

# **Questions and Answers about Chapel Hill's Inclusionary Zoning Ordinance**

**Town of Chapel Hill**



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The purpose of this document is to provide general information about the Town of Chapel Hill's Inclusionary Zoning Ordinance. It is for informational purposes only and should not be considered a legal document. In the event of a conflict or inconsistency between terms or statements in this document and the Ordinance itself, the language of the Ordinance, as it is interpreted and applied to any specific set of facts and circumstances, shall govern.

## **Questions and Answers about Chapel Hill's Inclusionary Zoning Ordinance**

### **1. What is inclusionary zoning?**

Answer: "Inclusionary zoning" may refer to either a mandatory requirement or voluntary objective to set aside a percentage of all housing units in new residential developments as affordable housing for rent or purchase by low- and moderate-income households.

The Town of Chapel Hill has enacted an Inclusionary Zoning Ordinance that mandates a set aside percentage for affordable housing for new developments that propose five or more units to provide 15% (10% in the Town Center) of the units at prices that are affordable to low- to moderate-income households.

### **2. How is "affordable" defined in Chapel Hill?**

Answer: Housing is considered affordable if a household pays no more than 30% of its income for housing costs. The issue of affordability affects households who fall with a range of income levels. Low and very low-income residents (the latter being those who earn considerably less than 80% of the area median income) are most severely impacted by the lack of affordable housing, and the Inclusionary Zoning Ordinance is one part of the Town's overall strategy to address affordable housing needs for low- to moderate-income residents in Chapel Hill.

### **3. Why is inclusionary zoning desirable in Chapel Hill?**

Answer: Inclusionary zoning is intended to provide an effective means for preserving housing choice and opportunity in Chapel Hill, particularly in the current housing market. As stated in the preamble of the Inclusionary Zoning Ordinance, if the incremental need for affordable housing is not met and if affordable housing opportunities are displaced, this would create the following threats to health, safety, or general welfare of the community:

- Increases in travel time and distances for persons who provide services or are employed in the Town, but cannot find decent, affordable shelter, which in turn increases traffic congestion, reduces air and water quality, and has an adverse impact on the public health resulting from excessive commuting;
- An imbalance in population diversity; and
- Inconsistency with the vision for future development and the specific policies of the Town's Comprehensive Plan.

Inclusionary zoning is one part of the Town's overall affordable housing efforts that aims to accomplish these goals.

### **4. When does the Inclusionary Zoning Ordinance go into effect?**

Answer: The Inclusionary Zoning Ordinance went into effect on March 1, 2011.

### **5. Will it apply to pending applications as of the effective date?**

Answer: The Ordinance applies to applications that have been submitted to the Town but have not been approved by the appropriate body (such as the Planning Board or the Town Council) by March 1, 2011.

## **6. What are the requirements of the Inclusionary Zoning Ordinance?**

Answer: The Inclusionary Zoning Ordinance, enacted on 6/21/10, requires development applications that have five or more units to provide 15% of the units at prices that are affordable to low- to moderate-income households. (Development applications in the Town Center are required to provide 10% of the units at prices that are affordable to low- to moderate-income households, as opposed to 15%.)

**Example:** If a development application proposes 10 market-rate units and is required to provide 15% affordable units, then the development would be required to provide 1.5 affordable units (the amount of 1.5 is 15% of 10 market-rate units). The development would be required to build one affordable dwelling unit. Then, rather than building half of a unit, the applicant would meet his/her remaining obligation by providing a payment-in-lieu for the half unit. As outlined in the Ordinance, the payment would be calculated based on the amount needed to make a unit affordable (3.10.3(B)(1)).

The Ordinance applies to applications that have been submitted to the Town but have not been approved by the appropriate body (such as the Planning Board or the Town Council) by March 1, 2011.

## **7. Does the Inclusionary Zoning Ordinance apply to rental developments?**

Answer: The Inclusionary Zoning Ordinance does not apply to rental developments. The Ordinance only applies to “for sale” residential developments.

## **8. To which zoning districts does the Inclusionary Zoning Ordinance pertain?**

Answer: The Inclusionary Zoning Ordinance applies to all zoning districts and to the extraterritorial jurisdiction (ETJ), but different zoning districts (such as the Town Center zones [TC-1, TC-2, and TC-3]) have different requirements.

## **9. How is the Inclusionary Zoning Ordinance different from the Town’s current Inclusionary Zoning policy?**

Answer: In 2000, as a part of the Comprehensive Plan, the Town Council adopted a policy stating an expectation that residential developments, which involved a rezoning, would provide 15% affordable housing. The Inclusionary Zoning Ordinance requires all residential development applications with five or more units to include provisions to expand the Town’s affordable housing supply.

**10. What are the target income levels for pricing of affordable dwelling units?**

Answer: When pricing the units, at least one affordable unit, or at least 50% of the affordable units, must be offered for sale to low-income households at a price that is affordable to households at 65% of the area median income.

Any remaining affordable housing units must be for sale at a price that is affordable to households who are at or below 80% of the area median income. The area median income (or AMI) is based upon household size for the Durham-Chapel Hill Metropolitan Statistical Area and is determined by the United States Department of Housing and Urban Development (HUD). Information about the area median income can be found at:

[http://www.huduser.org/intercept.asp?loc=/datasets/il/il08/FY2008\\_Section8\\_IncomeLimits.pdf](http://www.huduser.org/intercept.asp?loc=/datasets/il/il08/FY2008_Section8_IncomeLimits.pdf)

**11. How were the targeted income levels determined?**

Answer: The Town’s Federally assisted affordable housing programs (such as the Community Development Block Grant and HOME funds) are designed to serve households earning less than 80% of the area median income (which is currently \$39,950 for a one-person household; \$45,650 for a two-person household; and \$57,050 for a four-person household). To be consistent, the same income guidelines are used for all of the Town’s affordable housing activities.

Information about the area median income can be found at:

[http://www.huduser.org/intercept.asp?loc=/datasets/il/il08/FY2008\\_Section8\\_IncomeLimits.pdf](http://www.huduser.org/intercept.asp?loc=/datasets/il/il08/FY2008_Section8_IncomeLimits.pdf)

The income limits are also tied to the support study, titled “Calculating the Need for Affordable Housing in Chapel Hill Generated by New Residential Construction,” conducted by the UNC Center for Urban and Regional Studies which indicates that new residential development creates a need for affordable housing which serves households earning less than 80% of the area median income. This study can be found on the Town of Chapel Hill’s Inclusionary Zoning webpage at:

<http://www.townofchapelhill.org/index.aspx?page=1298>

Though the Inclusionary Zoning Ordinance creates housing for individuals between 65% to 80% area median income (AMI), the Ordinance is just one part of the Town’s overall affordable housing efforts, the Town has other affordable housing initiatives which are focused on households who earn less than 65% AMI.

**12. What is the selection process for applicants for the affordable dwelling units?**

Answer: Development applicants (or other designees) are responsible for qualifying applicants for affordable dwelling units. The Chapel Hill Inclusionary Zoning Administrative Manual endorsed by the Town Council states that 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 priority requirement relating to first-time homebuyers is waived for senior citizens. The entity responsible for oversight of the affordable dwelling units must submit its prioritization of eligible households to the Town for approval by the Town Manager or his designee.

**13. Does the Inclusionary Zoning Ordinance only apply to residential developments?**

Answer: Yes, the Inclusionary Zoning Ordinance only applies to developments with a residential component of five or more units.

**14. In the Inclusionary Zoning Ordinance, any project with five or more units must include 10-15% affordable dwelling units; how were these numbers established?**

Answer: The 15% requirement is consistent with statements from the Town’s Comprehensive Plan and is justified by a study conducted by the UNC Center for Urban and Regional Studies which indicates that new residential development creates a need for affordable housing serving households earning less than 80% of the area median income. This study, titled “Calculating the Need for Affordable Housing in Chapel Hill Generated by New Residential Construction,” can be found on the Town of Chapel Hill’s Inclusionary Zoning webpage at: <http://www.townofchapelhill.org/index.aspx?page=1298>

The numbers established in the Inclusionary Zoning Ordinance are the same numbers used in the affordable housing policy which stated that residential development applications must provide 15% affordable dwelling units.

Developments of five or more units which are located in the Town Center (areas zoned TC-1, TC-2, or TC-3) must provide 10% of the units at prices that are affordable to low- to moderate-income households.

**15. Why are the requirements for the affordable dwelling units different in downtown than elsewhere?**

Answer: In the Inclusionary Zoning Ordinance, any developments of five or more units which are located in the Town Center (areas zoned TC-1, TC-2, or TC-3) must provide 10% of the units at prices that are affordable to low- to moderate-income households. (In the other areas of town, the affordable dwelling unit requirement is 15%.) The requirement is lower in the Town Center because the Town recognizes the challenges of developing housing and affordable housing opportunities in this area where construction costs typically include structured parking and taller buildings.

**16. Do alternatives exist for building affordable dwelling units on site?**

Answer: The Inclusionary Zoning Ordinance allows the Town Council or Planning Board, as applicable, to approve alternatives to on-site development of affordable housing if it can be demonstrated to the appropriate body (such as the Planning Board or the Town Council) that one of the following criteria is met:

- (1) The alternative provides an equivalent amount of affordable dwelling units in a way that the Planning Board or Town Council determines better achieves the goals, objectives, and policies of the Comprehensive Plan than providing the units on-site; or
- (2) Providing on-site affordable dwelling units is not economically feasible and the alternative means of compliance:
  - (a) Will further affordable housing opportunities in the Town to an equivalent or greater extent than constructing affordable dwelling units on-site and
  - (b) Will not cause the Town to incur any net cost as a result of the alternative means of compliance; or
- (3) It would be impossible to provide the units on-site because of Federal or state law.

If the Planning Board or Town Council approves an alternative to development of on-site affordable housing, the ordinance provides the following four alternatives:

- (1) Land dedication;
- (2) Dedication of existing units;
- (3) Off-site construction; or
- (4) A payment-in-lieu of housing.

**17. How is the payment-in-lieu amount determined?**

Answer: The current payment-in-lieu amount is \$85,000 per unit. This amount represents the approximate amount needed to subsidize an affordable house in Chapel Hill. The Inclusionary Zoning Ordinance states that each year agencies actively involved in producing affordable housing will be asked to provide the Town Council with a list of new affordable dwelling units from the past fiscal year and to specify for each unit the dollar amount of subsidy needed to make each unit affordable. The per unit average of the subsidies will be calculated, and this average will be multiplied by the average percent increase in the cost of new homes constructed in the Town for that fiscal year. The result will be the payment-in-lieu amount for the next year. The Town Council will establish the per unit payment amount on an annual basis.

**18. Does the Town provide any compensation in exchange for the provision of affordable dwelling units?**

Answer: In order to provide equitable compensation, this requirement to provide affordable dwelling units, the Inclusionary Zoning Ordinance provides development bonuses including density bonuses and floor area bonuses and the waiver of certain development-related fees for the affordable units.



**19. What happens if the number of affordable dwelling units to be constructed includes a fraction?**

Answer: When the number of units to be built results in a fraction, the Inclusionary Zoning Ordinance requires that a payment be made for the amount of the fraction to fulfill the affordable housing requirement. Funds would be directed to the Town’s Affordable Housing Fund which is a flexible and valuable resource for expanding affordable housing opportunities in Chapel Hill.

**20. What is the Town’s Affordable Housing Fund, and how is it used?**

Answer: The Affordable Housing Fund holds the payment-in-lieu contributions from applicants who provide payment-in-lieu for affordable dwelling units instead of the actual units (this must first be approved by the Planning Board or the Town Council). Monies received into that fund are used for affordable housing activities which are approved by the Town Council.

**21. What is the “Affordable Housing Plan”?**

Answer: A development application with five or more units must provide an “Affordable Housing Plan” which describes how the application for the development complies with the requirements of the Inclusionary Zoning Ordinance. Such information should include, but would not be limited to, the following:

- General information about the nature and scope of the development;
- Total number of market-rate and affordable dwelling units in the development;
- Total number of bedrooms and bathrooms in the development;
- Pricing for each of the affordable dwelling units (pricing must take into account all costs including mortgage principal and interest, property taxes, homeowner’s and condominium association fees, any mandatory maintenance fees, and homeowner’s insurance);
- Information about the exterior appearance, materials, and finishes of the affordable dwelling units;
- Information about the amenities of the affordable units; and
- Documentation of the extent to which construction of the affordable units incorporates energy-efficient and durable design and materials.

The Affordable Housing Plan must also ensure the affordability of the units for a period of at least ninety-nine (99) years or as long as permissible by law. The Affordable Housing Plan will be reviewed and would be subject to approval by the Town body that originally approved the application (either the Town Council or the Planning Board).

**22. How are the density bonuses and floor area bonuses applied?**

Answer: Applicants must make the density bonus and floor area bonuses calculations as part of their detailed development applications.

**23. Is it required that a development uses the density bonus provided by the Inclusionary Zoning Ordinance?**

Answer: No, there is no requirement to take the density bonus although if five or more residential dwelling units are proposed, affordable dwelling units will be required.

**24. Are there zoning districts which already provide density bonuses?**

Answer: Currently, the Residential-Special Standards – Conditional (R-SS-C) and Mixed-Use Village (MU-V) zones provide density bonuses; therefore, the density and floor area bonuses provided by the Inclusionary Zoning Ordinance would not be applicable in these zones.

**25. Will floor area bonuses be provided to all affordable dwelling units?**

Answer: No, the floor area bonuses are only available to two-family or multi-family dwelling units. In addition, the bonus differs depending upon the presence of interior common elements.

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