

## SUBDIVISION AND ZONING REGULATION

### AMENDMENTS FOR

### INCLUSIONARY ZONING

#### Subdivision Regulations:

##### New Section 2.1 (all other definitions move down one number):

**Affordable Housing** Lots upon which dwelling units will be conveyed by deeds containing covenants or restrictions which shall require that, for at least forty (40) years after the initial occupation of the proposed development, such dwelling units shall be sold or rented at, or below, prices which will preserve the units as housing for which persons and families pay thirty per cent or less of their annual income, where such income is less than or equal to eighty per cent of the median income. For purposes of this definition, "median income" shall be as defined in Connecticut General Statutes Section 8-30g(a), as amended.

**Commented [MKB1]:** A direct quote from the Statutes. I didn't just reference the Statutes themselves because the definition includes both the 60% and 80% of median income, and for subdivisions, 80% is about all you can get.

##### New Section 3.9:

**Inclusionary Zoning** Any subdivision containing ten (10) lots or more shall include ten percent (10%) of the total number of lots to be deed restricted for Affordable Housing, as defined in these Regulations. For purposes of determining the ten (10) lot threshold and the ten percent (10%) lot count, the Commission shall consider the lot of record, or adjacent lots of record under common ownership, as of the effective date of this amendment; and the number of lots that could reasonably be placed thereon; provided that the Commission shall not require more than ten percent (10%) of the total lots to be Affordable Housing. Where the ten percent (10%) results in a fraction of a lot, the fractions of .4 or lower shall be rounded up to the next whole number and fractions of .5 or higher shall be rounded up to the next whole number. Any subdivision developed in phases shall include at least one (1) Affordable Housing lot in the first stage of development, and one (1) additional lot for each additional ten (10) lots regardless of any phases or stages of development. Affordable Housing lots shall be administered by the Glastonbury Housing Authority or its designee, and shall be subject to a restrictive covenant enforceable by the Town and in a form as required by the Town Attorney.

**Commented [MKB2]:** Note that, unlike in the zoning amendments below, I haven't included a "comparability" provision. That's because it's the *lot* that's being restricted, not the *house*. It may be necessary that the house be smaller etc.

**Commented [MKB3]:** So a developer can't keep bringing in 9-lot subdivisions on a parcel that can (and will eventually) contain 27, each time claiming that the "subdivision" is below the threshold of 10 lots. But overall, the 10% will not be exceeded. The 10% is illustrative, and could be more.

**Commented [MKB4]:** The numbers in subdivisions tend to be small, so rounding down for .4 or less makes sense.

**Commented [MKB5]:** This avoids the common "end of game" trap where developers save all the open space and other amenities until the final stage, and then never build it.

**Commented [MKB6]:** Since we have a Housing Authority that is experienced at qualifying tenants or buyers based on income, they are the natural choice for this role, but can delete it if they wish.

#### Zoning Regulations:

#### Definitions:

##### New Subsection 2.12 in Section 2, (Definitions) (all subsequent definitions to move down one number):

#### **2.12 Dwelling, Affordable Unit**

A Dwelling which will be conveyed by deeds containing covenants or restrictions which shall require that, for at least forty (40) years after the initial occupation of the proposed development, such dwelling units shall be sold or rented at, or below, prices which will preserve the units as housing for which persons and families pay thirty per cent or less of their annual income, where such income is less than or equal to eighty per cent of the median income. For purposes of this definition, "median income" shall be as defined in Connecticut General Statutes Section 8-30g(a), as amended. Affordable Dwelling Units shall be of comparable quality,

**Commented [MKB7]:** A direct quote from the Statutes. I didn't just reference the Statutes themselves because the definition includes both the 60% and 80% of median income, and for subdivisions, 80% is about all you can get.

workmanship, size, and number of bedroom as other Dwellings in the subject development, and shall be evenly distributed throughout the development. Affordable Housing lots shall be administered by the Glastonbury Housing Authority or its designee, and shall be subject to a restrictive covenant enforceable by the Town and in a form as required by the Town Attorney.

**Commented [MKB8]:** This is in lieu of the more detailed language of PAD Section 4.12.3(2)(c), "Restrictive Covenants." Since we have a Housing Authority that is experienced at qualifying tenants or buyers based on income, they are the natural choice for this role, but can delegate it if they wish.

#### **Special Permit with Design Review:**

**New Subsection (e) in Section 12.4, "Criteria for Evaluating a Special Permit with Design Review Approval:"**

(e) Inclusionary Zoning: Every application which includes ten (10) or more Multiple Dwellings shall include twenty percent (20%) Affordable Dwelling units as defined in these Regulations. Where the twenty percent (20%) results in a fraction of a unit, the number shall be rounded up to the next whole number. Any Multiple Dwelling project developed in phases shall include at least two (2) Affordable Dwelling units in the first stage of development, and at least one (1) additional such unit for each additional ten (10) units regardless of any phases or stages of development; provided, however, that the Commission will not require more than twenty percent (20%) of the total units to be Affordable Dwelling Units.

**Commented [MKB9]:** This is a defined term in the Regulations.

**Commented [MKB10]:** Note how this differs from the proposed subdivision regulation language where fraction units can be rounded up or down, but here only up. That's because the numbers in multi-family development are typically higher and the per-unit construction costs are always lower.

#### **Planned Area Development (PAD):**

**Section 4.12.3 ("Standards" in the PAD Regulation), Subsection (c), "Definitions," delete the definition of "Affordable Dwelling Unit."**

**Commented [MKB11]:** First, as a matter of proper drafting, all definitions should be in Section 2. Second, the definition used in Section 4.12.3 uses *forty percent (40%)* of income for housing expenses, which is unheard of. Every bank and every government program uses 30%.

**Section 4.12.3(2), "Affordable Dwelling Units," delete the first paragraph of subsection (b); amend the second paragraph as follows (new language underlined, deleted language in strike-out) and delete the third paragraph (the "Units to be Constructed" table):**

A PAD that provides affordable dwelling units shall be ~~allowed~~ required in underlying Residence A and Residence AA zoning districts served by water and sanitary sewer in accordance with the following: For a PAD containing ten (10) or more units, twenty percent (20%) of the units shall be Affordable Dwelling Units. Where the twenty percent (20%) results in a fraction of a unit, the number shall be rounded up to the next whole number. Any Multiple Dwelling project developed in phases shall include at least two (2) Affordable Dwelling units in the first stage of development, and at least one (1) additional such unit for each additional ten (10) units regardless of any phases or stages of development; provided, however, that the Commission will not require more than twenty percent (20%) of the total units to be Affordable Dwelling Units. No variance of this requirement may be granted by the Zoning Board of Appeals.

**Commented [MKB12]:** There is no reason why affordable housing is only suitable for PADs in certain zones or with public sewer and water. If the land can support a PAD with a residential component, then it can support affordable dwellings, too.

**Commented [MKB13]:** This is a lawful prohibition and there is no possible grounds for a "hardship" variance.

**Section 4.12.4, "Procedure and Application," subsection (b), a new paragraph #25, as follows:**

25. The proposed declaration of covenants and restrictions to enforce the Affordable Dwelling Units included in the application

#### **Adaptive Redevelopment Zone (ARZ):**

**Section 4.17, Adaptive Redevelopment Zone (ARZ), new Subsection 4.17.2(f) as follows:**

- (4.17.2(f) Affordable Housing

Affordable Dwelling Units shall be required in accordance with the following: For an ARZ containing ten (10) or more units, twenty percent (20%) of the units shall be Affordable Dwelling Units. Where the twenty percent (20%) results in a fraction of a unit, the number shall be rounded up to the next whole number. Any ARZ project developed in phases shall include at least two (2) Affordable Dwelling Units in the first stage of development, and at least one (1) additional such unit for each additional ten (10) units regardless of any phases or stages of development; provided, however, that the Council will not require more than twenty percent (20%) of the total units to be Affordable Dwelling Units. No variance of this requirement may be granted by the Zoning Board of Appeals.

Amend Section 4.17.3, "Procedure and Application," to include a new Subsection 23 as follows:

23. The proposed declaration of covenants and restrictions to enforce the Affordable Dwelling Units included in the application.