

ARTICLE I. INCLUSIONARY AND AFFORDABLE HOUSING ORDINANCE

Sec. 4-1. Purpose.

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 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 income households and working families. This article is not intended to make the developer incur any out of pocket expense. The formulas in this article may be adjusted with a recommendation from the planner and approval from the board of commissioners.

(Ord. of 5-12-2004, § 11-1; Amend. of 6-1-2005; Ord. No. 2010-12C, 10-6-2010)

Sec. 4-2. Definitions.

The following words, terms and phrases, when used in this chapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Area median income: The median income level for Dare County, North Carolina, as established and determined by the Section 8 Income Limits tables created annually by the United States Department of Housing and Urban Development (HUD), MFI (Median Family Income), HUD-USER, P.O. Box 23268, Washington, DC, 20026. (www.HUDUSER.org).

Eligible household: Household that has income that does not exceed 80 percent of the area median income for a household of four people.

Market rate units: Residential dwelling units or lots that are not required to be affordable housing units under the requirements of this chapter.

(Ord. of 5-12-2004, § 11-2; Amend. of 6-1-2005; Ord. No. 2010-12C, 10-6-2010)

Sec. 4-3. Covered development projects.

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 article 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.

(Ord. of 5-12-2004, § 11-3; Ord. No. 2010-12C, 10-6-2010)

Sec. 4-4. 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.

(Ord. of 5-12-2004, § 11-4; Ord. No. 2010-12C, 10-6-2010)

Sec. 4-5. 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 article 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 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.
- (4) 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 article.
- (5) The phasing for each market rate unit and each affordable unit.

(Ord. of 5-12-2004, § 11-5; Amend. of 6-1-2005; Ord. No. 2010-12C, 10-6-2010)

Sec. 4-6. Density bonuses.

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 6,000 square feet unless approved by both the planning board and the town board of commissioners.

(Ord. of 5-12-2004, § 11-6; Ord. No. 2006-09-02, 9-6-2006; Ord. No. 2010-12C, 10-6-2010)

Sec. 4-7. Development agreement and other documents.

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 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.

(Ord. of 5-12-2004, § 11-7; Ord. No. 2010-12C, 10-6-2010)

Sec. 4-8. Development cost offsets.

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.

(Ord. of 5-12-2004, § 11-8; Ord. No. 2010-12C, 10-6-2010)

Sec. 4-9. 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 900 square feet.

(Ord. of 5-12-2004, § 11-9; Amend. of 6-1-2005; Ord. No. 2010-12C, 10-6-2010)

Sec. 4-10. Reserved.

Editor's note: Ord. No. 2010-12C, adopted Oct. 6, 2010, repealed § 4-10, which pertained to target income levels for affordable housing units or lots, and derived from an ordinance adopted May 12, 2004.

Sec. 4-11. Price of affordable units or lots.

(a) *Affordable housing units.* Affordable unit price shall be determined by calculating 72.5 percent of the median income (HUD MFI) multiplied by 3.5.

(b) *Affordable lots in subdivisions.* Prices for affordable lots in subdivisions shall be determined by calculating 72.5 percent of the median income (HUD-MFI) multiplied by 3.5 and divided by four.

(Ord. of 5-12-2004, § 11-11; Amend. of 6-1-2005; Ord. No. 2010-12C, 10-6-2010)

Sec. 4-12. 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 businesses located in the town, to employees of other governmental agencies of Dare County, and to residents of Roanoke Island, provided they have been a resident or employee for a minimum of 12 months;

(3) Third to residents of Dare County, North Carolina;

(4) Forth 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. 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 by the Town of Manteo.

(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).

(Ord. of 5-12-2004, § 11-12; Amend. of 6-1-2005; Ord. No. 2006-09-01, 9-6-2006; Ord. No. 2010-12C, 10-6-2010)

Secs. 4-13, 4-14. Reserved.

Editor's note: Ord. No. 2010-12C, adopted Oct. 6, 2010, repealed §§ 4-13 and 4-14 which pertained to period of affordability and affordability controls; resale of affordable housing units or lots, and derived from an ordinance adopted May 12, 2004, and an amendment adopted June 1, 2005.