

Fair Housing Workgroup: Inclusionary Zoning Draft Proposal

BACKGROUND

C.G.S. 8-2i authorizes municipalities to enact inclusionary zoning by the authority of their local governing boards. Inclusionary zoning is an ordinance or regulation that requires a certain percentage of units in a newly constructed housing development—either single family or multifamily developments—to be set aside as affordable to persons of low and moderate income. The affordability of the units are guaranteed through deed restrictions, covenants, or other means. The statute, as it is currently written, authorizes municipalities to award density bonuses to developers, in exchange for requiring affordable units, and also allows developers to pay into a housing trust fund in lieu of setting aside affordable units in a development.

SUMMARY

The draft proposal rewrites the existing statute and makes inclusionary zoning a mandatory zoning requirement in every municipality across Connecticut—with exceptions and waiver provisions based on opportunity areas. The following is a summary of changes that were made from the version presented at the Fair Housing Working Group (held on December 13, 2017) and the hard copy distributed in the packets at the last meeting held on January 10, 2018.

- **“Median income” definition** — Line 24-27 incorporates a the updated definition for “median income” for clarity throughout the proposal. This definition ensures that the income band is the “lessor of” the area median income or state median income.
- **Density Bonuses** — In line 20, the “density bonus” language is incorporated into the definition of “inclusionary zoning” and line 72-75 specifically states how a density bonus should be awarded to a developer. The zone shall be eligible for not less than a 25% bonus in permitted density.
- **“New multifamily housing development” definition** – In line 28-32, we’ve updated this definition for clarity, and ensured that this proposal only applies to 10+ unit developments and will not apply to detached single family homes.
- **Original language** — Line 39-42 maintains the original language in C.G.S. 8-2i; to ensure that municipalities have flexibility when it comes to their ability to enact other zoning provisions which encourage the development of affordable housing.
- **Section (c) and Section (d)** — We combined original Section (c) and original section (d) together from last year’s proposal—a clarifying change. So now both are contained in new Section (c).
- **12% of units required to be affordable** — The affordable, set-aside is 12%. In lines 62-71, the set-aside units must be reserved at 60% of AMI/SMI or below—with at least 3% of those units set-aside at 30% of AMI/SMI or below.
- **Exemption Language** — In line 85-90, the exemption does not include the “Pay-in-lieu” provision. This means that developers will not be allowed to pay into a municipal housing trust fund, in lieu of setting aside affordable units. We’ve retained the exemption for “supportive housing,” “assisted living facilities,” and developments with <10 units. Two major pieces of the exemption are blanket exemptions for developments located in “distressed municipalities” as well as developments in “very low opportunity” and “low opportunity” census tracts.

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- **Waiver Provision** — Line 76-84 includes the waiver provision. In this draft, a development which is located in a census tract that qualifies as “moderate opportunity,” “high opportunity,” or “very high opportunity” can be issued a waiver. The Commissioner of Housing may issue such a waiver on a case-by-case basis if he or she has received a feasibility study from the developer that demonstrates the affordable set-aside provision would render the developer financially infeasible.
- **Financial Assistance** — Line 91-93, empowers the DOH Commissioner to set aside funding within available resources. Line 94-102 includes language, similar in scope to the Incentive Housing Zone statute, which allows the DOH Commissioner to provide up to \$2,000/unit to a developer to off-set the cost associated with deed-restricting the housing units.
- **Impact on Other Statutes** — Line 107-108 includes clarifying language to ensure this statute does not limit or supersede the zoning authority afforded to municipalities in other areas of the general statutes.