May 3, 2005)

Sec. 8-30g-11. Dwelling units subject to existing restrictions

For the purpose of the affordable housing appeals list, any covenant or restriction that was adopted prior to the effective date of section 8-30g-9 or 8-30g-11 of these regulations, and which has been accepted previously by the commissioner for inclusion on the list, need not be revised in accordance with these regulations, and may continue to be counted on the list, so long as its terms remain unchanged and it remains a binding obligation.

(Adopted effective May 3, 2005)