

EXHIBIT
REL 8/8/14
@ PJ



Regulations of Connecticut State Agencies

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

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	Repealed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	Repealed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

Regulations of Connecticut State Agencies

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

§8-30g-2

Department of Economic and Community Development

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 Resources

§8-30g-2

Department of Economic and Community Development

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 Resources

§8-30g-6

Department of Economic and Community Development

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 Resources

§8-30g-6

Department of Economic and Community Development

(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 be at least one-eighth page, shall be published in a conspicuous manner, and shall clearly

Regulations of Connecticut State Agencies

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

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.

(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

Regulations of Connecticut State Agencies

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

- (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>
PERCENTAGE	70%	80%	90%	100%	108%	116%	124%	132%

Regulations of Connecticut State Agencies

TITLE 8. Zoning, Planning, Housing, Economic and Community Development and Human Resources
§8-30g-9 *Department of Economic and Community Development*

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 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

Regulations of Connecticut State Agencies

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

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)