

# Chapel Hill, North Carolina Inclusionary Zoning Ordinance Administrative Manual

June 21, 2010

## Contents

1. [Introduction](#)
2. [Program Summary](#)
3. [Purpose and Use of this Manual](#)
4. [Eligible Households](#)
5. [Priority of Eligible Households](#)
6. [Period of Affordability](#)
7. [Affordability Controls](#)
8. [Monitoring of Long-Term Affordability](#)
9. [Affordable Housing Fund](#)
10. [Income Verification](#)
11. [Changes to Ordinance, Administrative Manual](#)

## **1. Introduction**

---

The Inclusionary Zoning Provisions of the Chapel Hill Land Use Management Ordinance have been enacted with intent to increase the availability of well-designed, affordable, safe, and sanitary housing for all citizens of Chapel Hill. Provisions have been put in place pursuant to the Town's Comprehensive Plan goal of encouraging developers of residential developments of five or more units to provide 15 percent of their units at prices affordable to low and moderate income households.

Section 3.10 of the Land Use Management Ordinance contains mandatory rules and regulations applying to new residential construction. This Administrative Manual is a supplement to the ordinance provisions, providing guidance to developers, property owners, and Town Staff regarding the Town Council's intent in the administration of these regulations.

## **2. Program Summary**

---

The affordable housing provisions of Section 3.10 apply to development applications that propose development in any of the following categories:

Single-family or two family development, or subdivision of land to create residential lots that involve:

- (1) at least 5 single-family dwelling units or 2-family dwelling units; or
- (2) at least 5 single-family lots; or
- (3) two-family lots in which six (6) or more residential units are allowed by the Chapel Hill Land Use Management Ordinance, either individually or as part of the same subdivision.

Multi-family unit developments that create at least 5 multi-family dwelling units; or

Renovation or reconstruction of an existing building that contains multi-family dwelling units, and that increases the number of dwelling units from the number of dwelling units in the original structure by at least 5; or

Any change in use of all or part of an existing building from a non-residential use to a residential use that has at least 5 dwelling units.

For development applications involving any of the above, provisions for affordable housing must be included as part of the development proposal.

A development that is subject to these affordable housing requirements shall provide the number of Affordable Dwelling Units required by Table 3.10-1 in the Land Use Management Ordinance. This table is organized by the zoning designation and location

of the property being considered for development, and describes the number of affordable housing units or lots that will be required and density bonuses that will apply.

### **3. Purpose and Use of this Manual**

---

This manual does not replace or supersede any provisions or requirements specified in the Land Use Management Ordinance. It is intended to provide guidance in the administration of the affordable housing requirements of the Ordinance, and specify expectations and priorities for the sale of resulting affordable housing units and lots.

### **4. Eligible Households**

---

Income eligibility criteria for households for participation in these affordable housing initiatives are established in the Inclusionary Housing provisions of the Land Use Management Ordinance. Eligible households with pre-approved loans shall be permitted to make an application for an affordable housing unit or lot.

### **5. Priority of Eligible Households**

---

Priority will be given to eligible households who are first-time homebuyers, and who currently live or work in Chapel Hill or Orange County. The entity responsible for oversight of the affordable housing units will submit its prioritization of eligible households to the Town for approval by the Town Manager or his designee.

The priority requirement relating to first-time homebuyers shall be waived for senior citizens.

### **6. Period of Affordability**

---

In covered developments that contain for-sale units or lots, affordable housing units or lots shall be resold to low- and moderate-income households for a period of at least ninety-nine (99) years or as long as permissible by law. The owner shall execute and record all documents required by ordinance to ensure compliance with provisions of the Inclusionary Zoning sections of the Land Use Management Ordinance.

### **7. Affordability Controls**

---

(a) Affordable Dwelling Units shall be maintained and restricted as Affordable Dwelling Units during the Period of Affordability by one of the following arrangements, as approved by the Town Council (or Planning Board as appropriate) and guaranteed as a condition of development approval:

- (1) transfer to a Non-Profit Housing Entity;

- (2) enforceable contractual arrangements with the Town, state or federal agency, or a Non-Profit Housing Entity;
  - (3) restrictive covenants or resale restrictions that run with the land, subject to reasonable exceptions, including, without limitation, subordination of such arrangements, covenants, and restrictions to a mortgagee, for both owner occupied and rental units; or
  - (4) Other methods determined to be acceptable by the Town Council.
- (b) No unit shall be considered an Affordable Dwelling Unit until the location, construction methods, and techniques used to ensure that the dwelling unit will remain affordable have been approved as part of the Application.
  - (c) After the initial sale, all owner-occupied Affordable Dwelling Units shall be subject to an exclusive option for the Town to purchase the unit. The option to purchase may be assigned by the Town to a non-profit affordable housing organization or another government entity. The purchase price to exercise the option shall be the assessment at the time the Town receives notice of intent to sell. The Town or its assignee has ninety (90) days from the date the Town receives written notice of the intent to sell to finalize the purchase of an Affordable Dwelling Unit. Within thirty (30) days from the date the Town receives written notice of the intent to sell, the Town or its assignee shall determine whether or not to exercise the option to purchase. If the Town or assignee declines to exercise the option to purchase, the option to purchase expires. However, if the owner has not sold the Affordable Dwelling Unit within one (1) year from the date on which the Town was notified of its right to exercise the option, the option to purchase shall continue.
  - (d) The affordability controls shall be made a condition of the approval of a development subject to the Inclusionary Zoning provisions.
  - (e) If rental is voluntarily offered as an alternative, it may be approved as part of an Affordable Housing Performance Agreement. The rental units shall be offered for rent at a price that is affordable to households earning less than 65% of the area median income, unless the Town Council (or Planning Board as appropriate) approves an alternative standard for the specific application.

## **8. Monitoring of Long-Term Affordability**

---

The Town will audit 10% of the owner inclusionary dwelling units on an annual basis for determination that the household qualifying at the time of the last sale is indeed the occupant of the premises. If the Affordable Dwelling Units are under a long-term affordability model operated by a non-profit agency or government agency, the agency shall provide the information.

The Town Council will annually review the effectiveness and results of the Inclusionary Zoning Ordinance, requesting a report from Town Staff regarding numbers of affordable units resulting from the ordinance, mechanisms to assure ongoing affordability, and the income levels served.

## **9. Affordable Housing Fund**

---

Affordable Dwelling Unit payment-in-lieu financial contributions shall be made to the Affordable Housing fund. Monies received into that fund shall be utilized according to guidelines approved by the Town Council.

## **10. Income Verification**

---

Prior to the purchase or sale of any affordable housing subject to the Inclusionary Zoning regulations, the following documentation shall be submitted to the Town:

- (1) For initial sale: The Developer or nonprofit shall certify the income of persons or households that purchase Affordable Dwelling Units; and
- (2) The initial buyer shall exercise an Option to Purchase Agreement, verifying household income and including an agreement to notify the Town before reselling the Affordable Dwelling Unit.

## **11. Changes to Ordinance, Administrative Manual**

---

To the extent the Town Council deems necessary, amendments may be enacted to the Inclusionary Zoning ordinance provisions. Such changes would take the form of formal amendments to the Town's Land Use Management Ordinance and follow standard procedures for such amendments (review by the Planning Board, Public Hearing, Town Council consideration).

Provisions in this Administrative Manual may be adjusted as deemed necessary, with the approval of the Town Council.