



Affordable Housing Incentive Zoning Policy & Procedures Manual

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Section 1. Policy Overview

1.1 Introduction

Incentive zoning policies are intended to encourage applicants to provide a public service, such as affordable housing units or lots, in exchange for zoning-based and non-financial incentives.

By adopting the Affordable Housing Plan (Plan), Town Council provided direction to establish an Affordable Housing Incentive Zoning Policy (Policy) that sets forth clear minimum recommendation criteria, applicability standards, and a menu of incentive options in exchange for developing residential affordable housing units or lots. These incentives may be used alone, or in conjunction with other local, state and federal programs that assist in the creation of affordable housing.

The Affordable Housing Incentive Zoning Policy & Procedures Manual (Procedures Manual) details the Town's minimum recommendations and applicability standards for the affordable housing units or lots generated through this Policy. The criteria in this Procedures Manual must be interpreted in conjunction with the Town's Unified Development Ordinance (UDO).

1.2 Goals

The goals of this Policy include:

- a) Providing a clear process and understanding of the Town's minimum recommendations and applicability standards for Town staff and prospective applicants;
- b) Adding affordable housing units or lots within Apex;
- c) Developing affordable housing units that address the Town's highest priority needs;
- d) Creating mixed-income communities, with affordable housing units integrated within residential and mixed-use market-rate developments; and
- e) Offsetting potential market-rate development revenue loss for developing affordable housing units or lots using the various available incentives.

1.3 Applicability

This Policy is applicable within zoning districts that allow residential and mixed-use development per Sec. 4.2.2 of the UDO. Applicants whose development meets the minimum Policy recommendation may apply for incentives through the Conditional Zoning and Planned Unit Development-Conditional Zoning (PUD-CZ) approval process in exchange for providing affordable housing within a development. All incentives are subject to Town Council approval through the Conditional Zoning process.

Table 1 – Minimum Policy Recommendation Applicability Standards

Housing Tenure Type	Minimum Development Unit Amount	Minimum Affordable Unit Designation	Targeted Income	Affordability Period	Targeted Prices
Ownership	10 units	10%	120% AMI	20 years	HUD HOME New Construction Sales Price
Rental	10 units	10%	80% AMI	30 years	NCHFA Fair Market Rents

1.4 Alternatives

Proposals that differ from the minimum Policy recommendations will be considered alternative proposals. The Town Council may approve, conditionally approve, or deny any proposal including an alternative proposal. The Town may retain the services of a consultant or outside legal counsel to review the reasonableness of the submitted proposal.

Fee in Lieu

As an alternative to on-site units, a fee in lieu can be dedicated to the Affordable Housing Fund. The equivalent of 10% of the development units should be provided to the Town as gap financing for the development of future affordable homes.

High Density Single-Family Residential Rezoning: Fee in Lieu Example	
Development Acreage:	10-acres
Projected Maximum Unit Count:	80 Units
Minimum Applicable Designation:	80 units x 10% = 8 affordable units
Fee in Lieu Calculation	
Median Development Unit Sales Price	\$600,000
HUD HOME New Construction	\$382,000
Sales Price Differ	\$218,000
AHIZP Designated Units:	8 Units
Fee in Lieu Calculation	\$218,000 x 8 Units
Fee in Lieu Amount:	\$1,744,000

Lots in Lieu

As an alternative to developer built onsite affordable homes, the equivalent to 10% of onsite lots can be dedicated to an affordable housing developer to develop as affordable homes.

High Density Single-Family Residential Rezoning: <i>Lots in Lieu Example</i>	
Development Acreage:	10-acres
Projected Maximum Unit Count:	80 Units
Minimum Applicable Designation:	80 units x 10% = 8 affordable units/lots
Lots in Lieu Calculation	
AHIZP Designated Units:	8 Units/Lots
Lots in Lieu Dedication	8 lots

Land in Lieu

As an alternative to developer-built onsite affordable units/lots, the equivalent to 10% of onsite lots can be dedicated offsite to the Town of Apex for a developer to create future housing affordability opportunities.

Land in Lieu Example:

High Density Single-Family Residential Rezoning: <i>Land in Lieu Example</i>	
Development Acreage:	10-acres
Projected Maximum Unit Count:	80 Units
Projected Acreage per Unit:	.125 acres
Minimum Applicable Designation:	80 units x 10% = 8 affordable units
Land in Lieu Calculation	
Projected Acreage per Unit:	.125 acres
AHIZP Designated Units:	8 Units
Land in Lieu Calculation	.125 acres x 8 Units
Land in Lieu Dedication:	1 acre of offsite land

1.5 **Organization**

Section 2 describes the application process to work with Town staff to prepare an affordable housing zoning condition as part of a Conditional Zoning application. Section 3 includes the minimum Policy recommendations associated with Affordable Housing Proposals (AHP). Section 4 describes the menu of zoning-based, non-financial, and financial incentives available to applicants in exchange for providing affordable homes or lots as a public service.

1.6 **Authority**

The Town Manager or designee is authorized to sign all documents on behalf of the Town that implement this Policy.

Section 2. Process

This Policy provides a menu of zoning-based, non-financial, and financial incentive options available for applicants to request in exchange for providing affordable homes or lots on-site within a development, or offsite, through the Conditional Zoning and PUD-CZ approval process. A summary of the review process and schedules for Conditional Zoning and PUD-CZ applications can be found at <http://www.apexnc.org/215/Applications-Schedules>.

2.1 Step 1: Pre-application Meeting

This is the first step of the Conditional Zoning and PUD-CZ process. The applicant will have an opportunity to meet with the Town's Technical Review Committee (TRC) and Housing staff to discuss and receive feedback regarding all aspects of the proposed development and the affordable housing incentive options. The intent of the meeting is for the applicant to inquire about the various incentives potentially available in exchange for voluntarily providing affordable homes or developable lots.

2.2 Step 2: Town Staff Meetings

The applicant will meet with Town staff to go over the Policy incentives and applicability standards in more detail. Staff assigned to each project will assist the applicant on how the incentives and applicability standards might be applied to the proposed development. This step will provide the applicant with the information needed for drafting and submitting the AHP concurrently with the Conditional Zoning application for Town staff to review and comment.

2.3 Step 3: Affordable Housing Proposal Submittal

The applicant will submit an AHP concurrently with the Conditional Zoning application. The AHP will detail the incentives requested, number of affordable homes, AMI percentage(s), tenure, affordability period, and describe how the applicant proposes to address the affordable housing component of the proposed development. In addition, the AHP shall address the following affordable home design and location recommendations:

1. Affordable homes should be comparable to market-rate homes in terms of unit type, consistency in building materials, overall quality of construction, and consistent with current building code standards for new housing construction.
2. Affordable home lot sizes, number of bedrooms and number of garages may be less than the market-rate housing units, but in general, should have similar floorplans.
3. Affordable homes should be dispersed throughout the development as evenly as possible based on project location, project size, proximity to transit, number of buildings

(if applicable) and number of phases. Town staff will review the AHP and work with the applicant until the AHP is finalized.

2.4 Step 4: Affordable Housing Zoning Condition

Once the AHP is finalized, the applicant and staff will draft the recommended affordable housing zoning conditions for consideration by the Planning Board and Town Council. The Affordable Housing Zoning Condition shall be finalized with Housing Staff at least 30 business days prior to the Town Council Meeting at which the Public Hearing will be held.

2.5 Step 5: Affordable Housing Restrictive Covenants or Similar Instruments

Once the Conditional Zoning application and zoning conditions are approved by Town Council, the applicant and staff will work with the Town's Legal Department to execute and record a restrictive covenant (i.e., affordable housing agreement) or similar instrument to memorialize the affordable housing terms and conditions of the approved zoning condition against the property and/or individual lots designated for the affordable homes. A restrictive covenant or similar instrument will be drafted in partnership with the applicant recognizing the development may have other restrictions from first position lenders or other priority liens which could impact the type of instrument used to ensure the affordability period.

For rental developments, the restrictive covenant shall be recorded against the property prior to issuing the first Certificate of Occupancy. For ownership developments, the restrictive covenant shall be recorded against the individual affordable home lots prior to issuing a building permit for such lots. The Town may retain the services of a consultant or outside legal counsel to review the restrictive covenant or instrument prior to recordation.

Section 3. Income Categories, Housing Tenure, AMI Percentages, and Calculations

3.1 *Affordable Housing On-Site Percentage, Income Category and AMI Percentage*

The minimum recommended affordability term is twenty (20) years for affordable ownership homes or lots. The minimum affordability term for rental developments is thirty (30) years. Rental developments that target lower AMI percentages may have shorter terms that recognize the revenue loss due to the lower rents and may be negotiated on a project-by-project basis. When an applicant proposes affordable homes or lots within a development, the minimum recommended on-site percentage, income category, and maximum AMI percentages are shown in Table 2 for rental and ownership tenure types. The same standards are applicable for developments with mixed rental and ownership units.

Table 2 – Minimum Policy Recommendation Applicability Standards

Housing Tenure Type	Minimum Development Unit Amount	Minimum Affordable Unit Designation	Targeted Income	Affordability Period	Targeted Prices
Ownership	10 units	10%	120% AMI	20 years	HUD HOME New Construction Sales Price
Rental	10 units	10%	80% AMI	30 years	NCHFA Fair Market Rents

3.2 *Affordable Housing Calculations*

When computations for the number of on-site affordable homes or lots result in a fraction, the applicability shall be as shown in Table 3.

Table 3 – Housing Unit Fraction Applicability

Fraction	Applicability
0.00 – 0.49	Round affordable home/lot count down
.50 - .99	Round affordable home count up

Restrictive Covenants

Affordable homes – both ownership and rental – along with ownership lots will be subject to a recorded restrictive covenant that will be executed between the Town and applicant. Affordable ownership homes may be subject to an additional restrictive covenant recorded against the property between one of the following: (1) the applicant and Town, (2) the

applicant and individual purchasers, (3) a third-party entity and individual purchasers, or (4) the Town and individual purchasers that restricts the affordable initial sales price and resale price during the period of affordability at the agreed upon maximum AMI percentage.

In situations where the mortgage or other program regulations prohibit a restrictive covenant to be recorded against the property, other instruments that preserve the affordability will be utilized. Recorded restrictive covenants shall run with the land and will remain in effect for subsequent buyers and owners. Final affordability terms and conditions will be included in the following: (1) zoning condition as approved by Town Council, and (2) memorialized in a recorded restrictive covenant against the property or lots.

Section 4. Town Incentives

An applicant may request one or more of the zoning-based, non-financial, and financial incentives listed in this section through the Conditional Zoning (CZ) or Planned Unit Development-Conditional Zoning (PUD-CZ) application. An applicant is not precluded from requesting one or more of the incentives if proposing an alternative proposal that differs from the Town’s minimum Policy recommendations. All zoning-based, non-financial, and financial incentives requested by the applicant are not automatically approved and are subject to Town Council consideration and approval.

4.1 Zoning-Based Incentives

4.1.1 High Density Zoning District

An applicant may apply for a zoning district that allows more housing types and density than otherwise indicated on the 2045 Land Use Map to increase overall project density to support the provision of affordable homes, **if the development designates a minimum 10% of total unit amount as affordable.**

High Density Zoning District Incentive Example:

Current Zoning Designation:	
Rural Residential	One (1) single-family home per 5+ acres
2045 Land Use Map Designation:	
Medium Density Residential	Up to six (6) units per acre
Higher Density Rezoning Requested:	
High Density Single-Family Residential	Up to eight (8) units per acre
Development Acreage	10-acres
Projected Maximum Unit Count Based on Rezoning Designation	80 Units
Minimum Applicable Designation	80 units x 10% = 8 affordable units

4.1.2 Density Bonus

A density bonus encourages the production of affordable homes by allowing applicants to build more units or lots within the development than would otherwise be allowed by the proposed zoning district.

If rezoning to the High-Density Multi-Family Residential-Conditional Zoning (HDMF-CZ), an applicant may propose a zoning condition that increases the allowed density above the 14 dwelling units per acre that the HDMF zoning district permits. An increase to 20 dwelling units per acre would be supported by this incentive.

Fifty percent (50%) of the homes created through the density bonus must be designated towards affordability, in addition to the original ten percent (10%) that was designated as affordable.

Density Bonus Incentive Example:

High Density Multi-Family Residential Rezoning	
Development Acreage:	10-acres
Projected Maximum Unit Count:	140 Units
Minimum Applicable Designation:	140 units x 10% = 14 affordable units
Projected Maximum Unit Count with Density Bonus:	140 Units + 60 Density Bonus Units (10 acres x 20 units = 200)
Unit Designation with the Density Bonus	
Market Rate Units:	126 Units
AHIZP Affordable Units:	14 Units
Density Bonus Market Rate Units:	30 Units
Density Bonus Affordable Units:	30 Units
Final Unit Designation Totals	
Market Rate Units:	156 Units (78% of Total Units)
Affordable Units:	44 Units (22% of Total Units)

4.1.3 *Development Standards*

Adjustments to the development standards listed below may be requested in order to support the development of affordable homes. In all cases, the type and amount of incentives proposed will be reviewed in conjunction with the 2045 Land Use Plan (as amended from time to time by the Town Council), including the Land Use Map and Context Areas Map, and the character of the surrounding area. The incentives listed below in (a), (b) and (c) are applicable in any CZ district, without the need to rezone to a PUD-CZ district.

a. Increased maximum building height

Applicants rezoning to High-Density Multi-Family-Conditional Zoning (HDMF-CZ) may request to increase the building height to accommodate the density bonus increase from 14 units an acre to 20 units an acre to ensure the inclusion of affordable homes.

b. Reduced minimum building setbacks

Applicants may request a reduction of minimum building setbacks to accommodate the inclusion of affordable homes.

c. Reduced minimum lot widths

Applicants may request to reduce minimum lot widths to accommodate the inclusion of affordable homes.

4.1.4 *Resource Conservation Area (RCA) Reduction*

An applicant may request a Resource Conservation Area reduction of 10% as an incentive when the minimum 10% of total homes within the proposed development is designated as affordable. The maximum reduction in Resource Conservation Area (RCA) that may be requested is 10%. This incentive is applicable in any CZ district, without the need to rezone to a PUD-CZ district.

4.1.5 *Parking Reductions*

An applicant may request a parking reduction for developments that are pedestrian-oriented mixed-use and/or within .25-mile of an existing or planned bus stop as an incentive when the minimum of 10% of total homes within the proposed development is designated as affordable. This incentive is applicable in any CZ district, without the need to rezone to a PUD-CZ district.

4.1.6 *Sidewalk Reductions*

For PUD-CZ applications located in the Rural Context Area as depicted on the 2045 Land Use Plan Context Areas Map, the Town may choose to waive the requirement in Section 2.3.4.F.1.a.iv of the UDO requiring construction of sidewalks on both sides of residential streets. In these cases, sidewalks must be provided on at least one side of all residential streets. Section 7.5.4.C of the UDO, requiring pedestrian facilities on both sides of all collector streets and thoroughfares, will not be waived.

4.2 **Non-Financial Incentives**

4.2.1 *Expedited Processing*

The Town, wherever possible, would consider expediting the processing of site plan and master subdivision plan applications where at least 10% of the residential units or lots are set aside for affordable housing.

4.3 **Financial Incentives**

4.3.1 *Grants and Reductions*

An applicant may request financial assistance in the form of a grant for reimbursement of certain development fees to help offset some of the total development costs for providing affordable homes or lots within a development. Funds will be structured in a manner that directly reduces the housing cost for the end user in the form of a lower purchase price or monthly rental cost. This incentive is subject to Town funding availability and will be evaluated on a case-by-case basis.

Town Financing

Applicants may request Town financing to help ensure affordable homes within the proposed development. The designated affordable homes must be targeted to incomes at or below 80% of the AMI and must include homes that are targeted to 60% of the AMI or below.

Water and Sewer Fee Reduction

Applicants may request Town financing in the form of a 10% reduction of the Water and Sewer Fee to help ensure affordable homes within the proposed development. The designated affordable homes must be targeted to incomes at or below 80% of the AMI and must include homes that are targeted to 60% of the AMI or below.

Parks and Recreation Fee Reduction

Applicants may request Town financing in the form of a 10% reduction of the Parks and Recreation Fee to help ensure affordable homes within the proposed development. The designated affordable homes must be targeted to incomes at or below 80% of the AMI and must include homes that are targeted to 60% of the AMI or below.

These incentives are also subject to the requirements set forth by the North Carolina General Statutes as listed below.

North Carolina General Statute § 157-3

1. If the Town chooses to provide financial assistance, at least twenty-percent (20%) of the total housing units within the development (ownership or rental) must be set-aside as affordable housing units for the exclusive use of persons of low-income earning no more than sixty percent (60%) of AMI.

2. Financial assistance provided by the Town must be shown to flow directly to reducing the housing costs for low-income and moderate-income persons, and not diverted for other uses. For example, if \$10,000 of financial assistance is provided by the Town, then the entire amount must directly offset the housing costs of low-income and moderate-income persons and not to any market-rate units that might accompany the income-restricted units.

North Carolina General Statute § 157-9.4. Multi-family Rental Housing Projects

- a. If the Town owns, operates, or provides financial assistance to a multi-family rental housing project, at least twenty percent (20%) of the total housing units in the development shall be set aside for the exclusive use of persons of low-income earning no more than sixty percent (60%) of AMI. A single developer may group projects being developed concurrently in order to meet the requirement of this subsection.
- b. If an authority provides financial assistance to a multi-family rental housing project, the authority shall establish, as a condition of the assistance, requirements and procedures that insure that all units initially set aside for the exclusive use of persons of low-income earning no more than sixty percent (60%) of AMI continue to be so used for at least fifteen (15) years after the initial date on which at least fifty percent (50%) of the units in the project are occupied.
- c. Financial assistance provided by the Town must be shown to flow directly to reducing the housing costs for low-income and moderate-income persons and not diverted for other uses. For example, if \$10,000 of financial assistance is provided by the Town, then the entire amount must directly offset the housing costs of low-income and moderate-income persons and not to any market-rate units that might accompany the income-restricted units.

Appendix A – Procedures Manual Definitions

Affordable Housing means housing on which the occupant is paying no more than thirty percent (30%) of gross monthly household income for housing costs, including utilities.

Affordable Housing Ownership Housing Costs means a reasonable down payment and monthly housing costs expected during the first calendar year of occupancy, including utilities or utility allowances, mortgage loan principal and interest, mortgage insurance, property taxes, homeowner's insurance, homeowner's association dues, if any, and all other property assessments, dues and fees assessed as a condition of property ownership, which does not exceed thirty percent (30%) of gross monthly household income based on a family size that is equal to the actual number of bedrooms as the affordable housing ownership unit.

Affordable Housing Rental Housing Costs – means a monthly rent, including utilities in the form of a utility allowance which does not exceed thirty percent (30%) of gross monthly housing income adjusted for family size. Rents shall not exceed the maximum rent limits per bedroom size of the Raleigh, NC Area Median Income ("AMI") as most recently published by HUD and stipulated by the most recently published North Carolina Housing Finance Agency (NCHFA) Low-Income Housing Tax Credit (LIHTC) Multifamily Tax Subsidy Program (MTSP) income and rent limits for the Wake County Metropolitan Area.

Affordable Housing Incentive Zoning Policy means a set of minimum Town recommendations, applicability standards and incentive options for applicants to consider in exchange for providing affordable homes or lots within a development, or offsite, as part of the Conditional Zoning and Planned Unit Development-Conditional Zoning (PUD-CZ) approval process.

Affordable Housing Incentive Zoning Policy Administration Manual means a manual which details policies and procedures for the on-going administration of affordable homes or lots generated through the Affordable Housing Incentive Zoning Policy.

Affordable Housing Proposal (AHP) means a document submitted by an applicant as part of the Conditional Zoning application for the development which stipulates the affordable housing criteria as specified in the Affordable Housing Incentive Zoning Policy Procedures Manual for the affordable homes or lots in order to assure compliance with the Affordable Housing Incentive Zoning Policy.

Affordable Housing Incentive Zoning Policy and Procedures Manual means a manual which details applicability standards and procedures for affordable homes or lots generated through the Affordable Housing Incentive Zoning Policy.

Affordable Housing Unit means a residential dwelling unit or lot that meets the definition of an affordable housing unit or lot as detailed in the Affordable Housing Incentive Zoning Policy and Procedures Manual and Affordable Housing Incentive Zoning Policy Administration Manual, through the Affordable Housing Incentive Zoning Policy.

Area Median Income means the annual median family income for the Raleigh, NC Metropolitan Statistical Area (MSA), adjusted for family size, as most recently published and defined by the U.S. Department of Housing and Urban Development (HUD).

For-Sale Residential Development means any residential development or portion of a residential development that involves the creation of one or more additional dwelling units or lots that may be lawfully sold individually.

HUD means the U.S. Department of Housing and Urban Development.

Period of Affordability means the time specified in the recorded restrictive covenant for which the required number or percentage of affordable homes or lots must be preserved.

Persons of Low-Income as defined in North Carolina General Statute § 157-3 (15a) means persons in households the annual income of which, adjusted for family size, is not more than sixty percent (60%) of the local area median family income as defined by the most recent figures published by the U.S. Department of Housing and Urban Development.

Persons of Moderate Income as defined in North Carolina General Statute § 157-3 (15b) means persons deemed by the authority to require the assistance made available pursuant to this Chapter on account of insufficient personal or family income taking into consideration, without limitation, (i) the amount of the total income of such persons and families available for housing needs, (ii) the size of the person's family, (iii) the cost and condition of housing facilities available, and (iv) the eligibility of such persons and families for federal housing assistance of any type predicated upon a moderate or low income basis.

Planned Unit Development-Conditional Zoning means the zoning district established in Sec. 3.3.3.C of the UDO. This district allows for variations in development standards in order to provide a type of development that is not possible through strict application of the Ordinance.

Maximum Allowable Affordable Housing Ownership Sales Price means the highest dollar amount at which an affordable home may be sold.

Maximum Allowable Affordable Housing Rent Limit means the highest dollar amount at which an affordable rental home may be rented including utilities or utility allowances, as established by the North Carolina Housing Finance Agency (NCHFA).

Mixed-Use Residential Development means any development that contains both residential and non-residential uses.

Rental Residential Development means any residential development or portion of a residential development that creates one or more dwelling units that cannot lawfully be sold individually.

Restrictive Covenant means a legal document imposing a restriction on the use of land so that the affordability terms and conditions are memorialized for the affordable homes or lots.

Utility Allowance means maintenance and utilities costs as most recently published by the U.S. Department of Housing and Urban Development.