

**A RESOLUTION ACCEPTING THE REPORT ON  
INCLUSIONARY ZONING IN NORTH CAROLINA  
Resolution No. 157/2005-06**

WHEREAS, Alderman Coleman requested a report from Dr. Anita Brown-Graham of the UNC-Chapel Hill School of Government about inclusionary zoning, and

WHEREAS, that report was presented to the Board of Aldermen on June 13, 2006.

NOW, THEREFORE, THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO RESOLVES:

Section 1. The Board hereby accepts the report presented by Dr. Anita Brown-Graham.

Section 2. This resolution shall become effective upon adoption.

MANTEO ZONING ORDINANCE**ARTICLE XI: INCLUSIONARY ZONING****Section 11.1: Purpose.**

- (a) The purpose of this chapter is to promote the public health, safety, and welfare by promoting housing of high quality located in neighborhoods throughout the community for households of all income levels, ages and sizes in order to meet the town's goal of preserving and promoting a culturally and economically diverse population in our community. The diversity of the town's housing stock has declined because of increasing property values and construction costs. The town recognizes the need to provide affordable housing to low and moderate-income households in order to maintain a diverse population and to provide housing for those who live or work in the town. Without intervention, the trend toward increasing housing prices will result in an inadequate supply of affordable housing for town residents and local employees, which will have a negative impact upon the ability of local employers to maintain an adequate local work force and will otherwise be detrimental to the public health, safety, and welfare of the town and its residents. Since the remaining land appropriate for new residential development within the town is limited, it is essential that a reasonable proportion of such land be developed into housing units affordable to low and moderate income households and working families. This ordinance is not intended to make the developer incur any out of pocket expense. The formulas in this ordinance may be adjusted with a recommendation from the planner and approval from the Board of Commissioners.

**Section 11.2: Covered Development Projects.**

- (a) The provisions of this chapter shall apply to all new developments that result in or contain five or more residential dwelling units or a new subdivision of land that results in five or more residential lots. The types of development subject to the provisions of this ordinance include, without limitation, the following:
- (1) A development that is new residential construction or new mixed-use construction with a residential component.
  - (2) A development that is the renovation or reconstruction of an existing multiple family residential structure that increases the number of residential units from the number of units in the original structure by five or more units.
  - (3) A development that will change the use of an existing building from non-residential to residential having five or more units.
  - (4) A development that includes the conversion of rental property to condominium property having five or more units.
  - (5) A new subdivision of land into five or more residential lots.

**Section 11.3: Percentage of Affordable Housing Units or Lots Required.**

- (a) *General requirement.* Except as otherwise specifically provided, 20 percent of the total number of residential units or lots within any covered development shall be affordable housing units or lots and shall be located on the site of the covered development.

- (b) *Calculation.* To calculate the number of affordable housing units or lots required in a covered development, the total number of proposed units or lots shall be multiplied by 20 percent. If the product includes a fraction, a fraction of .5 or more shall be rounded up, and a fraction of less than .5 shall be rounded down.

#### **Section 11.4: Application and Inclusionary Housing Plan.**

- (a) *Application.* For all covered developments, the applicant shall file an application for approval on a form provided and required by the town. The application shall require, and the applicant shall provide, among other things, general information about the nature and scope of the covered development, as well as such other documents and information as the town may require. The application shall be reviewed concurrently with the planning and zoning application and shall be treated procedurally as a conditional use in accordance with the town planning and zoning ordinance.
- (b) *Inclusionary housing plan.* As part of the approval of a covered development project, the applicant shall present to the town an inclusionary housing plan that outlines and specifies the covered development's compliance with each of the applicable requirements of this ordinance and regulations adopted by the board of commissioners. The plan shall be subject to approval by the town and shall be incorporated into the development agreement between the applicant and the town and recorded in the Dare County Register of Deeds. The plan shall specifically contain, at a minimum, the following information regarding the covered development:
  - (1) A general description of the development.
  - (2) The total number of market rate units or lots and affordable units or lots in the development.
  - (3) The number of bedrooms in each market rate unit and affordable unit.
  - (4) The square footage of each market rate unit and each affordable unit.
  - (5) The location within any multiple-family residential structure and any single-family residential development of each market rate unit or lot and each affordable unit or lot.
  - (6) The pricing for each affordable housing unit or lot. The pricing of each unit or lot shall be determined at time of approval. At time of sale this price may be adjusted if there has been a change in the median income or a change in the formulas used in this ordinance.
  - (7) The phasing and construction schedule for each market rate unit and each affordable unit.
  - (8) Documentation and plans regarding the exterior and interior appearances materials and finishes of the development for each of its affordable units unless it is stated that market units and affordable units shall have identical finishes.

#### **Sec. 11.5: Density Bonuses.**

- (a) For all covered developments under this chapter, a density bonus shall be provided equal to one market rate unit or lot for each affordable housing unit or lot. Under no circumstances may a single family lot contain less than six thousand square feet unless approved by both the planning board and the town board of commissioners.

#### **Section 11.6: Development Agreement and Other Documents.**

- (a) Prior to issuance of a building permit for any covered development, the applicant shall have entered into a development agreement with the town regarding the specific

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requirements and restrictions regarding affordable housing and the covered development. The applicant shall execute any and all documents deemed necessary by the town, including without limitation, restrictive covenants and other related instruments, to ensure the continued affordability of the affordable housing units or lots in accordance with this chapter. The development agreement shall set forth the commitments and obligations of the town and the applicant and shall incorporate, among other things, the inclusionary housing plan, all to be recorded in the Dare County Register of Deeds.

#### **Section 11.7: Development Cost Offsets.**

- (a) An applicant who fully complies with the requirements of this chapter shall, upon written request, receive from the town, with regard to the affordable housing units or lots in the covered development, a waiver of all of the otherwise applicable application fees, building permit fees, plan review fees, inspection fees, and such other development fees and costs which may be imposed by the town, except for any fees associated with water or wastewater which shall be charged at market rates.

#### **Section 11.8: Integration of Affordable Housing Units.**

- (a) *Location of affordable housing units.* Affordable housing units or lots shall not be segregated and should be interspersed among the market rate units throughout the covered development and the locations shall be approved by the town planner. This requirement shall not require a developer to construct dwelling units on waterfront lots provided that other alternatives are available and provided that they still maintain visual and spatial integration. In condo developments, where the first floor is retail under residential and is sold as part of a single condominium, the affordable units may be in a separate building provided that the building is visually similar and not visually or spatially set aside.
- (b) *Phasing of construction.* The inclusionary housing plan and the development agreement shall include a phasing plan that provides for the timely and integrated development of the affordable housing units or lots as the covered development project is built out. The phasing plan shall provide for the development of the affordable housing units or lots concurrently with the market rate units or lots. Building permits shall be issued for the covered development project based upon the phasing plan. The phasing plan may be adjusted by the town when necessary in order to account for the different financing and funding environments, economies of scale, and infrastructure needs applicable to development of the market rate and the affordable housing units. The phasing plan shall be approved by the town planning and zoning board prior to the issuance of any building permit.
- (c) *Exterior appearance.* The exterior appearance of the affordable housing units in any covered development shall be visually compatible with the market rate units in the development. External building materials and finishes shall be substantially the same in type and quality for affordable housing units as for market rate units.
- (d) *Interior appearance and finishes.* Affordable housing units may differ from market rate units with regard to interior finishes and gross floor area provided that:
  - (1) The differences between the affordable housing units and the market rate units shall not include improvements related to energy efficiency, including mechanical equipment and plumbing, insulation, windows, and heating and cooling systems.

- (e) The gross floor area for the affordable housing units shall be no less than 75 percent of the gross floor area of similar market rate units but this requirement shall not require the developer to construct dwelling units that exceed 1200 900 square feet.

#### **Section 11.9: Target Income Levels for Affordable Housing Units or Lots.**

- (a) *Income levels.* In covered development projects, at least one affordable housing unit or lot and no less than 50 percent of the affordable housing units or lots shall be sold to low-income households at a price that on average is affordable to a household with an annual income that is 65 percent of area median income for a household of four people in Dare County, North Carolina, as determined by the Section 8 Income Limits tables created annually by the United States Department of Housing and Urban Development (HUD). Any remaining affordable units or lots shall be sold to moderate-income households at a price that is affordable to a household with an annual income that is 80 percent of area median income for a household of four people in Dare County, North Carolina, as determined by the Section 8 Income Limits tables created annually by the United States Department of Housing and Urban Development (HUD). The owner shall execute and record any documents necessary to insure and maintain in perpetuity the number and sales conditions of affordable housing units or lots as required by this chapter.

#### **Section 11.10: Price of Affordable Units or Lots.**

- (a) *Affordable housing units.* Affordable unit prices shall be determined by calculating 65 percent of the median income (HUD-MFI) multiplied by three 3.25 for low-income units; and by calculating 80 percent of the median income (HUD-MFI) multiplied by three 3.25 for moderate-income units.
- (b) *Affordable lots in subdivisions.* Prices for affordable lots in subdivisions shall be determined by calculating 65 percent of the median income (HUD-MFI) multiplied by three 3.25 and divided by four for low-income lots; and by calculating 80 percent of the median income (HUD-MFI) multiplied by three 3.25 and divided by four for moderate-income lots.

#### **Section 11.11: Eligibility of Households.**

- (a) *For-sale affordable housing units or lots.* Only eligible households with pre-approved loans shall be permitted to make application for an affordable housing unit or lot for purposes of this chapter. Priority will be given:
  - (1) First to residents of the town, and employees of the Town provided they have been a resident or employee for a minimum of 12 months;
  - (2) Second to employees of the town and to employees of businesses located in the Town, to employees of other governmental agencies of Dare County, and to residents of Roanoke Island, provided they have been an a resident or employee for a minimum of 12 months;
  - (3) Third to residents of Roanoke Island and employees of other governmental agencies, provided that they have been a resident or employee for a minimum of twelve months of Dare County, North Carolina;
  - (4) Fourth to residents of Dare County, North Carolina the general public.
  - (5) Fifth to the general public
- (b) *Conditions.* If the gross income of the eligible household increases above the eligible income levels the eligible household may continue to own the affordable housing unit

or lot. Leasing an affordable unit or lot shall not be permitted without the express written consent of the town. No preference shall be given to households based upon the size or composition of the household unit. There shall be no discrimination because of age, sex, race, color, religion, disability, sexual orientation, national origin, political affiliation, or marital status. The owner shall execute and record any documents required in this chapter.

- (c) *Procedures.* Availability of affordable housing units and lots shall be published in a newspaper of record at least 30 days prior to the deadline for accepting applications. The public notice shall contain information for obtaining an application and time and place for delivery prior to the deadline. Applications shall be reviewed by the town manager, the town finance officer, and the town planner, and/or a designated 501(c)(3) nonprofit organization determined by the board of commissioners. In the event that there is a conflict of interest by one or more of the parties reviewing applications the mayor shall appoint the review person(s).

#### **Section 11.12: Period of Affordability.**

- (a) *Sale of affordable housing units or lots.* In covered developments that contain for-sale units or lots, affordable housing units or lots shall be resold to low- and moderate-income households in perpetuity or as long as permissible by law. The owner shall execute and record any documents necessary for compliance with this section.

#### **Section 11.13: Affordability Controls; Resale of Affordable Housing Units or Lots.**

- (a) *Private party purchases.* In the resale of affordable housing units or lots, the parties to the transaction shall execute and record such documentation as required by the town including, without limitation, restrictive covenants and other related instruments to ensure the continued affordability of the housing units or lots. Such documentation shall include the provisions of this chapter and shall provide, at a minimum, each of the following:
  - (1) The affordable housing unit or lot shall be sold to and occupied by an eligible household as provided for in section 4-12.
  - (2) The affordable housing unit or lot shall be conveyed subject to restrictions that shall permanently maintain the affordability of such affordable housing units or lots for eligible households.
- (b) *Resale calculations for dwelling units.* Calculation of the price of a resale affordable unit shall be determined by taking the original sales price of the affordable unit; adjusting the price for inflation by adding the percentage of the original sales price that is equal to the increase in the cost of living since the unit first sold, as determined by the CPI (Consumer Price Index as determined by the Bureau of Labor Statistics, US Department of Labor and *not* compounded annually); adding to the sales price the fair market value of any capital improvements made to the unit; and adding allowance for the closing costs initially paid by the buyer of the unit. The fair market value of the dwelling and any other capital improvement shall be determined by a licensed North Carolina appraiser.
- (c) *Resale calculations for lots.* Calculation of the price of a resale lot or lot with owner built dwelling shall be determined by taking the price of the affordable lot; adjusting the price for inflation by adding the percentage of the original sales price that is equal to the increase in cost of living as determined by the CPI (*not* compounded annually); adding to the sales price the fair market value of the dwelling if any; and adding allowance for the closing costs initially paid by the buyer of the lot. The fair market

value of the dwelling and any other capital improvement shall be determined by a licensed North Carolina appraiser.

**Sections 11.14 through 11.20: Reserved**