

APPLICATION PLPZ 2020 000XX to amend Section Sec. 6-110. USE REGULATIONS AND SPECIAL REQUIREMENTS FOR DWELLING UNITS PERMITTED IN THE BUSINESS ZONES.

The purpose of this zoning regulation change is to:

All deletions are noted through strikethrough, and new text is noted in italics.

Sec. 6-110. USE REGULATIONS AND SPECIAL REQUIREMENTS FOR DWELLING UNITS PERMITTED IN THE BUSINESS ZONES.

(a) Purpose:

The purpose is to promote the inclusion of below-market-rate dwelling units, hereafter referred to as moderate-income dwelling units, within private sector residential or mixed-use development in business zones so as to increase the diversity of the Town's housing stock, in accordance with the objectives of the ~~2009~~ **2019** Plan of Conservation and Development (POCD) and the POCD Housing Task Force recommendations of 2011, and to mitigate the shortage of dwelling units that can meet the housing needs particularly, but not exclusively, of those employed by the Town and by not-for-profit and non-governmental agencies located in the Town of Greenwich that provide essential services to the Greenwich community; the elderly; and others who are classified as moderate-income households as defined in (b)(3) below.

(b) Definitions:

(1) Moderate-income dwelling units are those set aside for moderate-income households whose aggregate income, including the total of all current annual income of all household members from any source whatsoever at the time of certification (but excluding the earnings of working minors attending school full-time), averaged for the preceding two years, does not exceed the following multiple (listed below) of median annual Town paid wages of all full-time employees and teachers of the Town of Greenwich during the preceding fiscal year.

(2) A household, as defined by The United States Department of Housing and Urban Development (HUD), is all the people who occupy a housing unit. A household includes the related family members and all the unrelated people, if any, such as lodgers, foster children, wards, or employees who share the housing unit. A person living alone in a housing unit, or a group of unrelated people sharing a housing unit such as partners or roomers, is also counted as a household.

(3) Moderate-income households are households whose aggregate income, including the total of all current annual income of all household members from any source whatsoever at the time of certification (but excluding the earnings of working minors attending school full-time), averaged for the preceding two years, shall not exceed the following multiple (listed below) of median annual Town paid

wages of all full-time employees and teachers of the Town of Greenwich during the preceding fiscal year.

- 1 person household 1.2
- 2-3 person household 1.5
- 4-5 person household 1.8
- 6 person household 1.9

(4) In calculating household income, the value of assets must be considered. If the value of assets (not including personal property or vehicles) is \$5,000 or less, then the income received from those assets should be added to the household's annual household income. If the value of assets is greater than \$5,000, the greater of the following should be added to the household's annual income:

- i. Actual income received from the assets or
- ii. The actual value of the assets multiplied by the current passbook savings rate as established by HUD.

(c) Limit on the Number of Dwelling Units Permitted in the Business Zones:

- (1) Dwelling units are permitted within private-sector residential or mixed-use development in the LB, LBR-2, CGB, CBGR, GB and GBO zones provided the units comply with Sec. 6-110(d) and Sec. 6-205 of these zoning regulations.
- (2) When any portion of one or more of the incentives offered under Section 6-110(g) is requested, a minimum of 20% of all dwelling units on one existing lot or merged adjoining lots shall be deed restricted as moderate-income dwelling units, subject to Section 6-110(h). The incentives for moderate income dwelling units are applicable to properties within the LB, LBR-2, CGB, CGBR, GB and GBO business zones. The Planning and Zoning Commission may consider a fraction to be a whole number to meet the requirements that not less than 20% of all units are moderate-income dwelling units.

(d) Special Requirements:

- (1) For CGBR and LBR-2 zones, dwelling units shall be permitted only when above floors having uses of Use Groups permitted in said zones other than Use Group 3.
- (2) The Planning and Zoning Commission, when it deems appropriate, may require outdoor recreation space of suitable size, shape, and location to serve the recreational needs of the residents. Such areas may include balconies, roof terraces, lawn areas, and the like.
- (3) Notwithstanding any other provision of these regulations, floor area devoted to Use Group 3 uses (dwelling units in business zones) may not be converted to any other Use Group and may not be used for resident professional offices unless a Special Permit and Site Plan approvals have been granted in accordance with the standards and requirements of Sec. 6-15 and 6-17 of these regulations.

(e) Procedure:

A development proposal including moderate-income dwelling units shall be subject to Special Permit procedures and standards pursuant to Sec. 6-17. As part of any moderate-income housing development pre-application process, a workshop shall be convened by the Director of Planning and Zoning that includes the Zoning Enforcement Officer (ZEO), Department of Public Works Engineering, Building Official, Sewer, Highway, and other appropriate agencies/persons at which meeting the developer whose development plans include moderate-income dwelling units shall present and discuss a sketch plan prior to actual submission to any Town agency.

(f) Distance Requirements:

In the LB, LBR-2, CGB, CGBR, GB and GBO business zones an adequate distance shall be maintained free of all obstructions from any wall containing a dwelling unit window required for light or ventilation. The minimum distance in feet between buildings must meet all applicable fire and building codes and provide for adequate light, air, and ventilation, unless the Planning and Zoning Commission finds a greater distance more appropriate.

(g) Incentives:

To provide incentives to include moderate-income dwelling units within private-sector residential or mixed-use development in the LB, LBR-2, CGB, CGBR, GB and GBO zones (including alteration of, or addition to, an existing building), the Planning and Zoning Commission, **at their discretion**, may allow the following modifications of the Building Zone Regulations provided that (1) the proposed development includes the requisite number of moderate-income dwelling units required under Sec. 6-110(c)(2); (2) the Commission makes a finding that the purposes and requirements of Sec. 6-110 are met; and (3) the **Commission makes a finding that** the proposal complies with the standards of Sec. 6-15 and 6-17 of the Building Zone Regulations:

(1) **An increase in Floor Area Ratio not to exceed figures as provided in Table 1.** The commercial floor area permitted in the underlying zone may be constructed new or added to an existing building up to the allowable Floor Area Ratio of the underlying zone, as permitted in Sec. 6-205(b), provided the remaining allowable floor area ~~up to 0.9~~ is devoted to residential;

(2) A waiver of non-residential ground floor use is permitted in the LB zone. Ground floor residential use is permitted in the GB, GBO and CGB zones but is prohibited in the LBR-2 or CGBR zones;

(3) For the GB, GBO, CGBR, CGB and LB business zones only, an increase by one (1) story only over the number of stories otherwise allowed in these zones and an increase in the height of a building ~~up to 47½ feet~~ **all not to exceed figures as provided in Table 1 and** as measured according to the requirements of the particular underlying business zone;

~~(4) In the LBR-2 business zone an increase by one (1) story over the number of stories otherwise allowed in this zone and an increase in the height of a building up to 40 feet may be permitted; (7/19/16)~~

(5) A waiver of maximum coverage standards provided the scale of proposed structures is compatible with surrounding uses and open spaces and provided sufficient landscaping, screening, and decorative planting is provided to enhance the residential quality of the development and to screen refuse, transformer, storage, and parking areas;

(6) A modification of requirements, if any, of the underlying zone that all parking spaces for Use Group 1 be surface spaces on the same level as street level businesses. The Planning and Zoning Commission may allow up to two-thirds of the required parking spaces for Use Group 1 to be located in an on-site underground parking level provided that the underground spaces are designated for long-term parking by employees, and further provided that the Commission finds such location of spaces will result in an enhancement of the residential quality of the development through an increase of landscaping, screening, and decorative planting. The total number of on-site parking spaces shall be determined in accordance with Division 15 of the Building Zone Regulations;

(7) Where minimum side yards are required in Sec. 6-205(b), the Planning and Zoning Commission may find lesser side yards adequate for residential uses;

(8) Such units shall have not less than one bedroom and shall contain, on average, the same number of bedrooms as the market rate units in the development, unless the Planning and Zoning Commission finds a different allocation of bedrooms per dwelling unit to be more responsive to current housing needs.

(9) A waiver of the prohibition that no entrance to or exit from a business use shall be located on any street frontage opposite a residence zone where the lot containing the business use has frontage in a business zone along East and West Putnam Avenue. (12/8/16)

TABLE 1 Sec.6-110 (g)

INCENTIVES			
ZONE	STORIES	HEIGHT*	FAR
LB	3	35'-0"	0.75
LBR 2	3	35'-0"	0.75
CGBR	4	40'-8"	0.9
CGB	4	40'-8"	0.9
GB	4	40'-8"	0.75

GBO	4	40'-8"	0.75
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***per Sec.6-5(9)**

(h) Criteria and Requirements of Inclusion of Moderate-income Dwelling Units:

(1) General Requirements:

- i. Moderate-income dwelling units shall be offered for sale, resale, or continuing rental to moderate-income households as defined above; or to a Planning and Zoning Commission-approved agency which may be a non-profit agency, a municipal agency, or other organization, which shall offer the dwelling units to moderate-income households as set forth herein.
- ii. Such units shall be physically integrated into the design of the development in a manner satisfactory to the Planning and Zoning Commission.
- iii. Parking shall be provided in accordance with the standards of Sec. 6-155 for multi-family dwellings.
- iv. Moderate-income dwelling units must be owner occupied or occupied by the legal lessee only. If there is more than one owner of a unit, both owners must occupy the unit as their primary residence. Moderate-income dwelling units cannot be rented or leased out or occupied by others not legally allowed or qualified by the Town. An annual affidavit is required from the owner/renter indicating they are residing in the unit as their primary residence. This annual affidavit should be submitted to the Planning and Zoning Department or its designated agent.

(2) Priority List of eligible moderate-income households applying for moderate-income dwelling units shall be selected on the basis of the following categories of priority:

- i. Full-time Town of Greenwich Municipal and Board of Education employees and full-time employees of not-for-profit health, education, and human services agencies and other not-for-profit agencies located in the Town of Greenwich that provide essential services to the Greenwich community.
- ii. Other residents of the Town of Greenwich.
- iii. Other persons employed in the Town of Greenwich.
- iv. All others

(3) Guidelines for maximum rent and sales price:

For moderate-income dwelling units in each housing development, a range of sales prices and/or monthly rentals may be established, subject to the following:

i. The maximum monthly rent for one bedroom moderate-income dwelling units shall include common charges, and may exclude utilities (gas, oil and electricity) at the discretion of the property owner, shall not exceed 2.0% of the median annual Town paid wages for all full-time Town of Greenwich Municipal and Board of Education employees during the preceding fiscal year. Additional bedrooms will result in higher maximum rent: two bedroom units will be limited to 2.5% and three bedroom units to 3% of the median annual Town paid wages as described above. (6/20/19)

ii. The first time a moderate-income dwelling unit is sold, the maximum sales price for a one bedroom unit to a subsequent moderate-income household shall not exceed four times the median annual Town paid wages of all full-time Town of Greenwich Municipal and Board of Education employees during the preceding fiscal year. Additional bedrooms will result in higher maximum sales prices: two bedroom unit prices will be limited to five times and three bedroom units to six times the median annual Town paid wages as described above.

iii. In the case of a condominium ownership structure, there shall be no extra up-front charge for minimum required facilities such as, but not limited to, parking and recreational facilities. Each unit owner, however, shall pay his fair share of common charges, expenses and assessments as provided in the Common Interest Ownership Act of the State of Connecticut and as approved by the Town of Greenwich Planning and Zoning Department. (6/20/19)

(4) Resale Restrictions:

i. For moderate-income dwelling units, the title to said property shall be restricted so as to maintain the unit in the moderate-income category in perpetuity beginning on the date of issue of the Certificate of Occupancy ~~(the "Restriction-Period")~~. ~~Said restriction shall provide that~~ in the event of any resale of the unit by the original owner or any successor owner, the maximum resale price shall be limited by the same guidelines and rules indicated in 6-110(h)(3)(ii) above. (6/20/19)

ii. For rental moderate-income dwelling units, the title to said property shall be restricted so as to maintain the rents charged for the units in the moderate-income category in perpetuity beginning on the date of issue of the Certificate of Occupancy. This title restriction will survive any sale of the rental project to a subsequent owner ~~during the Restriction-Period~~. There shall be no limitation on the sales price of an entire moderate-income rental project; however, if less than the entire project is sold, any moderate-income dwelling unit(s) sold must be sold to a qualifying moderate-income household ~~during the Restriction-Period~~. (6/20/19)

iii. If a moderate-income dwelling unit is subject to a Restriction Period other than “in perpetuity”, twelve months prior to the end of the Restriction Period, the owner of any moderate-income dwelling unit shall notify, by certified mail, the Town of Greenwich Planning and Zoning Department or its designee of the impending end of the Restriction Period. Failure by the owner of the moderate-income dwelling unit to notify, by certified mail, the Town of Greenwich Planning and Zoning Department or its designee twelve months prior to the end of the Restriction Period shall extend the Restriction Period by the number of days equal to the period of failure to give notice. (6/20/19)

iv. In the case of moderate-income dwelling units which are part of a commonly owned building in which a moderate-income dwelling unit cannot be sold individually, then such moderate-income dwelling unit will remain in the Restriction Period, if applicable, until such unit can be eligible to be sold in accordance with the procedure of Sec. 6-110. (6/20/19)

v. Each moderate-income dwelling unit shall be subject to an option to purchase (the “Purchase Option”) at the maximum allowable restricted sales price or any mutually agreed upon sales price that does not exceed the maximum sale price. The Purchase Option shall be available to the Town of Greenwich, or its designee, followed next by the Housing Authority of the Town of Greenwich, then followed next by a qualified non-profit as approved by the Town. Upon receipt of a notice of the end of the Restriction Period, if applicable, the Purchase Option shall be available to the Town of Greenwich for 90 days. If the Town exercises the Purchase Option, it may enter into a contract of sale. If the Town fails to exercise the Purchase Option or declines to exercise the Purchase Option within 90 days, the Housing Authority of the Town of Greenwich shall have 30 days to exercise the Purchase Option and enter a contract of sale. If the Housing Authority of the Town of Greenwich fails to exercise the Purchase Option or declines to exercise the Purchase Option within 30 days, a qualified non-profit as approved by the Town shall have 30 days to exercise the Purchase Option and enter into a contract of sale. If the qualified non-profit fails to exercise the Purchase Option or declines to exercise the Purchase Option within 30 days, the existing moderate-income dwelling unit owner will be free to proceed with the sale of the moderate-income dwelling unit at the end of the Restriction Period, if applicable. (6/20/19)

vi. A seller of a moderate-income dwelling unit that has been restricted as a moderate-income dwelling unit for a Restricted Period who has provided the requisite notice of an intent to sell shall have the option to proceed with a sale at fair market value without restriction if no contract of sale has been signed in accordance with paragraph (h)(4)v above, provided that the Town of Greenwich, or its designee, shall examine the contract of sale to determine if the proposed sale price bears a reasonable relationship to the moderate-income dwelling unit’s fair market value. The Town of Greenwich, or its designee, may rely on comparable sales or an appraisal, and shall not approve a contract of sale where there is a determination that the sale price does not bear a reasonable relationship to fair market value. Upon transfer of title on the moderate-income dwelling unit, the seller of the moderate-income dwelling unit shall pay 50% of the difference between the contract sale price of the unit and the final restricted sale price to the Town of Greenwich. (6/20/19)

vii. In the event of a casualty or other destruction of a moderate-income dwelling unit, any replacement unit shall be subject to the regulation of this Sec. 6-110.

viii. Any conversion of a rental moderate-income project to another use shall not be permitted during the Restriction Period, if applicable, unless such conversion includes the creation of the required number of for sale moderate-income dwelling units in accordance with Sec. 6-110. (6/20/19)

(5) Declaration of Restrictions:

The developer/owner of moderate-income dwelling units shall submit to the Planning and Zoning Commission a Declaration of Restrictions and Lien adopted by the Town of Greenwich, as to the ownership, use, occupancy, and resale of such moderate-income dwelling units. This declaration of restrictions shall be binding upon such developer and all succeeding owners of the moderate-income dwelling units and shall incorporate the provisions of this Sec. 6-110 therein by reference hereto. Final site plan approval shall be given by the Commission only after it has been satisfied that the Declaration of Restrictions binds the developer and all succeeding owners of the moderate-income dwelling units and duly restricts the ownership, use, occupancy, and resale thereof, and requires adherence to established sales and rental guidelines and administrative procedures, all in accordance with the provisions of this Sec. 6-110. The Commission may cause any such Declaration of Restrictions to be reviewed by the Town Attorney. Each deed for a moderate-income dwelling unit will indicate the restrictions on such unit and refer to the Declaration of Restrictions and Lien, which shall be on file with the Town Clerk as part of the Town's land records.

(6) Administration:

i. The Greenwich Planning and Zoning Department or other designated agent/agency approved by the Town shall maintain a list of eligible moderate-income households in accordance with the priority list set forth in (b)(3) above. Where the number of those eligible in the same category of priority exceeds the number of available moderate-income dwelling units, the applicant shall be selected by lottery. As the goal of this program is to provide the greatest benefit to the largest number of eligible people, the Town will seek, at its discretion, to match the size of an available moderate-income dwelling unit to the most appropriately sized eligible household. The selected moderate-income household must reside in the moderate-income dwelling unit. Moderate-income dwelling units must be occupied by the qualified owner(s) or legal lessee(s) only. If there is more than one qualified owner or legal lessee, each owner or legal lessee must occupy these units as their primary residence. These moderate-income dwelling units cannot be rented, assigned, leased out, or occupied by others not legally allowed or approved by the Town or its designated agency. (6/20/19)

ii. At the time of Site Plan approval for each housing development, the Planning and Zoning Commission shall approve the designation of an administrative agency to monitor and administer guidelines for the rental, sale, or resale of moderate-income dwelling units. Such administrative agency, which may buy the moderate-income dwelling units for the purpose of rental or resale to moderate-income households, may be a non-profit corporation, an agency of the Town, a Community Housing Development Corporation pursuant to Section 8-217 of the

General Statutes, a 501(c)(3) non-profit corporation such as a Greenwich Community Development Partnership, or other approved organization. Such agency may maintain and submit an eligibility list to the Planning and Zoning Department or other designated agent, but the choice of households for available moderate-income dwelling units even if owned by the designated agency shall be in accordance with (b)(3) above. (6/20/19)

iii. The designated agency shall establish the sale price, resale price, or annual rent of the individual dwelling unit in accordance with the guidelines and requirements of (h)(3) and (h)(4) above and with the approval of the Greenwich Planning and Zoning Department or other designated organization. There will be an Affordability Plan filed on the Greenwich Land Records indicating the deed restrictions on the specific unit which the designated agency will enforce. (6/20/19)

iv. The designated agency shall set up such procedures as may be necessary to receive annual certification or other information from owners and or tenants which confirms continuing compliance with the guidelines and requirements of this Sec. 6-110 and which notifies it of any conversion in the form of ownership. This information shall be submitted to the Planning and Zoning Department. (6/20/19)