

# Proposed Barkhamsted IH Regulations

*Amend Article II Section 193-21 Districts Enumerated by adding the following zone:*

*For this section **Bold** = proposed new text*

## **Incentive Housing District - IH**

*Amend Article VI Section 193-33 by adding the following definitions, alphabetically:*

*For this section **Bold** = proposed new text*

**Incentive housing District - A district adopted by the Barkhamsted Planning & Zoning Commission pursuant to Connecticut General Statutes Sections 8-13m to 8-13x and Section 193.67.2 of the Barkhamsted Zoning Regulations, inclusive, as an overlay to one or more existing zones, in an eligible location.**

**Townhouse - A residential building consisting of a single-family dwelling unit constructed in a group of three (3) or more attached units, in which each unit extends from foundation to THE roof and has open space on at least two sides. (State definition)**

**DUPLEX HOME OR TWO-FAMILY HOME - A residential building consisting of two (2) dwelling units located on an individual lot and entirely surrounded by open space. The building shall have a party wall separating the dwelling units from basement to roof line or an unpierced ceiling and floor extending from exterior wall to exterior wall separating dwelling units. Each dwelling unit shall be a separate house**

**Eligible Household – A household whose annual income is at or below 80 percent of the area median income for Barkhamsted, as determined and reported by the United States Department of Housing and Urban Development (HUD).**

**Incentive Housing Development – A residential or mixed-use development (A) that is proposed or located within an approved incentive housing zone; (B) that is eligible for financial incentive payments set forth in this section and sections 8-13n to 8-13x, inclusive; and (C) in which not less than twenty per cent of the dwelling units will be conveyed subject to an incentive housing restriction requiring that, for at least thirty years after the initial occupancy of the development, such dwelling units shall be sold or rented at, or below, prices which will preserve the units as housing for which persons pay thirty per cent or less of their annual income, where such income is less than or equal to eighty per cent or less of the median income.**

**Incentive Housing Restriction – Means a deed restriction, covenant, zoning regulation, site plan approval condition, subdivision approval condition, or affordability plan constituting an obligation with respect to the restrictions on household income, sale or resale price, rent and housing costs required by Connecticut General Statutes Sections 8-13n to 8-13x, inclusive, enforceable for thirty years as required by said sections, and recorded on the land records of the municipality where the housing is located.**

**Incentive Housing Unit – A dwelling unit within an Incentive Housing Development that is subject to an Incentive Housing Restriction.**

**Mixed-use development - A development containing one or more multifamily or single-family dwelling units and one or more commercial, public, institutional, retail, office or industrial uses.**

**Median income - Means, after adjustments for household size, the area median income as determined by the United States Department of Housing and Urban Development for the Town of Barkhamsted.**

**Multifamily housing - Means a building that contains or will contain three or more residential dwelling units.**

**Developable land - means the area within the boundaries of an approved incentive housing zone that feasibly can be developed into residential or mixed uses consistent with the provisions of this section and Connecticut General Statutes Sections 8-13n to 8-13x, inclusive, not including: (A) Land already committed to a public use or purpose, whether publicly or privately owned; (B) existing parks, recreation areas and open space that is dedicated to the public or subject to a recorded conservation easement; (C) land otherwise subject to an enforceable restriction on or prohibition of development; (D) wetlands or watercourses; and (E) areas exceeding one-half or more acres of contiguous land that are unsuitable for development due to topographic features, such as steep slopes.**

Amend Article IX Section 193-67.2 Overlay districts by adding the following:

*Entire Section is New*

**193-67.2 INCENTIVE HOUSING OVERLAY DISTRICT (IH)**

**193-67.2.a Purpose.**

1. The Incentive Housing District (IH) is adopted pursuant to the authority of Connecticut General Statutes Chapter 124b. Its purpose is to encourage affordable housing in both residential and business districts that have the transportation connections, nearby access to amenities and services, and infrastructure necessary to support concentrations of development.
2. The Incentive Housing District (IH) seeks to provide a variety of housing types and opportunities which will maintain Barkhamsted's diverse population while retaining the rural character of the community and preserving environmentally sensitive areas, an objective outlined in the 2007 Town Plan of Conservation and Development.
3. It is a further purpose that the IH help moderate the cost of housing and improve the options for affordable and moderate cost housing also an objective outlined in the 2007 Town Plan of Conservation and Development. .

**193-67.2.b General Requirements.**

1. Any such zone shall be in compliance with the locational requirements of Connecticut General Statutes Chapter 124b.
2. Subzones.
  - A. The Commission may designate subzones within an overall IH District in which different types of uses may be permitted, as in the case of a mixed-use incentive housing development.
  - B. Each IH District may consist of one or more subzones, which may overlay each other as well as the underlying district. Within any IH District, there may be any or all of four (4) subzones, designated as:
    - (a) Single Family - SF Subzone
    - (b) Duplex - DH Subzone
    - (c) Townhouse TH Subzone

(d) Mixed-use- MU Subzone.

**193-67.2.c Bulk Requirements**

The following Bulk Requirements shall apply when an IH project is proposed. The requirements in the Underlying Zone (UZ) remain in effect when noted UZ.

<i>SUBZONE</i>	<i>MAXIMUM LOT COVERAGE RATIO</i>	<i>DENISTY (UNITS PER ACRE)</i>	<i>HEIGHT</i>
<i>IH-SF</i>	<i>UZ</i>	<i>4</i>	<i>UZ</i>
<i>IH-DH</i>	<i>UZ</i>	<i>6</i>	<i>UZ</i>
<i>IH-TH</i>	<i>UZ +10%</i>	<i>10</i>	<i>UZ</i>
<i>IH-MU</i>	<i>UZ +10%</i>	<i>10</i>	<i>UZ</i>

**193-67.2 d Density.**

1. Density is calculated by the number of units allowed per acre of developable land.
2. Where an incentive housing development contains a mix of the above dwelling types, the land occupied by non-residential uses will be included in the residential density calculation. The residential densities will be calculated by apportioning the total acreage of the incentive housing development in the same proportion that each type of housing bears to the total number of dwelling units.
3. For any incentive housing development to be developed in phases, each phase will comply with the minimum residential densities and the incentive housing restrictions set forth in this section.

4. Public Applicant. In the case of an incentive housing development proposed by a public applicant, the residential densities will be in accordance with a waiver as may be granted by the Secretary of the Office of Policy and Management in accordance with Connecticut General Statutes Section 8-13n(b)(3).

#### **193-67.2.e Buffers**

1. From Rear Property Line.
  - A. Where the underlying district is a residential district, no less than ten (10) feet.
  - B. Where the underlying district is business or industrial district, in accordance with the underlying district.
  - C. For non-residential uses, in accordance with the underlying district.
2. From Other Property Line.
  - A. Where the underlying district is a residential district, no less than ten (10) feet.
  - B. Where the underlying district is a business or industrial district, in accordance with the underlying district.
  - C. For non-resident uses, in accordance with the underlying district.
3. Minor Accessory Buildings or Structures.
  - A. For residential uses, same as for principal buildings or structures, above.
  - B. For non-residential uses, in accordance with the underlying district.

#### **193-67.2.f Principal Uses and Activities.**

1. Prior to the approval of any application for Certificate of Zoning Compliance for any Incentive Housing Development that includes any principal or accessory use permitted under this Section, a Site Plan will be submitted to and approved by the Commission in accordance with Article VII Section 193-40. In considering an incentive housing development, the Commission will find that any application for an incentive housing development will comply with the provisions of this Section, as well as the Site Plan Objectives and, for uses requiring a Special Exception, the General Standards for Special Exception Uses in Article VIII Section 193-49.

#### **2. Mixed Uses.**

- A. For any incentive housing development in a mixed-use subzone, the Commission may allow by Special Exception the inclusion of uses otherwise permitted by Site

Plan or Special Exception in the underlying district provided that the minimum residential densities are met for the total incentive housing development.

- B. In any mixed-use incentive housing development, at least 50 percent of the gross floor area of the first story will be non-residential uses. Bulk requirements for stand-alone non-residential uses in an incentive housing development will be in accordance with the requirements of the underlying district.
- C. Special Exceptions. Prior to the approval of any application for Certificate of Zoning Compliance for any incentive housing development that includes any principal or accessory use permitted by Special Exception under this Section, an application for Special Exception use, including a Site Plan, will be submitted to and approved by the Commission.

**3. Accessory Uses.** Any accessory use as permitted in the underlying district and subject to the requirements and approval procedures as may be applicable to the uses.

**193-67.2.G. Incentive Housing Restriction.**

1. For an incentive housing development proposed by a private applicant at least 20 percent of the dwelling units will be rented or conveyed subject to an incentive housing restriction requiring that, for at least 30 years after the initial occupancy of the development, the dwelling units will be sold or rented at, or below, prices that will preserve the units as housing for which persons pay 30 percent or less of their annual income, where the income is less than or equal to 80 percent or less of the median income. In determining compliance with this paragraph, the Commission will utilize regulations or guidelines published by the Connecticut Office of Policy and Management, or any other successor agency designated in accordance with Connecticut General Statutes Sections 8-13m to 8-13x.
2. Public Applicant for Incentive Housing Development. For an incentive housing development proposed by a public applicant, 100 percent of the dwelling units will be rented or conveyed subject to an incentive housing restriction requiring that for at least 30 years after the initial occupancy of the development, the dwelling units may be sold or rented at, or below, prices that will preserve the units as housing for which persons pay 30 percent or less of their annual income, where the income is less than or equal to 80 percent or less of the median income. In determining compliance with this paragraph, the Commission will utilize regulations or guidelines published by the Connecticut Office of Policy and Management or any other successor agency designated in accordance with Connecticut General Statutes Sections 8-13 to 8-13x.

### **193-67.2.H. Submission of Affordability Plan.**

Each applicant for an incentive housing development will provide an affordability plan that will detail the administration, monitoring and enforcement of the dwelling units to be sold or rented at below-market rates as described above. The plan will include proposed deed restrictions or covenants, lease agreements, common interest ownership documents, bylaws, rules and regulations, sample income calculations, and any other information as the Commission may require to establish compliance with this Section and Connecticut General Statutes Sections 8-13m to 8-13x.

### **193-67.2.I Designation of Administering Agency.**

The applicant will indicate the name, address and other contact information for the agency that will administer the sale or rental of dwelling unit: that are subject to the below-market sale or rental in accordance with this Section.

### **193-67.2.J Approval of IH or Subzones.**

- A. In considering each subzone, or any IH as a whole, the Commission will find that any application for an Incentive Housing Overlay Zone or subzone will comply with the provisions of this Section and the Connecticut General Statutes Chapter 124b.
- B. In establishing a subzone, the Commission will have the discretion to exclude one (1) or more uses that would otherwise be permitted in an incentive housing development in that subzone, including uses permitted in the underlying district, which exclusions, if any, will be stated in the resolution creating or amending the subzone and will become part of the text describing the Incentive Housing Overlay District.

### **193-67.2.K Design Standards.**

- 1. Applicable Standards. Incentive Housing Development applications shall apply the design criteria identified in the “Barkhamsted Design Review Guidelines.” In adopting the design criteria of “Barkhamsted Design Review Guidelines” the Commission has considered design standards that:
  - A. Ensure that development is complementary to adjacent or neighboring buildings or structures and consistent with the housing plan provided for in Connecticut General Statutes Section 8-13p, and
  - B. Address the scale or proportions of buildings; site coverage; alignment, width or grade of streets or sidewalks; type or location of infrastructure; location of building or garage entrances; off-street parking; protection of significant natural site features; location or design of open spaces; signage; or setbacks or buffering from adjacent properties;

provided that the applications of such standards will not unreasonably impair the economic or physical feasibility of constructing housing at the minimum densities and with the required incentive housing restriction set forth in this Section.

**193-67.2.L Application Processing For Incentive Housing Developments.**

1. Incentive Housing Development Proposed within an Existing Incentive Housing Overlay District. For incentive housing developments involving land already designated as an Incentive Housing Overlay District on the Barkhamsted Zoning Map, applicants shall submit a site plan application in accordance with Article VII Section 193-40 of these regulations.
  - A. The Commission shall conduct a public hearing in accordance with the timeframe requirements in Section 8-7d (b) of the Connecticut General Statutes.
  - B. The Commission shall forward the application to Architectural Review Committee for review, in accordance with *Article XII Section 193-43* of these regulations.
2. Application to Expand an Existing Incentive Housing Overlay District, or Establish a New Incentive Housing Overlay District. For projects involving land not designated as an Incentive Housing District on the Barkhamsted Zoning Map, applicants shall submit a zoning map amendment application in accordance with Article XII Section 193-76C of these regulations. Upon approval of the zoning map amendment, the applicant may seek approval in accordance with subsection 1 above.

**193-67.2.M Decision Considerations.**

1. Approval of an incentive housing development. The Commission may waive any standards that would unreasonably impair the economic or physical feasibility of constructing dwellings at minimum densities or with required incentive housing restrictions set forth in this Section. The Commission will approve an incentive housing development subject only to conditions necessary to:
  - A. ensure substantial compliance of any proposed development with the requirements of this Section, the design standards of these regulations and, if applicable, the subdivision regulations; or
  - B. to mitigate any extraordinary adverse impacts of development on nearby properties.
2. Denial of an incentive housing development application. An application may be denied only on the grounds:



- A. the development does not meet the requirements set forth in this Section;
- B. the applicant failed to submit information or fees required by the regulations and necessary for an adequate and timely review of the design or potential impacts of the development; or
- C. it is not possible to adequately mitigate significant adverse project impacts on nearby properties by means of conditions acceptable to the applicant.

**193-67.2.N Method of Ownership.**

1. Dwelling units. Dwelling units may be offered for sale or for rental in individual, public, cooperative or condominium ownership. Documentation as to management, organization and incorporation of applicable ownership associations shall be submitted to the Commission at the time of filing of the application for incentive housing development.

2. Methods of Open Space Reservation. All open space or supporting facilities and systems will be in compliance with applicable law and provide for maintenance, liability, financing or rights of access and use by residents of the incentive housing development as is acceptable to the Commission. Open space areas required will be permanently reserved for the designated use by means acceptable to and approved by the Commission, such as, but not limited to:

- A. Deeded to the Town. Where open space areas are to be conveyed to the Town, the applicant will convey them at the stage and in the condition agreed upon in connection with the processing and approval of the subdivision.
- B. Deeded to a non-profit organization acceptable to the Commission.  
Such nonprofit organization will be a private non-profit, non-stock corporation that has as its purpose the preservation of open space land. The deed to such organization will contain language satisfactory to the Commission requiring that the land be held in perpetuity as open space land for the use of the public. If open space is to be conveyed to a non-profit organization, the Commission may require that a copy of the organization's Certificate of Incorporation be submitted for its review. The deed to the organization will contain the provision that in event of the dissolution of the corporation, the property will be conveyed to the Town, or subject to the approval of the Commission, to another non-profit corporation. The Commission will have the right to reject any proposal for the transfer of open

space land to a private non-profit organization if the Commission determines that such conveyance would not be in the best interest of the Town.

- C. Held in corporate ownership by owners of lots within the development. Open space may be conveyed by warranty deed to a homeowner's association within the development upon such terms and conditions as specified by the Commission. When tracts are conveyed in this manner, a copy of the by-laws of the homeowners' association will be submitted as a part of the application for the IH Development. Membership in such corporation will be mandatory for all lot owners within the development. Each deed conveyance to lot owners will include the membership stipulation, the beneficial right in use of the open land or all other pertinent restrictions, and will be recorded in the Barkhamsted Land Records. Wording on each deed will state that such open land is reserved for use only as open space in perpetuity.
- D. Perpetual easement. Where the right of use, interest or privilege, short of fee ownership in the open space owned by another, is obtained by the Town or acceptable non-profit organization, a deed stipulating that the owner transfers development rights to, and open space or scenic easements over, the land will be required, the fee owner will retain the fee tide to the premises and all incidents of fee ownership, except the right to construct any structure, sign, fence or other improvement, or to alter the contours. Minimum lot requirements cannot be satisfied by use of land dedicated to open space.
- E. Conditions of Open Space Conveyance. Title to the open space land will be unencumbered and will be transferred at a time approved by the Commission, and in any case, not later than the time at which title to the streets in the development is accepted by the town.
- F. Deed Guarantees. Regardless of the method employed, the instrument of the open space conveyance must include provisions suitable to the Commission and its Legal Counsel for guaranteeing the following:
  - 1. Continuity of proper maintenance for those portions of the common open space land requiring maintenance;
  - 2. When appropriate, the availability of funds required for such maintenance; and
  - 3. Recovering of loss sustained by casualty, condemnation or otherwise.

*Amend Article XII Section 193-43 Architectural Review Committee as follows:*

*For this section **Bold** = proposed new text*

B. Duties.

Within thirty five days after being referred to the Committee, the Committee shall review and make written recommendations on:

- A. all site plans;
- B. **all incentive housing development applications (Article Section);**
- C. all changes to facades of non-residential buildings; and
- D. all signs except:
  - a. those on one, two and three family residential properties; and
  - b. those less than 50 square feet in area.

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