

AN ORDINANCE AMENDING THE CHAPEL HILL LAND USE MANAGEMENT ORDINANCE TO ESTABLISH INCLUSIONARY ZONING REGULATIONS FOR RESIDENTIAL DEVELOPMENT (2010-06-21/O-11).

BE IT ORDAINED by the Council of the Town of Chapel Hill as follows:

Section 1. Findings.

WHEREAS, the Town's Comprehensive Plan has a goal to increase the availability of well-designed, affordable, safe, and sanitary housing for all citizens of Chapel Hill; and

WHEREAS, the Comprehensive Plan includes a policy 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; and

WHEREAS, the Comprehensive Plan includes a strategy to continue to seek inclusionary zoning; and

WHEREAS, on September 25, 2005, the Council established a charge for an Inclusionary Zoning Task Force; and

WHEREAS, on November 20, 2006, the Inclusionary Zoning Task Force presented its findings to the Council; and

WHEREAS, the Town finds that residential construction creates an incremental need for housing that is available to low and moderate income households; and

WHEREAS, The Town finds and determines that additional market rate development would displace and eliminate opportunities for additional affordable housing in the Town unless the restrictions on use established by this Section are included; and

WHEREAS, if the incremental need for such housing is not met and if affordable housing opportunities are displaced, this would create the following threats to the health, safety, and the general welfare of the community:

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

WHEREAS, the Town has express authority to establish regulations that protect that health, safety, or welfare of its citizens and the peace and dignity of the city (N.C.G.S. § 160A-174); and

WHEREAS, the Town has express authority to adopt land use plans and to develop ordinances and procedures to implement those plans (N.C.G.S. § 160A-361); and

WHEREAS, the Town's authority under Chapter 160A is broadly construed (N.C.G.S. § 160A-4); and

WHEREAS, the Town finds that different requirements for development within the Town Center and areas outside of the Town Center are needed in order to address differences in development potential, development style, development costs, and to accommodate the Town's policies relating to urban form; and

WHEREAS, the Town is expressly authorized to enact subdivision and zoning regulations that promote the public health, safety, and the general welfare (N.C.G.S. §§ 160A-372, 160A-381, 160A-383); and

WHEREAS, the Town is expressly authorized to enact zoning regulations that implement the goals and objectives of its comprehensive plan (N.C.G.S. § 160A-383); and

WHEREAS, the Town adopted its Comprehensive Plan on May 8, 2000, finds that this Ordinance is consistent with the Comprehensive Plan in that the Plan requires an increase in the availability of housing that is affordable to all citizens who live and work in Chapel Hill, and expressly requires the Town to consider inclusionary zoning to further this objective; and

WHEREAS, The Town of Chapel Hill commissioned a study to calculate the need for affordable housing in Chapel Hill generated by new residential construction, entitled "Calculating the Need for Affordable Housing in Chapel Hill Generated by New Residential Construction" dated April 30, 2009, which documents the need for affordable housing generated by such construction; and

WHEREAS, the Council of the Town of Chapel Hill has considered the proposed text amendments to the Land Use Management Ordinance regarding modifications to floor area restrictions and the addition of a new section on inclusionary zoning and finds that the amendments are warranted in order to achieve the following purposes of the Comprehensive Plan: Increase the availability of well-designed, affordable, safe and sanitary housing for all citizens of Chapel Hill; Work with housing providers to aggressively develop affordable housing in Chapel Hill; Provide incentives for housing providers to develop affordable housing; and Establish policies, regulations incentives and programs to promote the availability of a full range of housing types, densities, costs and tenancy options in Chapel Hill, but in new developments and existing neighborhoods;

Section 2. A new Section 3.10 of the Chapel Hill Land Use Management Ordinance is hereby added to read as follows:

“3.10 Inclusionary Zoning

Purpose Statement. *This Section promotes the public health, safety and welfare of the Town by promoting housing of high quality located in neighborhoods throughout the community for households of a variety of 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.*

Based upon the review and consideration of reports and analyses of the housing supply in the Town, the Town finds and determines that the diversity of its housing stock has declined for many reasons including increasing property values and construction costs. The Town recognizes the need to provide affordable housing to households of a broad range of income levels 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 rising housing prices will result in an increasingly 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. The Town finds and determines that additional market rate development would displace and eliminate opportunities for additional affordable housing in the Town unless the restrictions on use established by this Section are included. This displacement would create the following threats to the health, safety, or the general welfare of the community:

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

The regulations set forth in this Section further a key goal of the Town's Comprehensive Plan: to create and preserve affordable housing opportunities. The regulations also support other goals of the Town including the reduction of traffic congestion and associated air pollution; and the prevention of sprawl through the maintenance of the urban services boundary. Documentation exists demonstrating that the construction of residential dwelling units in Chapel Hill generates need for affordable housing for workers and families. These regulations are intended to provide a structure for

cooperative participation by the public and private sectors in the production of affordable housing.

3.10.1 Applicability and Minimum Project Size

(a) *Single-Family and Two-Family Units*

This Section applies to all development that includes:

- (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.

(b) *Multi-family Units*

This Section applies to all development that includes:

- (1) new development that creates at least 5 multi-family dwelling units; or
- (2) any vertical mixed use building that creates at least 5 multi-family dwelling units; or
- (3) 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
- (4) 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.

3.10.2 Affordable Dwelling Units or Lots Required

(a) *General requirement*

A development that is subject to this Section shall provide the number of Affordable Dwelling Units required by Table 3.10-1, below.

Table 3.10-1 Inclusionary Zoning Requirements

	(A) Town Center: TC-1, TC-2, and TC-3	(B) Balance of Planning Area (Town Limits, ETJ, Joint Planning Chapel Hill Transition Area)
Description	TC-1, TC-2, and TC-3 Zoning Districts	All other Zoning Districts
Set-Aside Requirement	10% ⁽¹⁾	15%
Density Bonus (see subsection (d), below)	not applicable	15% with the exception of R-SS-C and MU-V Zoning Districts
Floor Area Bonus for Two-Family or Multi-Family Dwelling Units for all zoning districts except R-SS-C and MU-V zoning districts		
Type of Unit by Bedroom	Floor Area Bonus per Affordable Housing dwelling unit for building without common interior space	Floor Area Bonus per Affordable Housing Unit for building with common interior space
Efficiency	2,400 square feet	3,000 square feet
1 Bedroom	3,400 square feet	4,250 square feet
2 Bedroom	4,100 square feet	5,125 square feet
3+ Bedroom	5,300 square feet	6,625 square feet

⁽¹⁾ The set-aside requirement for the Town Center is reduced in order to address differences in development potential, development style, development costs, and to accommodate the Town's policies relating to urban form.

(b) Calculation of units required.

- (1) For development of multi-family dwelling units:
 - A. The required number of Affordable Dwelling Units is based on the total number of dwelling units that are approved by the Town.
 - B. To calculate the number of Affordable Dwelling Units required in a development subject to these regulations, the total number of approved Unrestricted Units shall be multiplied by the percentage established in § 3.10.2(a), above. If the product includes a fraction, the fraction of a unit shall be provided in the form of a payment in lieu of providing dwelling units, as described in § 3.10.3.
 - C. If the property is redeveloped or expanded, additional Affordable Dwelling Units shall be provided and shall be based upon the additional units approved by the Town. A requirement to provide Affordable Dwelling Units shall be triggered if the resulting number of units is 5 or more greater than what already exists.
- (2) For subdivision proposals:
 - A. Each lot that is large enough for only one single-family dwelling unit or that is limited by restrictive covenants to development only with a single-family dwelling unit is counted as one single-family dwelling unit.
 - B. In zoning districts where a two-family dwelling unit is a permitted use, each lot that is large enough for a two-family dwelling unit is counted as two dwelling units.
 - C. The minimum number of Affordable Dwelling Units for a subdivision is determined by multiplying the number of dwelling units permitted on lots in the approved subdivision, as calculated according to Sections 3.10.2(b)2.A. and 3.10.2(b)2.B, above, by the percentage specified in § 3.10.2(a). If the product includes a fraction, the fraction of a unit shall be provided in the form of a payment in lieu of providing dwelling units, as described in §3.10.3.

(c) Location of Affordable Dwelling Units

Except as otherwise specifically authorized by this Section, the Affordable Dwelling Units shall be located within the development subject to these regulations.

(d) Development Bonuses

It is the intent of the Town to facilitate the provision of affordable housing and compliance with these requirements by incorporating development bonuses to accompany and support the affordable housing requirements. These bonuses are described as follows, and set out in Table 3.10.1:

- (1) The density bonus is computed by multiplying the maximum number of dwelling units approved in the zoning district (see § 3.8, Table 3.8-1, Maximum Density) by the density bonus percentage established in Table 3.10-1, above.
- (2) For subdivisions, if the applicant elects to use a density bonus, the minimum lot size required by § 3.8 may be reduced by up to 25% to accommodate the additional lots.
- (3) The floor area bonus for single-family and multi-family dwelling units is calculated by multiplying the bonus for Affordable Dwelling Units established in Table 3.10-1 by the total number of Affordable Dwelling Units including any fractions.

(e) Rental Units

Nothing required by § 3.10 shall be construed to establish rent control. Where the zoning district allows multi-family dwelling units, the applicant may substitute rental units for units intended for sale, pursuant to an approved Affordable Housing Performance Agreement (see § 3.10.4, below). If rental units are added, they are added voluntarily by the developer/property owner.

(f) Floor area

Each Affordable Dwelling Unit must have the minimum Floor Area established in Table 3.10-2 below. For each unit type and category, the developers may choose to construct larger units. However, allowable sales or rental prices for the larger units may not exceed the maximum set forth in the agreements and restrictions recorded as required in § 3.10.4.

Table 3.10-2 Minimum Net Livable Square Footage

Unit Type	Attached Units	Detached Units
Efficiency Apartment	500*	—
1 Bedroom	700*	1,000*
2 Bedroom	850*	1,100*
3 Bedroom	1100*	1,200*
4 or more Bedrooms	1,200 plus 250 square feet per additional bedroom above 4*	1,300 plus 285 square feet per additional bedroom above 4*

*If unrestricted, market rate units in a building are constructed at sizes below those stated in Table 3.10.2, the minimum floor area for Affordable Units may be reduced to the size of such comparable unrestricted units in the building.

3.10.3 Alternatives to On-Site Development of Affordable Housing Units.

- (a) This § 3.10.3 provides alternatives to the construction of Affordable Dwelling Units onsite as a way to comply with this Section. The alternatives are listed in subsection (d), below.
- (b) The alternatives must be:
- (1) approved by the Town Council, or approved by the Planning Board in circumstances where the Planning Board has final approval authority; and
 - (2) agreed to by the applicant in an Affordable Housing Performance Agreement (see § 3.10.4).
- (c) This Section does not apply unless the applicant demonstrates to the satisfaction of the Town Council or the Planning Board, in circumstances where the Planning Board has final authority, the following:
- (1) the alternative provides an equivalent amount of Affordable Dwelling Units in a way that the Town Council or Planning Board determines better achieves the goals, objectives and policies of the Comprehensive Plan than providing them 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 as required by § 3.10.2; and
 - B. will not cause the Town to incur any net cost as a result of the alternative compliance mechanism; or
- (3) it is impossible to provide the units on-site because of federal or State law.
- (d) The Town Council, or the Planning Board, in circumstances where the Planning Board has final authority, may approve one or more of the following options to providing Affordable Dwelling Units that are required by this Section.
- (1) **Land dedication.** Obligations may be satisfied by dedication of land in-lieu of providing affordable housing on-site, as follows:
- A. The land shall be dedicated to the Town or its designee.
 - B. The land shall be located within the Town of Chapel Hill's Urban Services Boundary, and shall be suitable for development as determined by the Town Council.
 - C. The value of land to be dedicated in satisfaction of this alternative means of compliance and its suitability shall be determined, at the cost of the developer, by an independent certified appraiser and by such alternative and means of valuation as approved by the Town Council, or the Planning Board, in circumstances where the Planning Board has final authority, .
 - D. Land deeded to the Town must be zoned such as to allow construction of at least that number of dwelling units for which the obligation of construction is being satisfied by the dedication of land. Land so deeded to the Town or its designee shall be of equivalent or greater value than the payment in lieu contribution that would be required under this Section; or, if the land is of lesser value, dedication of the land shall be accompanied by a payment in lieu equivalent to the difference. The land shall be served by adequate infrastructure (water, sewer, roads) to allow construction of residential dwelling units. The deed shall convey a fee simple interest at no cost to the Town.
- (2) **Dedication of Existing Units:** Restricting existing dwelling units which are approved by the Town Council, or the Planning Board, in circumstances where the Planning Board has final authority, as suitable affordable housing dwelling units through covenants, contractual

arrangements, or resale restrictions. The Town Manager shall determine whether the form and content of the restrictions comply with this Section. Off-site units shall be located within the Town of Chapel Hill or its extraterritorial jurisdiction or Joint Planning Area. The restriction of such existing units must result in the creation of units that are of equivalent value, quality, and size of the permanently Affordable Dwelling Units which would have been constructed on-site if this alternative had not been utilized. Where a proposed development consists of ownership units, units created under this Section shall be ownership units. The value of dwelling units created pursuant to this Section as a way of meeting the permanently Affordable Dwelling Unit requirement shall be determined, at the expense of the developer, by a certified appraiser or by such alternative means of valuation as approved by the Town Council, or the Planning Board, in circumstances where the Planning Board has final authority, .

- (3) **Offsite construction** of affordable housing within the incorporated areas of the Town Joint Planning Area or its extraterritorial jurisdiction. Offsite construction of units should be located in proximity to public transit service. Such construction should not be located in environmentally sensitive areas, including Property that would only be built upon with approval of an RCD Variance or Steep Slope Variance.
- (4) A **payment in lieu of housing**. The Town Council may approve a payment in lieu (hereinafter a "**Payment**") of providing Affordable Dwelling Units, in accordance with the criteria established below. The Town Council shall establish the Payment amounts by Resolution.

A. Applicability.

The Town Council, or the Planning Board, in circumstances where the Planning Board has final authority, may accept a Payment for all or part of the affordable housing obligation imposed by this Section. A Payment may be approved if:

1. the calculation of the housing obligation results in a fractional number of units, in which case the fractional amount shall be fulfilled with a payment in lieu; or
2. the payment provides opportunity for an equivalent or greater amount of Affordable Dwelling Units in a way that the Town Council, or the Planning Board, in circumstances where the Planning Board has final authority, determines better achieves the goals, objectives, and policies of the Comprehensive Plan.

B. Amount of Payment.

1. Each year, affordable housing agencies actively involved in producing affordable housing will be asked to provide the Town Council with a list of new affordable 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 of Chapel Hill for that fiscal year. The result will be the payment in lieu fee for the coming year.

The Council shall annually establish the per unit Payment amount.

2. For purposes of determining the **total** Payment amount, the per unit amount established by the Town pursuant to Paragraph B.1, above, shall be multiplied by 15 percent of the number of units approved in the development. For purposes of this calculation, fractional amount shall be taken to the second decimal point and shall not be rounded up or down. If the cash payment is in lieu of providing one or more but not all of the required units, the calculation of required affordable dwelling units shall be prorated.

C. Use of Payment.

The Payment shall be made to the Town and reserved to be used for affordable housing purposes.

- (5) An **alternative** proposed by the applicant that directly provides or enables the provision of affordable housing units within the Town Extra Territorial Jurisdiction or Joint Planning Area. The alternative shall be approved by the Town Council, or the Planning Board, in circumstances where the Planning Board has final authority, and made a condition of approval of the Application.

3.10.4 Affordable Housing Plan

(a) Applicability

Applications that are subject to this Section shall include an Affordable Housing Plan as described below. An Affordable Housing Plan describes how the application complies with each of the applicable requirements of this Section.

(b) Approval

- (1)** The Affordable Housing Plan shall be approved along with the application.
- (2)** Minor modifications to the plan are subject to approval by the Town Manager. Major modifications are subject to approval by the Town body that originally approved the application and will be considered upon petition from the applicant. Items that are considered major and minor may be designated in the Affordable Housing Plan.

(c) Contents.

The Affordable Housing Plan shall include at least the following:

- (1)** General information about the nature and scope of the development subject to these regulations.
- (2)** For Applicants that request an alternative to on-site provision of affordable housing, evidence that the proposed alternative will further affordable housing opportunities in the Town to an equivalent or greater extent than compliance with the otherwise applicable on-site requirements of this Section.
- (3)** The total number of market rate units and Affordable Dwelling Units in the development.
- (4)** The number of bedrooms and bathrooms in each Affordable Dwelling Unit.
- (5)** The approximate square footage of each Affordable Dwelling Unit.
- (6)** The approximate location within any multifamily residential structure, or any subdivision of land, of each Affordable Dwelling Unit.
- (7)** The pricing for each Affordable Dwelling 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.
- (8)** The order of completion of market rate and Affordable Dwelling Units.
- (9)** Documentation and specifications regarding the exterior appearance, materials and finishes of the development for each of the Affordable Dwelling Units, unless it is stated that market rate units and Affordable Dwelling Units shall have identical exterior finishes. It is strongly

encouraged that the appearance of affordable units be comparable to the appearance of market-rate units.

- (10) Documentation of features incorporated into the design of the Affordable Dwelling Units that accommodate lifelong living and aging in place. Examples of such features, also referred to as components of “Universal Design,” are elements that provide increased accessibility to and throughout the dwelling such as accessible points of entrance to the dwelling, wider doorways, and bedrooms accessible without steps.
- (11) Documentation of the extent to which construction of the affordable units incorporates energy-efficient and durable design and materials, to minimize ongoing maintenance costs for those units.
- (12) Any and all other information that the Town Manager may require that is needed to achieve the Council’s affordable housing goals.

3.10.5 Recorded Agreements, Conditions and Restrictions

- (a) An Affordable Housing Performance Agreement shall be executed between the Town and an Applicant, in a form approved by the Town Attorney, based on the Affordable Housing Plan described in § 3.10.5, which formally sets forth development approval and requirements to achieve Affordable Housing in accordance with this ordinance and location criteria. The Agreement shall identify:
 - the location, number, type, and size of affordable housing units to be constructed;
 - sales and/or rental terms; occupancy requirements;
 - a timetable for completion of the units; and
 - restrictions to be placed on the units to ensure their permanent affordability and any other terms contained in the approval resolution by the Town Council or Planning Board as applicable.
 - If land is to be conveyed as part of compliance with these requirements, the Agreement will identify the land to be conveyed, its fair market value, and the time at which the land will be conveyed.
 - If a Payment-in-lieu of housing fee is to be part of compliance with these requirements, the Agreement shall identify the amount of fees to be paid and the time of payment.
- (b) The applicant or owner shall execute any and all documents deemed necessary by the Town Manager, including, without limitation, restrictive covenants and other related instruments, to ensure the permanent affordability (see § 3.10.10) of the affordable housing units or lots in accordance with this Section.

- (c) The applicant or owner must prepare and record all documents, restrictions, easements, covenants, and/or agreements that are specified by the Town Council (or Planning Board, as appropriate) as conditions of approval of the application prior to issuance of a Zoning Compliance Permit for any development subject to this Section.
- (d) Documents described above shall be recorded in the Orange or Durham County Registry of Deeds as appropriate.

3.10.6 Development Cost Offsets.

(a) *Development Cost Offsets.*

Along with provisions outlined in § 3.10.2(d) related to density bonuses accompanying these inclusionary housing requirements, the Town also agrees to waive certain development-related fees for projects that are subject to these requirements. If an Application proposes development in compliance with the provisions of § 3.10 of this ordinance, otherwise applicable Town application fees, building permit fees, plan review fees, inspection fees, and such other development fees and costs which would otherwise be due shall be waived for the Affordable Dwelling Units component of the Application. If application fees are paid for a proposed development that subsequently adds additional affordable dwelling units to the development plan, a pro rata refund of such fees shall be provided to the applicant upon approval of the development to reflect the additional affordable units. This waiver does not apply to any market rate units, or to any fees associated with water, wastewater, or stormwater.

(b) *Application*

Waiver requests must be submitted in writing and can only be granted when the Affordable Housing Agreement is fully executed.

3.10.7 Integration of Affordable Housing Units

(a) *Location of affordable housing units.*

The Affordable Housing Performance Agreement (as described in § 3.10.4(a)) shall include description of the location of affordable housing units. Affordable housing units or lots shall be located within the development subject to these regulations, unless the applicant is granted an exception or alternative to providing on-site housing as described in § 3.10.3. Affordable units shall be sited in multiple locations within the development subject to these regulations. The locations shall be approved by the Town Manager.

(b) Phasing of construction.

The Affordable Housing Plan and the Affordable Housing Performance Agreement shall include a phasing plan that provides for the timely and integrated development of the affordable housing units as the development project subject to these regulations is built out. The phasing plan shall provide for the development of the affordable housing units concurrently with the market rate units. Zoning Compliance Permits shall be issued for the development project based upon the phasing plan. The phasing plan shall be approved by the Town Manager prior to the issuance of any Zoning Compliance Permit.

Subsequent to approval, the phasing plan may be adjusted by the Town Manager 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.

(c) Exterior appearance.

The exterior appearance of the affordable housing units in any development subject to these regulations shall be compatible in style and quality with the market rate units in the development, subject to Town Manager approval.

(d) Number of bedrooms in the affordable units.

The affordable housing units shall have a number of bedrooms in the approximate same proportion as the market rate units. Where this calculation results in a fraction in the number of affordable units having a specified number of bedrooms, the number of bedrooms in the affordable units shall be established in the Affordable Housing Plan to be approved by the Manager. In any such plan, the number of units with the higher fraction shall be favored. (By way of illustration, if a calculation based on the first sentence of this paragraph results in 3.25 three bedroom affordable units and 3.75 two bedroom affordable units, the approved plan shall include 3 three-bedroom affordable units and 4 two-bedroom affordable units.)

3.10.8 Target Income Levels for Pricing of Affordable Housing Units or Lots

- (a)** In development projects subject to these regulations, at least one affordable housing unit or lot and at least 50 percent of the affordable housing units or lots shall be offered for sale to low-income households at a price that on average is affordable to a household with an annual income that is at or below 65 percent of area median income, based on household size for the Durham-Chapel Hill Metropolitan Statistical Area, as determined by the United States Department of Housing and Urban Development (HUD).
- (b)** Any remaining affordable units or lots shall be sold to low-income households at a price that is affordable to a household with an annual income that is at or below 80 percent of area median income based on household size for the Durham-

Chapel Hill Metropolitan Statistical Area as determined by the United States Department of Housing and Urban Development (HUD).

- (c) At the time of first sale of an affordable housing unit or lot, the developer shall be required to execute and record any documents necessary to ensure and maintain the number and sales conditions of affordable housing units or lots as specified in Article 3.10.10 and required by this chapter.

3.10.9 Price of Affordable Dwelling Units or Lots

The price of Affordable Dwelling Units offered by the developer shall be established such that the total cost of mortgage principal and interest, property taxes, homeowners and condominium association fees, any mandatory maintenance fees, and homeowner's insurance does not exceed **30 percent** of the maximum specified income levels of purchasers, as established in §.3.10.8. Calculation of housing costs shall be based on projected tax obligations, a 30-year fixed rate mortgage, a 5 percent down payment, and projected mortgage rates.

3.10.10 Period of Affordability

In developments subject to these regulations 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 this Section to ensure compliance with this subsection.”

Section 3. Appendix "A" to the Chapel Hill Land Use Management Ordinance, Definitions, is hereby amended to add the following words, terms and phrases alphabetically under the subsection entitled "List of Terms or Words":

Affordable

See § 3.10.8.

Affordable Dwelling Unit

A Dwelling Unit that is restricted for occupancy by a household within the target income prescribed by § 3.10.8 of this Ordinance.

Application

Any application for approval of a concept plan, rezoning, special use permit, subdivision plat, site plan, master land use plan, zoning compliance permit, or variance, or any other permit required by Article 4 of this Land Use Management Ordinance.

Area Median Income or "AMI"

The median income (MFI) of the HMFA, which is published annually by the U.S. Department of Housing and Urban Development.

Bedroom

A separate room or space used or intended to be used for sleeping purposes.

Bus Stop

A structure that includes a roof and a bench or standing area, is located on a bus route at which a bus operated by Chapel Hill Transit stops for the purpose of boarding or deboarding passengers pursuant to a published fixed-route schedule.

Efficiency Apartment

A dwelling unit within a multi-family dwelling unit building that without a separate distinct room for sleeping.

Interior Common Elements

For any building, "interior common elements" includes common interior halls, stairwells, elevators, and recreational facilities. "Interior" means that the elements are located inside the exterior, load-bearing walls of the building. "Common" means that the elements are accessible and open to all tenants or occupants of the building, and are not reserved for use by an individual tenant or occupant.

Low Income Household

A household whose income is more than sixty-five percent (65%), and does not exceed eighty percent (80%), of area median income (AMI).

Moderate Income Household

A household whose income is more than eighty percent (80%), and does not exceed one-hundred percent (100%), of area median income (AMI).

Non-Profit Housing Entity

A community housing development organization (CHDO) defined in 24 C.F.R. § 92.2, including any community land trust as defined in 42 U.S.C.A. § 12773.

Permanent Affordability or Permanently Affordable

A requirement that Affordable Dwelling Units that are required by § 3.10 remain affordable with no expiration date or time restriction, to the extent permitted by law.

Reconfiguration

A change in the form or design of an existing development or structure. Reconfiguration shall be treated as development if it involves Substantial Improvement as defined in this Section.

Reconstruction

The act of putting a structure back in working order, in approximately its original form. Reconstruction shall be treated as development if it involves Substantial Improvement as defined in this Section.

Renovation

The act of improving a structure or development by renewing and restoring component parts. Renovation shall be treated as development if it involves Substantial Improvement as defined in this Section.

Town Attorney

The Town Attorney of the Town of Chapel Hill, or his or her designee

Two-Family Lot

A Lot that is located in a subdivision within a zoning district that allows two-family dwelling units, and that does not include covenants, restrictions, or conditions of approval that prohibit the construction of a two-family dwelling unit on the lot.

Studio Apartment

See "Efficiency Apartment."

Single-Family Lot

A Lot that is located in a subdivision within a zoning district that allows single-family dwelling units, and that does not include covenants, restrictions, or conditions of approval that prohibit the construction of a single-family dwelling unit on the lot.

Unrestricted Unit

A Dwelling Unit that is not an Affordable Dwelling Unit, or a subdivision lot that is reserved for a Dwelling Unit other than an Affordable Dwelling Unit.

Very-Low Income Household

A household whose income does not exceed sixty-five percent (65%) of area median income (AMI).

Section 4. Section 3.8.5, Housing Floor Area Restrictions for Major Subdivisions, and Planned Development and Section 3.8.6, Alternatives to Floor Area Restrictions of the Land Use Development Ordinance are hereby repealed; provided, however, that in the event Section 2 of this Ordinance is, subsequent to its enactment, ruled void or unenforceable in its entirety or in substantial part by a final order of a court of competent jurisdiction, Sections 3.8.5 and 3.8.6 shall be automatically reinstated without the need for further action by the Town Council.

Section 5. This Ordinance shall be effective March 1, 2011.

This the 21st day of June, 2010.