

**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 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.~~

**In recognizing the priority need for the construction of more below-market-rate dwelling units in the Town of Greenwich, the purpose of these regulations is to incentivize construction of residential or mixed-use developments in the business zones that contain below-market-rate dwelling units and increase the diversity of the Town's housing stock in walkable, higher density areas, in accordance with the objectives of the Town's Plan of Conservation and Development (POCD) and the POCD Housing Task Force recommendations. Further, the regulations are designed 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 can benefit from below market rate units. Moderate and Affordable Income Dwelling Units promote a diverse and balanced community by creating housing for households of all income levels because economic diversity fosters social and environmental conditions that protect and enhance the social fabric of the Town and are beneficial to the health, safety and welfare of its residents.**

## (b) Definitions:

(1) 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.

(2) Moderate-income dwelling units (**MID**) 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.

(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

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.

**(4) Affordable housing units (AHU) are those households with an annual income no more than eighty percent (80%) of the median family income for the Stamford-Norwalk HUD Metropolitan Fair Market Rent Income Area, adjusted for household size as published annually by the U.S. Department of Housing and Urban**

**Development. Household eligibility determinations shall be made in accordance with the income criteria in Section 8-30g-8 of the Connecticut General Statutes.**

**(5) Below Market Rate Units (BMR) – a general term that refers to both moderate-income dwelling units and affordable housing units as defined above.**

(c) ~~Limit on the Number of~~ **Requirements for Dwelling Units Permitted in the Business Zones:**

**(1) Dwelling units are permitted within private-sector residential or mixed-use developments in the LB, LBR-2, CGB, CBGR, GB and GBO zones provided the units comply with Sec. 6-110(d) and the following:**

- a. Sec. 6-205 of these zoning regulations.
- b. **For LBR-2 and CGBR zones, dwelling units are allowed only on the floors above the ground floor. The ground floor uses allowed are non-residential uses and are specified in Sec. 6-103 and 6-103.1, respectively.**
- c. **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.**
- d. 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 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. **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 to protect residents and/or adjoining properties from adverse impacts.**
- f. **Any development that includes five (5) or more residential units must include Below Market Rate (BMR) units as specified in Table One and Table Two of Section 6-110 (d).**

~~(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:~~

**(d) Incentives:**

To provide incentives to include moderate-income dwelling units (MID) and affordable housing units (AHU) within residential or mixed-use development in the LB, LBR-2, CGB, GB and GBO zones (including alteration of, or addition to, an existing building), the Planning and Zoning Commission may allow the following modifications of the Building Zone Regulations provided that (1) the proposed development includes the requisite number of moderate-income and/or affordable housing units required in this section; and (2) the Commission finds that the purposes and requirements of Section 6-110 are met;

(1) A waiver of the prohibition of ground-floor residential dwelling units in the LB zone may be granted. Ground-floor residential use is permitted in the GB, GBO, and CGB zones but is prohibited in the LB and LBR-2 zones.

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

(3) A waiver of the prohibition of an entrance to or exit from a business use located on any street frontage opposite a residential zone where the lot containing the business use have frontage in a business zone along East and West Putnam Avenue.

(4) When development comprising a residential use and a non-residential use, herein after referred to as, “mixed use”, the floor area devoted to the non-residential use shall not exceed the parameters established in Section 6-205 and any other applicable section of these regulations.

(5) Height and bulk incentives applicable to properties within the GB, GBO, CGB zones only:

**TABLE ONE  
INCENTIVES**

Number of Units	Units that must be Below Market Rate	Type of BMR Unit Required	FAR	Height	Stories
4 or fewer	1 unit	MID	0.6	40'	3
10 or fewer	1 unit	AHU	0.75	45'	4
Between 11 and 24	15% of total number of units	AHU	0.75 plus an additional 1,000 sq. ft. per AHU up to 0.9 FAR	47' 5"	4
25 or more	20% of total number of units	MID and AHU See (d) below	0.75 plus an additional 1,000 sq. ft. per BMR up to 0.9 FAR	47' 5"	4

- a) For residential or mixed-use developments with four (4) or fewer units, a Floor Area Ratio (FAR) of 0.6 is permitted where 1 of the 4 units is deed restricted as a moderate-income dwelling unit.
- b) For residential or mixed-use developments with ten (10) or fewer units, a Floor Area Ratio (FAR) of 0.75, a height of 45', and 4 stories (subject to subsection (e) below), where 1 of the 10 units is deed restricted as an affordable housing unit.
- c) For residential or mixed-use developments comprising between 11 and 24 units, at least 15% of the total number of units shall be deed restricted as affordable housing dwelling units. For

developments with a residential unit count between 11 and 24, the developer may propose a structure using the incentives shown in Table One. For example, a 20-unit building would comprise 17 market rate units, and 3 (15% of 20 units) affordable housing units. The allowable Floor Area Ratio for the total building regardless of uses within the building is 0.75 plus an additional 3,000 square feet of floor area (1,000 square feet per AHU). The 3,000 square feet of floor area must be applied to the residential use as the commercial use is capped at the limits defined in Section 6-205.

- d) For residential or mixed-use developments comprising more than 25 units, at least 20% of the total number of units must be divided equally between moderate income and affordable housing but in the instances where an odd number of units are required, the extra unit shall be deed restricted as moderate income. For developments with more than 25 units, the developer may propose a structure using the incentives shown in Table One. For example, a 33-unit building would comprise 26 market rate units and 7 (20% of 33 units) deed restricted as moderate income and affordable housing units whereby 4 of the 7 units would meet the definition of moderate-income units and 3 of the 7 would meet the definition of affordable housing units. The allowable Floor Area Ratio for the total building regardless of uses within the building is 0.75 plus an additional 7,000 square feet of floor area (1,000 square feet per Below Market Rate (BMR) unit to a maximum of 0.9 FAR). The 7,000 square feet of floor area must be applied to the residential use as the commercial use is capped at the limits defined in Section 6-205.
- e) The floor area of any fourth story shall not exceed 70% of the floor area of the third story. Further, the exterior wall(s) of the fourth story shall be stepped back from all street façades by a quarter foot for each foot of building height, excluding parapets, unless the Commission finds that a different façade is more appropriate to reduce the massing of the structure.

- (6) Height and bulk incentives applicable to properties in the LBR-2 and LB zones only

TABLE TWO

Number of Units	Units that must be Below Market Rate	Type of BMR Unit Required	Incentives		
			FAR	Height	Stories
4 or fewer	1 unit	MID	0.6	35'	3
5 units or more	15%	MID	0.75	40'	3 ½

- a) For residential or mixed-use developments with four (4) or fewer units, a Floor Area Ratio (FAR) of 0.6 is permitted where 1 of the 4 units must be deed restricted as a moderate-income dwelling unit.
- b) For residential or mixed-use developments comprising more than 5 units, 15% of the total number of units must be deed restricted as moderate income dwelling unit. In those instances, the developer may propose a structure using the incentives shown in Table Two.

**(e) Parking requirements**

**(1) Parking shall be provided in accordance with the standards of Section 6-155 for multi-family dwellings.**

(2) 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;

**(3) Parking requirements for residential only developments with Below Market Rate Units (mixed use follows Section 6-155):**

- a. **Dwelling with studio or one Bedroom: 1 parking space per bedroom;**
- b. **Dwelling with Two Bedrooms: 1.25 parking space per bedroom;**
- c. **Dwellings with three or more Bedrooms: 1.5 parking spaces per bedroom**

(4) The Planning and Zoning Commission may, at its discretion, require that bicycle racks be installed as a condition of site plan approval for multi-family housing, subject to the requirements of Section 6-155.

**(f) General requirements for developments Including Below Market Rate Units**

**These requirements are in addition to those required in Section 6-110(c)**

- (1) These regulations provide for the size and location of structures permitted for residential and/or mixed-use developments in the LB, LBR-2, CGB, GB and GBO zones only. There are no limits on the number of dwelling units permitted within those structures.**
- (2) In order to meet the purpose of these regulations as noted in Section 6-110(a), no applicant to become a tenant in a below market rate units (BMR) developed through incentives in this regulation shall own real estate in the Town of Greenwich.**
- (3) MID or AHU units developed under these regulations 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.**
- (4) Such units shall be physically integrated into the design of the development in a manner satisfactory to the Planning and Zoning Commission.**
- (5) The construction quality of the Below Market Rate Units shall be comparable to market rate units within the development;**
- (6) Below Market Rate Units shall be dispersed throughout the development;**

- (7) **Below Market Rate Units shall be built on a pro rata basis as construction proceeds;**
- (8) ~~Moderate-income dwelling~~ **Below Market Rate Units shall be offered as the type of unit they were approved as**, at future sale, resale, or continuing rental to ~~moderate-income households~~ **as originally approved unless modified by the** ~~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.~~
- (9) ~~Moderate-income dwelling~~ **Below Market Rate 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~~ **Below Market Rate Units** cannot be rented by owners or subleased by tenants or occupied by others not legally allowed or qualified by the Town.
- (10) An annual affidavit is required from the owner/tenant **of a Below Market Rate Unit** indicating they are residing in the unit as their primary residence and that the owner/tenant continues to meet the income limits to qualify for the unit. **This annual affidavit should be submitted to the Administrator of the development who shall submit to Planning and Zoning Department** or its designated agent.

(g) **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.~~

- (1) **A site plan application is required when the development proposal is four (4) units or fewer, and/or the building's size does not trigger a special permit as required pursuant to Section 6-101,**

and/or the development does not use any of the incentives outlined in Section 6-110(c).

- (2) A special permit and site plan are required when the development proposal is five (5) units or more, or the building's size is at or over the threshold that triggers a special permit pursuant to Section 6-101, and/or any of the incentives outlined in Section 6-110(c) are used. Pursuant to Section 6-14(a)(1), a pre-application(s) is required is required for special permit applications.
- (3) Any development including Below Market Rate Units shall submit to the Planning and Zoning Commission a draft of Declaration of Restrictions and Lien which conforms to the guidelines adopted by the Town of Greenwich, as to the ownership, use, occupancy, and resale restrictions of such units. This declaration of restrictions shall be binding upon such developer and all succeeding owners of the units and recorded on the Town's land records. 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 units and duly restricts the ownership, use, occupancy, and resale thereof, and requires adherence to established sales and rental guidelines and administrative procedures, in accordance with Section 6-110. The Declaration of Restrictions shall be reviewed by the Town Attorney. Each deed for a Below Market Rate Unit shall 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.
- (4) Any development including Below Market Rate Units shall submit an "Affordability Plan" concurrently with a Special Permit and Site Plan application, which shall prescribe how the regulations regarding affordability will be administered. The Affordability Plan will be included as an exhibit to the Declaration of Restrictions and Lien.
- (5) Unless otherwise provided in the Housing Affordability Plan approved by the Commission, the Affordability Plan shall contain at least the following:

  - (A) The designation of an administrator to monitor and enforce the standards contained in the Affordability Plan;
  - (B) The requirement for an annual affidavit from the owner/tenant of a Below Market Rate Unit indicating they

are residing in the unit as their primary residence. This annual affidavit should be submitted to the Administrator of the development who shall submit to Planning and Zoning Department or its designated agent.

- (C) The annual income of Below Market Rate households shall be certified by such household and reviewed by the Commission, or its designee, in accordance with a procedure established in advance and approved by the Commission. If the income of a tenant exceeds the allowable income during the one-year lease period, the tenant is permitted to remain in the unit until the end of the lease period.
- (D) Tenants or owners of Below Market Rate Units shall have the same access to common areas, facilities, amenities and services as residents of Market Rate Units in the development, including but not limited to outdoor spaces, amenity spaces, storage, and other resident services. There shall be no fees for the use of a parking space for one vehicle and bicycle facilities for residents of Below Market Rate Units. If a Below Market Rate Unit household owns more than one vehicle, the same parking fees as for the market rate tenants or owners shall apply for all vehicles in excess of the first vehicle. Tenants or owners of Below Market Rate Units shall not be charged higher or additional fees than market rate tenants or owners, and access to amenities which is free of charge for market rate owners or tenants must be free of charge for tenants or owners of Below Market Rate Units.
- (E) Any priority of potential Below Market Rate Unit tenants must be noted in the Affordability Plan
- (F) Reference shall be made to the Administration of Below Market Rate Units as described in Section 6-110(i).

(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 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 proposal complies with the standards of Sec. 6-15 and 6-17 of the Building Zone Regulations:~~

- ~~(1) An increase in Floor Area Ratio to 0.9. 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;~~
- (9) 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
- (10)
- (11) ~~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 as measured according to the requirements of the particular underlying business zone;~~
- (12) ~~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)~~
- (13) ~~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;~~
- (14) ~~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;~~

- ~~(15) 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~~
- ~~(16) 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.~~
- ~~(17) 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)~~

~~(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~~

**(h)** Guidelines for maximum rent and sales price

(A) 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 **a studio moderate-income dwelling unit** excluding common charges and utilities (gas, oil and electricity), shall not exceed **1.5%** 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: **one bedroom will be limited to 2%**, 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.
- 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 Community Development Office.

**(B) For Affordable Housing 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 shall not exceed the maximum monthly rent as calculated in accordance with the maximum housing payment calculations in set-aside developments as per Section 8-30g-8 of the regulations of Connecticut State Agencies, as adjusted for family size. Should household earning increase after initial tenancy, such unit shall be considered to be in compliance with the provisions of this regulation, provided eligible household income does not exceed eighty (80) percent of state median income.**
- ii. **The sale price shall not exceed the maximum purchase price as calculated in accordance with the maximum housing payment calculations in set-aside developments as per Section 8-30g-8 of the regulations of Connecticut State Agencies, as adjusted for family size.**

~~(3)~~ **(C) Resale Restrictions:**

The title to all owner-occupied ~~Moderate-income dwelling~~ **Below Market Rate Units** shall be restricted by the Declaration of Restrictions and Lien which will require the unit in the ~~moderate-income~~ income **and/or affordable** category for a period of 40 years to be maintained 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 during the Restriction Period, the maximum resale price shall be limited by the same guidelines and rules indicated in ~~6-110(h)(3)(A)(ii)~~ **6-110(h)(A) and 6-110(h)(B)** above. (7/19/16)

- i. The title to all developments containing ~~Moderate-income dwelling~~ **Below Market Rate Units available for rent** shall be restricted by the Declaration of Restrictions and Lien which will require the rents charged for the units to be calculated in accordance with this regulation for a period of 40 years beginning on the date of issue of the Certificate of Occupancy. This title restriction will survive any sale of the rental development to a subsequent owner during the Restriction Period. There shall be no limitation on the sales price of an entire Below Market Rate rental development; however, if less than the entire development is sold, any ~~Moderate-income dwelling~~ **Below Market Rate Units** sold must be sold to a qualifying ~~Moderate-income dwelling~~ **Below Market Rate** income household during the Restriction Period.
- ii. Twelve months prior to the end of the Restriction Period, the owner of any Below Market Rate dwelling unit shall notify, by certified mail, the Town of Greenwich Community Development office 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 Community Development office 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.
- iii. In the case of Below Market Rate units which are part of a commonly owned building in which a Below Market Rate dwelling unit cannot be sold individually, then such Below Market Rate dwelling unit will remain in the Restriction Period until such unit can be eligible to be sold in accordance with the procedure of Sec. 6-110.

- iv. Each Below Market Rate 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, 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 Below Market Rate dwelling unit owner will be free to proceed with the sale of the Below Market Rate dwelling unit at the end of the Restriction Period.
- v. A seller of a Below Market Rate dwelling unit that has been restricted as a Below Market Rate dwelling unit for the 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 Below Market Rate 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 Below Market Rate dwelling unit, the seller of the Below Market Rate 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.

- vi. In the event of a casualty or other destruction of a ~~Moderate-income dwelling~~ **Below Market Rate Unit**, any replacement unit shall be subject to the regulation of this Sec. 6-110.
- vii. during the Restriction Period unless such conversion includes the creation of the required number of for sale Below Market Rate dwelling units in accordance with Sec. 6-110.

(4) ~~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.~~

(5) (i) Administration:

- i. ~~The Greenwich Community Development Office 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.~~

- ii. At the time of Site Plan **and Special Permit** approval for each housing development, the Planning and Zoning Commission shall approve the **Affordability Plan stating the designation requirement** of an **Administrator and/or** administrative agency to monitor and administer guidelines for the rental, sale, or resale of moderate income dwelling **Below Market Rate Units (herein after referred to the Administrator)**. Such administrative agency, which may buy the moderate income dwelling units for the purpose of rental or resale to households, may be a non profit corporation, an agency of the Town, a Community Housing Development Corporation pursuant to Section 8-217 of the Connecticut 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 Community Development Office 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.
- iii. The designated **Administrator** agency shall establish the sale price, resale price, or annual rent of the individual dwelling unit in accordance with the guidelines and requirements of **Section 6-110 (h) (h)(3) and (h)(4)** above and with the approval of the **Planning and Zoning Commission or their designee**. ~~Greenwich Community Development Office or other designated organization.~~
- iv. The **Administrator** ~~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 Section 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 ~~or to the Greenwich Community Development Office.~~

- v. **Upon a vacancy or prospect of a vacancy of a Below Market Rate Unit, the Administrator shall notify the Planning and Zoning Office. The Administrator is required at their expensive, to advertise the rental or sale of the unit in at least a publication (s) with substantial circulation and to provide all applicable details of said unit, including photographs, to the Planning and Zoning Department who will communicate the availability of the Below Market Rate Unit to at least the employees of the Town of Greenwich and the Board of Education. It shall be made clear in any advertisement that all applications shall be submitted to the Administrator for determination of compliance.**
  
- vi. **The Administrator is required to submit all compliant applications to the Planning and Zoning Office for verification. If there is more than one eligible applicant, the Planning and Zoning Office will run a lottery to determine the ranking of eligible tenants/ owners. If the first recipient does not choose the unit, the offer goes to the second in rank and so on.**