



CGS § 8-30g The Affordable Housing Land Use Appeals Procedure

What is the affordable housing land use appeals procedure and what is its purpose?

The procedure generally requires municipal planning and zoning agencies (hereinafter “municipalities”) to defend their decisions to reject affordable housing development applications or approve them with restrictions that would have a substantial adverse impact on the project’s viability or the affordability of income-restricted units. In traditional land use appeals, the appellant (e.g., developer) must convince the court that the municipality acted illegally, arbitrarily, or abused its discretion. The procedure instead places the burden of proof on municipalities.

What types of developments trigger the law’s protection and under what circumstances are municipalities subject to it?

The proposed development must be an “affordable housing development,” which the law defines to include “assisted housing” and “set-aside developments.” Department of Housing regulations set the formula for determining sales prices or maximum housing payments for deed-restricted units in set-aside developments ([Conn. Agencies Regs., § 8-30g-8](#)).

Developers can use the appeals procedure to contest a municipality’s decision on an affordable housing development application submitted to the municipality if (1) fewer than 10% of the municipality’s housing units are affordable, based on certain statutory criteria, and (2) the municipality has not qualified for a moratorium. However, a moratorium does not apply to appeals related to applications for certain assisted housing (i.e., those with 40 units or fewer or that are nearly entirely income-restricted).

What types of dwelling units count toward the 10%?

Affordable housing generally includes (1) “assisted housing,” (2) housing currently financed by Connecticut Housing Finance Authority mortgages, (3) housing subject to deeds and conditions restricting its sale or rental to low- and moderate-income people, and (4) mobile homes or accessory apartments subject to certain deed restrictions.

Assisted Housing

Housing that receives government assistance to construct or rehabilitate low- and moderate-income housing, or housing occupied by people receiving certain state or federal rental assistance.

Set-Aside Development

A development in which, for at least 40 years after initial occupancy, at least 30% of the units are deed restricted for low- and moderate-income families. Specifically, at least:

- (1) 15% of the units must be deed restricted to households earning 60% or less of the area median income (AMI) or state median income (SMI), whichever is less, and
- (2) the remainder of the income-restricted units must be deed restricted to households earning 80% or less of the AMI or SMI, whichever is less.

When is a municipality eligible for a moratorium?

A municipality is eligible for a temporary suspension of this procedure (i.e., moratorium) each time it shows it has added a certain amount of affordable housing units over the applicable period. Generally, newly built set-aside and assisted housing developments count toward the moratorium, as do units subjected to certain deed restrictions. A moratorium typically lasts four years, except that municipalities with at least 20,000 dwelling units are eligible for moratoria lasting for five years if they are applying for a subsequent moratorium (i.e., they previously qualified for a moratorium).

With one exception, a municipality is eligible for a moratorium each time it shows it has added affordable housing units, measured in housing unit equivalent (HUE) points, equaling the greater of 2% of the housing stock, as of the last decennial census, or 75 HUE points. Under the exception, the 2% threshold drops to 1.5% for municipalities that have at least 20,000 dwelling units, adopt an affordable housing plan, and apply for a second or subsequent moratorium. HUE points are calculated as shown in the adjacent table. (Bonus points are in addition to base points.)

Unit Type		Base HUE Value (per unit)
Owned or rented market-rate unit in a “set-aside development”		0.25
Owned or rented elderly unit restricted to households earning no more than 80% of the median income		0.50
Owned family unit restricted to households earning no more than:	80% of median income	1.00
	60% of median income	1.50
	40% of median income	2.00
Rented family unit restricted to households earning no more than:	80% of median income	1.50
	60% of median income	2.00
	40% of median income	2.50
Owned or rented homes in resident-owned mobile manufactured home parks occupied by households earning 80% or less of the median income		1.50
Owned or rented homes in resident-owned mobile manufactured home parks occupied by households earning 60% or less of the median income		2.00
Owned or rented homes in resident-owned mobile manufactured home parks not otherwise eligible for points		0.25
Dwelling units in “middle housing” developed as of right		0.25
Unit Type		Bonus HUE Value
Rental family units in a set-aside development, if the developer applied for local approval before July 6, 1995		Bonus equal to 22% of the total points awarded to the development

Legislation enacted in 2024 also awards municipalities 0.25 HUE points for each dwelling unit built in “middle housing” (i.e., duplexes, triplexes, quadplexes, townhouses, and cottage clusters) developed as of right if they have adopted zoning regulations allowing these types of developments. Middle housing units need not be subject to any affordability restrictions to qualify for HUE points ([PA 24-143](#), §§ 10-12). This act also specifically allows eligible units completed before a municipality’s moratorium began, but that were not counted toward establishing eligibility for the moratorium, to be counted toward qualifying for a subsequent moratorium (§ 22).

How can municipalities defend an appeal brought under the procedure?

Municipalities cannot defend an appeal on the grounds that the application does not comply with land use regulations. Instead, to defend an appeal, a municipality must show either:

1. the decision was necessary to protect substantial public interests in health, safety, or other matters the municipal commission may legally consider, and that these interests clearly outweigh the need for affordable housing and cannot be protected by making reasonable changes to the proposed development or
2. the development (a) is not “assisted housing” (see above) and (b) is located in an industrial zone that does not permit residential uses.



[CGS § 8-30g](#), as amended by [PA 24-143](#), §§ 12 & 22, and the related [regulations](#)
OLR’s summary of [PA 24-143](#)
Annual [lists](#) of affordable housing by municipality

Affordable Housing Under CGS § 8-30g (OLR Report [2024-R-0144](#))
Moratoria Granted Under CGS § 8-30g (OLR Report [2023-R-0276](#))