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Affordable Housing Incentive Zoning Policy Administration Manual

Town Council Adopted _____, 2022

Town of Apex
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1 Overview

1.1 *Introduction*

Incentive zoning policies encourage applicants to provide a public service, such as residential affordable housing units or lots, in exchange for zoning-based, non-financial and financial incentives. By adopting the Town of Apex (Town) Affordable Housing Plan (Plan), Town Council provided direction to establish an Affordable Housing Incentive Zoning Policy (Policy) that would set forth clear minimum recommendation criteria, applicability standards, and a menu of zoning-based, non-financial and financial incentive options for applicants to consider in exchange for providing residential affordable housing units or lots within a development.

This Affordable Housing Incentive Zoning Policy Administration Manual (Administration Manual) details policies and procedures for the on-going administration of residential affordable housing units or lots generated through this Policy. This Administration Manual includes Policy definitions, compliance, and monitoring procedures. This Administration Manual also provides additional guidance to Town staff, property owners, property developers, property management companies, affordable housing unit tenants, and homeowners. The attached exhibits also contain additional Policy and compliance documentation. The criteria in this Administration Manual must be interpreted in conjunction with the Town's Unified Development Ordinance (UDO). A separate manual, the "Affordable Housing Incentive Zoning Policy Procedures Manual," details applicability and procedures for residential affordable housing units or lots generated through this Policy.

2 Interest List, Waiting Lists & Application Process

2.1 *Affordable Housing Ownership & Rental Notification Process*

The applicant (i.e. property owner, property developer/builder) is the primary entity responsible for marketing and notifying Town residents of affordable housing opportunities within their development. Town staff will work with the property owner and/or property developer/builder on marketing strategies to ensure outreach is conducted through the Town's website, social media platforms, and online and print advertising in a format that is culturally and linguistically appropriate to the community. Town staff will work with the property owner, property developer/builder, or property management company to ensure residents are notified in advance of future affordable housing opportunities.

2.1.1 *Affordable Housing Interest and Waiting List*

The Town may maintain an affordable housing interest or waiting list at its discretion to also notify residents and prospective applicant(s) of future affordable housing ownership and rental opportunities.

2.1.2 *Affordable Housing Ownership Process*

The applicant (i.e. property owner, property developer/builder) is the primary entity responsible for overseeing the execution of lot agreements, purchase agreements, and sales transactions for the affordable housing ownership units. Depending on the agreed upon terms of each development, either the applicant (i.e. property owner, property developer/builder), third-party administrator or Town staff will perform the ongoing monitoring and compliance functions (i.e. resales, refinances, annual occupancy verifications, etc.) for the affordable housing ownership units for the entire period of affordability. The applicant (i.e. property owner, property developer/builder) will coordinate with Town staff during the application intake process to ensure that applicant(s) (those applying for the affordable housing ownership units) are eligible to purchase the residential affordable housing ownership units per the Policy guidelines.

2.1.3 *Affordable Housing Rental Process*

The applicant (i.e. property owner, property developer/builder) is the primary entity responsible for property managing all aspects (i.e., application intake, executing lease agreements, collecting rents, releasing units, tenant notices, etc.) of the affordable housing rental units within the development during the entire period of affordability. The applicant (i.e. property owner, property developer/builder), or property management company will coordinate with Town staff during the application intake process to ensure that applicant(s) (those applying for the affordable housing rental units) are eligible to rent the residential affordable housing rental units per the Policy guidelines.

2.2 *Applicants Right to Refuse Affordable Housing Unit*

Applicant(s) who are offered a residential affordable housing unit and choose to decline the affordable housing unit will be placed at the bottom of the waitlist within that specific development. However, if the applicant(s) or a member of the applicant(s) household needs a reasonable accommodation due to a documented disability or handicap, the applicant(s) may decline the affordable housing unit and maintain their position on the waiting list until an affordable housing unit becomes available that meets the household's needs within that specific development and in order to comply with the Americans with Disabilities Act (ADA).

Example:

An example of refusing a residential affordable housing unit would be the applicant(s) or applicant(s) household member has a documented disability and the initial affordable housing unit that became available was located on the second floor of the development with no elevator or ADA access and the applicant(s) or applicant(s) household member needs an affordable housing unit located on the first floor with ADA access.

2.3 *Requests for Reasonable Accommodation*

If the applicant(s) or applicant(s) household member has a disability or handicap, the applicant(s) may request a reasonable accommodation. Examples may include making large-type documents or a reader available to visually impaired applicants or permitting an outside agency to assist with the application process. The applicant(s) may request a reasonable accommodation at any time during the application process or after having been selected for a residential affordable housing unit.

2.4 *Annual Household Gross Income*

The Town utilizes the U.S. Department of Housing and Urban Development (HUD) HOME Investment Partnerships Program (HOME) 24 CFR Part 5 regulations for calculating a household's gross income and determining a household's income eligibility. For further explanation of verification methods, see Chapter 5 of the HUD Handbook 4350.3 titled Determining Income and Calculating Rent, provided online at the following website:

https://www.hud.gov/program_offices/administration/hudclips/handbooks/hsg/4350.3

In summary, gross household income is the sum of all the income for every adult, 18 years or older, living in the affordable housing unit. Sources of income include all wages or salaries, overtime pay, commissions, fees, tips, bonuses and other compensation, net income from a business or profession or from the rental of real or personal property, interest and dividends, payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, payments in lieu of earnings, public assistance, alimony and child support received, and other sources of income.

2.5 *Other Housing Programs*

An applicant i.e. property owner, property developer/builder)) may include residential affordable housing ownership units through other state, federal, or local affordable housing programs such as Habitat for Humanity, community land trust, or other construction partnerships. When residential affordable housing ownership units are developed through other state, federal, or local affordable housing programs or other construction partnerships, in some cases the Town may defer to the specific regulatory requirements of those programs or partnerships for the residential affordable housing ownership units within the development.

An applicant (i.e. property owner, property developer/builder)) may include residential affordable housing rental units through other state, federal or local affordable housing programs such as the Section 8 Housing Choice Voucher Program, Low-Income Housing Tax Credit Program (LIHTC) or similar programs or other construction partnerships. When residential affordable housing rental units are included through other state, federal or local affordable housing programs or construction partnerships, in some cases the Town may defer to the specific regulatory requirements of those programs or partnerships for the residential affordable housing rental units within the development.

2.6 *Conflict of Interest*

The following individuals are ineligible to purchase or rent a residential affordable housing unit due to conflict of interest: (1) Town employees and officials (and their immediate family members) who have policy-making authority or influence regarding Town's housing programs and do not qualify as having a remote interest.

2.7 *False Statements*

During the application process, applicant(s) who intentionally make false statements or misrepresent any facts on the application to purchase or rent a residential affordable housing unit will be removed from the waiting list and barred from re-applying for an affordable housing unit within the Town in the future.

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3 Affordable Housing Ownership Units

3.1 *General Homeownership and For Sale Program Guidelines*

At initial application (in order to qualify) and until the closing of the purchase, households may earn no more than the maximum Area Median Income (AMI) percentage (i.e. 80% AMI or 100% AMI) approved for the development as stipulated in the recorded restrictive covenant and rezoning condition. The maximum income limits are adjusted for family size per the affordable housing income category and are published by HUD for the Raleigh, NC Metropolitan Statistical Area. If closing takes place less than six (6) months after initial application, income recertification is not required. In addition, applicant(s) must meet debt-to-income (DTI) ratios, loan-to-value (LTV) ratios, combined loan-to-value (CLTV) ratios, credit, asset, down payment and closing costs requirements as set forth by the licensed residential North Carolina lending institution the applicants are utilizing.

The combined income of all adult members of the household (including co-applicants) to purchase a residential affordable housing ownership unit must not exceed the affordable housing maximum income limit per family size. All co-applicants must go through the same process as the applicant and must agree to comply with the Policy guidelines. Non-occupant co-signors are not allowed to assist with the affordable housing ownership unit purchase.

Town staff will work with the property owner, property developer/builder and lender to verify the initial qualifying household income based on the applicant(s) and lender documentation submitted to the Town for review. Town staff shall have the right to request documentation from the property owner, property developer/builder, applicant(s) and lender to determine program and Policy eligibility not limited to:

- Mortgage Loan Application;
- Closing Costs Estimate;
- Income Documentation (i.e. paystubs, W2's, 1099, social security, disability, etc.);
- Three (3) Years Signed and Filed Income Tax Returns;
- Asset Documentation;
- Letter's of Explanation;
- Title Report;
- Closing Disclosure (HUD-1 Form);
- Earnest Money Deposit/Due Diligence;
- Lot Reservation Agreement;
- Purchase Agreement; and
- Other Documentation Necessary to Determine Eligibility

Town staff will review lender pre-approved application files and issue a written decision letter (i.e. approval, denial, request for additional information, etc.) notifying the applicant(s), lender and seller(s) if the applicant(s) qualify for the purchase of the affordable housing ownership unit prior to the applicant(s) entering into a fully executed lot or purchase agreement.

Applicant(s) must maintain income eligibility and lender required financing eligibility until purchase closing. After purchase closing and during the period of affordability, the qualifying household must continue to use the home as their principal residence. Household income will not be verified after the purchase closing and during the period of affordability; however, Town staff will monitor to ensure the home is being used as the principal residence of the qualifying household during the period of

affordability. Homeowner's will certify annually during the period of affordability that the affordable housing ownership unit is the homeowner's principal residence. Affordable housing ownership units must remain affordable for the entire period of affordability as specified in the restrictive covenant recorded against the property.

3.2 *Down Payment, Loan-To-Value (LTV), Combined Loan-To-Value (CLTV) and Closing Costs*

Down payment, LTV, CLTV and closing costs requirements are set forth by the licensed residential North Carolina lending institution the applicant(s) are utilizing for the purchase. Affordable housing ownership unit applicant(s) must be able to meet the lender's down payment, LTV, CLTV and closing costs requirements.

3.3 *Credit*

Credit and credit scoring requirements are set forth by the licensed residential North Carolina lending institution the applicant(s) are utilizing for the purchase. Affordable housing ownership unit applicant(s) must be able to meet the lender's credit requirements.

3.4 *Debt-To-Income (DTI)*

DTI requirements are set forth by the licensed residential North Carolina lending institution the applicant(s) are utilizing for the purchase. Affordable housing ownership unit applicant(s) must be able to meet the lender's DTI requirements.

3.5 *Assets*

Asset requirements are set forth by the licensed residential North Carolina lending institution the applicant(s) are utilizing for the purchase. Affordable housing ownership unit applicant(s) must be able to meet the lender's asset requirements.

3.6 *Financing*

Prospective applicant(s) of affordable housing ownership units must seek and obtain their own primary mortgage financing, secondary mortgage financing, down payment/closing costs assistance or other loan or grant program assistance in order to purchase an affordable housing ownership unit. There is no prearranged Town financing.

3.7 *Loan Requirements*

The primary first mortgage loan must be either a fully amortized thirty (30) year term, twenty (20) year term, fifteen (15) year or ten (10) year term, fixed principal and interest loan. Interest only loans, negative amortization loans, adjustable rate loans and reverse mortgage loans are not permitted. In some cases (subject to Town approval), the primary first mortgage loan may be combined with other secondary mortgage financing, down payment assistance, closing costs assistance, or other loan or grant programs.

3.8 *Required Pre-Purchase Education*

After the applicant(s) have been pre-approved by the lender and Town staff to purchase the residential affordable housing ownership unit, but prior to entering into a fully executed lot or purchase agreement, the applicant(s) must complete a pre-purchase education workshop, training or course preferably offered by a qualified HUD-approved agency. Once the applicant(s) complete the pre-purchase education workshop, training or course, the applicant(s) must submit a certificate of completion to Town staff to sign off on this pre-purchase condition.

3.9 Documents for Completing Home Purchase

The recorded restrictive covenant (i.e. resale deed restriction, shared appreciation agreement, etc.) requires affordable homeowners to live in their home as their principal residence. The recorded restrictive covenant (i.e. resale deed restriction, shared appreciation agreement, etc.) may also restrict the sales price at which the residential affordable housing ownership unit can be sold during the period of affordability. In addition, the owners should notify the entity responsible for administering the affordable housing ownership unit and follow certain procedures prior to selling the home, upgrading the home or refinancing the home as outlined in the recorded restrictive covenant (i.e. resale deed restriction, shared appreciation agreement, etc.).

3.10 Annual Occupancy Verification

As a condition of purchasing a residential affordable housing ownership unit, the Town may have the right to request proof that the affordable homeowner(s) are still residing at the subject property address as their principal residence. During the entire affordability period, the Town may request annually proof of acceptable documentation (i.e. property tax bill, mortgage statement, homeowner's insurance policy, utility bill, etc.) to determine occupancy status and eligibility.

3.11 Affordable Housing Ownership Resale Prices

Affordable housing ownership unit resale prices, formulas and calculations will be determined by the restrictive covenant (i.e. resale deed restriction, shared appreciation agreement, etc.) recorded against the property or lots. When a resale transaction occurs, either the property owner, property developer/builder, third party administrator or Town staff will assist the seller(s) and potential new buyer(s) with the resale transaction process.

3.12 Record Keeping and Retention

The Town will maintain files and a database of all residential affordable housing ownership units and/or lots throughout the period of affordability for each development.

3.13 Term of Affordability

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.

4 Affordable Housing Rental Units

4.1 *Application, Deposit and Other Fees*

Applicant(s) application fees, minimum deposit requirements and other property fees (i.e. utilities, parking, etc.) are set forth by the property owner, property developer/builder, or property management company for the development. The property owner, property developer/builder, or property management company will notify Town staff of the application fees, minimum deposit requirements, and other property fees (i.e. utilities, parking, etc.) for each development in advance of the interest list and/or waiting list process.

4.2 *Credit*

Applicant(s) credit and credit scoring requirements are set forth by the property owner, property developer/builder, or property management company for the development.

4.3 *Minimum Income Guidelines*

In some cases, the property owner, property developer/builder, or property management company sets forth minimum income requirements for the development such as the applicant(s) gross monthly income must be at least two times (2x), two and a half times (2.5x) or three times (3x) the gross monthly rent for the unit. Minimum income requirements should not be set too high for the residential affordable housing rental units by the property owner, property developer/builder, or property management company as to where the affordable applicant(s) who meet the affordable household income limits for the unit will not qualify.

4.4 *Applicant Assets*

Applicant(s) minimum or maximum asset requirements are set forth by the property owner, property developer/builder, or property management company for the development.

4.5 *Owning Property*

Applicant(s) cannot own a home or be on title of a property in order to lease an affordable housing rental unit.

4.6 *Occupancy Conditions*

Applicant(s) who are offered and accept a residential affordable housing rental unit and become tenant(s) must occupy the residential affordable housing rental unit as their principal residence during the entire term of the lease or rental agreement. If additional occupants (roommate, family member, etc.) who were not originally on the lease agreement for the residential affordable housing rental unit reside in the residential affordable housing rental unit for a period long enough to meet the definition of tenant(s) under North Carolina law, they will be considered part of the existing household. In such cases, the tenant(s) must notify the property owner, property developer/builder, or property management company of the household status change, and the entire household (including new occupants/tenants) will be reevaluated to determine eligibility, including household income requirements. If the tenant(s) fail to receive approval from the property owner, property developer/builder, or property management company for any changes in occupancy, the tenant(s) household will no longer be eligible to occupy the residential affordable housing rental unit.

4.7 Initial Lease-Up, Over-Income and Eligible Households

Initial qualifying household income must not exceed thirty-percent (30%) of AMI for extremely-low income, fifty-percent (50%) of AMI for very low-income, or sixty-percent (60%) of AMI for low-income (Tier 1) (unless Town Council approved a different AMI percentage for the development), based upon the household size. At subsequent lease renewals or annual income recertifications, income will be verified by the property owner, property developer/builder, or property management company. The combined income of all adult members of the household (including co-applicants) to rent an affordable housing unit must not exceed the maximum income limit per household size. All co-applicants must go through the same process as the applicant and must agree to comply with the Policy guidelines.

From time to time, affordable tenant(s) household income may increase above the initial qualifying household income AMI percentage category due to several factors within their tenancy term. In order to reduce displacement of potential over-income affordable tenant(s), an AMI percentage increase variance up to the eighty-percent (80%) AMI percentage category will be allowed in which the affordable tenant(s) can remain in the unit and the affordable housing rental unit will still be deemed compliant under the following conditions as outlined in Table 1.

Table 1 - Maximum Tenant AMI % Income Variance

| Initial Qualifying Tenant Household AMI Percentage (%) | Maximum Adjusted Qualifying Variance Tenant Household AMI Percentage (%) | Over-Income Tenant Household AMI Percentage (%) |
|---|---|--|
| Up to 30% AMI Extremely Low-Income | Up to 80% AMI Low-Income (Tier 2) | Greater than 80% AMI |
| Up to 50% AMI Very Low-Income | Up to 80% AMI Low-Income (Tier 2) | Greater than 80% AMI |
| Up to 60% AMI Low-Income (Tier 1) | Up to 80% AMI Low-Income (Tier 2) | Greater than 80% AMI |

*Based on U.S. Department of Housing and Urban Development (HUD) Raleigh, NC Metropolitan Statistical Area (MSA) Area Median Income (AMI) published income limits.

Tenant(s) whose household income exceeds eighty-percent (80%) of AMI as shown in Table 2, will be (1) considered over-income, (2) will no longer be counted as affordable tenant(s) and (3) nor will the unit be counted as an affordable housing rental unit per the Policy guidelines. Because the over-income tenant(s) household no longer satisfies the affordability standards, the property owner, property developer or property management company, will lease the next available comparable unit to eligible tenant(s) within the original initial qualifying AMI percentage category (up to 30% of AMI – Extremely Low-Income, up to 50% of AMI – Very Low-Income, up to 60% of AMI – Low-Income (Tier 1)) in order to be counted as an affordable housing rental unit. The property owner, property developer/builder, or property management company may offer the over-income tenant(s) a chance to remain in the unit or a different unit located within the same development at a different rent level (i.e. market-rate) at their discretion. The over-income tenant(s) may also request to get back on the development’s waiting list and if an affordable housing rental unit is available at a future date and time, they may be provided an opportunity to lease an affordable housing rental unit should they still qualify within one of the appropriate affordable AMI percentage categories.

During the entire term of affordability and prior to executing a lease agreement, the property owner, property developer/builder, or property management company shall obtain documentation of the current household income for all prospective applicant(s) who request to lease a residential affordable housing rental unit within the development. The property owner, property developer/builder, or property management company shall determine the annualized gross household income for the residential affordable housing rental unit tenant(s) based on the information presented and shall have the tenant(s) certify that determination prior to lease execution as part of the tenant(s) income certification process.

4.8 Annual Rent Adjustments

Affordable housing rent limits (increases or decreases) will be adjusted annually for the AMI percentage affordable income category (up to 30% of AMI – Extremely Low-Income, up to 50% of AMI – Very Low-Income, up to 60% of AMI (Tier 1)) based on the most recently published HUD limits as stipulated by the North Carolina Housing Finance Agency (NCHFA) Low-Income Housing Tax Credit (LIHTC) Multifamily Tax Subsidy Program (MTSP) for Raleigh, NC Metropolitan Statistical Area (MSA) for the Wake County area. The property owner, property developer/builder, or property management company shall notify tenant(s) of the new proposed affordable rent limits in accordance with the noticing requirements of North Carolina law. Rent limit changes (increases or decreases) can only be applied to leases signed or renewed after the published HUD and/or NCHFA effective date.

4.9 Ongoing Compliance and Monitoring Guidelines

4.9.1 Annual Tenant Certification

Tenant(s) household income must be recertified annually during the period of affordability. Tenant(s) must be given an initial notice of annual certification at least ninety (90) days prior to the end of the lease term. If the tenant(s) do not complete the certification within the specified timeframe, they no longer qualify for the affordable housing rental unit due to the failure to complete the annual certification. At this point, the property owner, property developer/builder, or property management company has the discretion to request that the tenant(s) vacate the unit or to allow the tenant(s) to remain in the unit. However, if the tenant(s) remain in the unit without the completing the certification, the unit can no longer be considered an affordable housing rental unit.

The property owner, property developer/builder, or property management company shall maintain complete and accurate records pertaining to the tenant(s) income certification for each residential affordable housing rental unit within the development. Upon a thirty (30) days notice, the property owner, property developer/builder, or property management company shall permit any duly authorized Town representative to inspect such records.

4.9.2 Property Owner Annual Certification

Annually, throughout the period of affordability, the property owner, property developer/builder, or property management company shall submit an annual report to the Town with the following documentation for the property's residential affordable housing rental units to certify compliance with the recorded restrictive covenant:

- Certified rent roll;
- Tenant annual income certifications for each residential affordable housing rental unit;
- Verification of residential affordable housing rental unit lease agreements (min. 12-month term);
- Tenant eviction reports;
- Unit inspection reports; and
- Any changes in the ownership or management of the property.

The property owner, property developer/builder, or property management company may maintain tenant(s) records utilizing their own industry standard forms.

4.9.3 Compliance Monitoring

Compliance monitoring by Town staff shall include, but is not limited to, a review of: (1) at least twenty-percent (20%) of the residential affordable housing rental units within the development, including the tenant(s) income certification, and (2) an inspection of the general physical condition of the residential affordable housing rental units within the development. The property owner, property developer/builder, or property management company will receive a written notice from Town staff at least thirty (30) calendar days in advance of any planned on-site monitoring or inspection visits. The property owner, property developer/builder, or property management company shall have the following documentation available at the on-site monitoring visit: (1) current rent roll for the residential affordable housing rental units, (2) tenant income certifications, and (3) complete tenant files for the residential affordable housing rental units.

Town staff may elect to do a review of one-hundred percent (100%) of files for the residential affordable housing rental units for the first three (3) years of the affordability period and/or the first three (3) years after a property has changed ownership or property management. If during those three (3) years the development has satisfactory performance (no findings or repeated concerns are noted), Town staff may elect to conduct a desk audit review of twenty-percent (20%) of the residential affordable housing rental unit files. If findings or repeated concerns are found in the first three (3) years, Town staff may continue auditing one-hundred percent (100%) of the residential affordable housing rental unit files until satisfactory performance is obtained. Town staff reserves the right to perform audits more frequently if complaints are received regarding the development. Town staff will specify in the compliance monitoring notice the list of affordable housing rental units selected for file review and physical inspection. During a physical inspection, Town staff will be ensuring the residential affordable housing rental units are being maintained in a decent, safe, and sanitary condition in accordance with HUD's Housing Choice Voucher (HCV) Program regulations per 24 CFR Part 982 which sets forth basic Housing Quality Standards (HQS) and other building code standards.

4.10 Terms of Tenancy

Affordable housing rental unit tenant(s) will be subject to the same conditions of tenancy as other market-rate tenant(s) within the same development, except for terms relating to occupancy, income eligibility, annual recertification, limits on rents and any other terms and conditions of the recorded restrictive covenant recorded against the property. The minimum initial affordable lease term shall be for one year.

4.11 Owner/Manager Certification

Prior to the rental of the first residential affordable housing rental unit within the development, the property owner, property developer/builder, or property management company will sign a certification of receipt of the Policy Administration Manual as outlined in Appendix A – Rental Development Certification Template.

4.12 Affordability Term

The affordability term 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.

4.13 *Record Keeping and Retention*

The property owner, property developer/builder, or property management company must keep the following records for the development for each year during the period of affordability.

- The total number of residential affordable housing rental units in the development;
- The number of occupants in each residential affordable housing rental unit;
- The dollar amount being charged for rent for each residential affordable housing rental unit as well as any additional dollar amount charges (i.e. utilities, parking, etc.). Documentation must include tenant ledgers and leases for the affordable housing rental units;
- Affordable housing rental unit vacancies in the development and documentation that shows when each of the next available units were rented; and
- Documentation of each of the tenant(s) income certification, tenant(s) application and all other application supporting documents.

All residential affordable housing rental unit tenant(s) files must be retained for a minimum of five (5) years after the term of the restrictive recorded covenant against the property has expired or terminated.

5 Appeal Process

An appeal must first be submitted in writing to the Town's Attorney Office. The Town's Attorney Office will review and determine if a final decision can be decided internally. If the Town's Attorney Office concludes a final decision cannot be decided internally, they will recommend that the appeal be submitted directly to the North Carolina Court of Appeals for review and a final decision. All decisions made by either the Town's Attorney Office or North Carolina Court of Appeals will be considered final.

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6 Authority

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

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Appendix A – Rental Development Certification Template

The undersigned has received a copy of the Town of Apex Affordable Housing Incentive Zoning Policy Administration Manual (Administration Manual) regarding the Town of Apex Affordable Housing Incentive Zoning Policy (Policy) and has read and agrees to comply with the Town’s Policy guidelines as described in the Administration Manual.

Name of Development:

Development Subject Property Address:

Name of Property Owner(s) or Authorized Representative(s):

Signature of Property Owner(s) or Authorized Representative(s):

Signature: _____

Signature: _____

Date: _____

Date: _____

Name of Property Management Company or Authorized Representative(s):

Signature of Property Management Company or Authorized Representative(s):

Signature: _____

Signature: _____

Date: _____

Date: _____

Appendix B – Administration Manual Definitions

“Annual Recertification Effective Date” means, for annual recertification, the effective date is the original date the household income determination was completed and signed.

“Affordability Commitment” means the percentage or number of residential affordable housing units or lots committed to the development.

“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 Incentive Zoning Policy” means a set of minimum Town recommendations, applicability standards and incentive options for applicants to consider in exchange for providing residential affordable housing units or lots within a development as part of the rezoning and Planned Unit Development (PUD) approval process.

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

“Affordable Housing Proposal” means a document submitted by an applicant as part of the rezoning application for the development which stipulates the affordable housing criteria as specified in the Affordable Housing Incentive Zoning Policy Procedures Manual for the residential affordable housing units or lots in order to assure compliance with the Affordable Housing Incentive Zoning Policy.

“Affordable Housing Incentive Zoning Procedures Manual” means a manual which details applicability standards and procedures for residential affordable housing units 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 a residential affordable housing unit or lot as detailed in the Affordable Housing Incentive Zoning Policy Procedures Manual and Affordable Housing Incentive Zoning Policy Administration Manual through the Affordable Housing Incentive Zoning Policy.

“Affordable Housing Extremely Low-Income Rent Income Limit” means those households whose annual income does not exceed thirty percent (30%) of the Area Median Income (AMI), adjusted for family size, applicable to the Raleigh, NC Metropolitan Statistical Area (MSA) as most recently published by the U.S. Department of Housing and Urban Development (HUD) or as stipulated by the North Carolina Housing Finance Agency (NCHFA) Low-Income Housing Tax Credit (LIHTC) Multifamily Tax Subsidy Program (MTSP) for the Wake County Metropolitan Area.

“Affordable Housing Very Low-Income Rent Income Limit” means those households whose annual income, does not exceed fifty percent (50%) of the Area Median Income (AMI), adjusted for family size, applicable to the Raleigh, NC Metropolitan Statistical Area

(MSA) as most recently published by the U.S. Department of Housing and Urban Development (HUD) or as stipulated by the North Carolina Housing Finance Agency (NCHFA) Low-Income Housing Tax Credit (LIHTC) Multifamily Tax Subsidy Program (MTSP) for the Wake County Metropolitan Area.

“Affordable Housing Low-Income Rent Income Limit – Tier 1” means those households whose annual income, does not exceed sixty percent (60%) of the Area Median Income (AMI), adjusted for family size, applicable to the Raleigh, NC Metropolitan Statistical Area (MSA) as most recently published by the U.S. Department of Housing and Urban Development (HUD) or as stipulated by the North Carolina Housing Finance Agency (NCHFA) Low-Income Housing Tax Credit (LIHTC) Multifamily Tax Subsidy Program (MTSP) for the Wake County Metropolitan Area.

“Affordable Housing Extremely Low-Income Rent Limit” means the affordable housing rent limits as most recently published by the U.S. Department of Housing and Urban Development (HUD) and stipulated by the North Carolina Housing Finance Agency (NCHFA) Low-Income Housing Tax Credit (LIHTC) Multifamily Tax Subsidy Program (MTSP) for the Wake County Metropolitan Area not to exceed the thirty percent (30%) Area Median Income (AMI) category based on efficiency/bedroom size. Should the NCHFA LIHTC MTSP rent limits no longer be published in the future, the Town will determine an acceptable rent limit and data source.

“Affordable Housing Very Low-Income Rent Limit” means the affordable housing rent limits as most recently published by the U.S. Department of Housing and Urban Development (HUD) and stipulated by the North Carolina Housing Finance Agency (NCHFA) Low-Income Housing Tax Credit (LIHTC) Multifamily Tax Subsidy Program (MTSP) for the Wake County Metropolitan Area not to exceed the fifty percent (50%) Area Median Income (AMI) category based on efficiency/bedroom size. Should the NCHFA LIHTC MTSP rent limits no longer be published in the future, the Town will determine an acceptable rent limit and data source.

“Affordable Housing Low-Income Rent Limit – Tier 1” means the affordable housing rent limits as most recently published by the U.S. Department of Housing and Urban Development (HUD) and stipulated by the North Carolina Housing Finance Agency (NCHFA) Low-Income Housing Tax Credit (LIHTC) Multifamily Tax Subsidy Program (MTSP) for the Wake County Metropolitan Area not to exceed the sixty percent (60%) Area Median Income (AMI) category based on efficiency/bedroom size. Should the NCHFA LIHTC MTSP rent limits no longer be published in the future, the Town will determine an acceptable rent limit and data source.

“Affordable Housing Extremely Low-Income Rent Housing Costs” means a monthly rent, including utilities in the form of a utility allowance which does not exceed thirty percent (30%) times (x’s) thirty percent (30%) times (x’s) the annual median-income limit (100% AMI Category), adjusted for family size, applicable to the Raleigh, NC Metropolitan Statistical Area (MSA) as most recently published by the U.S. Department of Housing and Urban Development (HUD). Area Median Income (AMI) shall be adjusted for assumed household size based on unit size as follows: one person in a studio unit, two persons in a one-bedroom unit, three persons in a two-bedroom unit, four persons in a three-bedroom unit, five persons in a four-bedroom unit and six persons in a five-bedroom unit.

“Affordable Housing Very Low-Income Rent Housing Costs” means a monthly rent, including utilities in the form of a utility allowance which does not exceed thirty percent (30%) times (x’s) fifty percent (50%) times (x’s) the annual median-income limit (100% AMI Category), adjusted for family size, applicable to the Raleigh, NC Metropolitan Statistical Area (MSA) as most recently published by the U.S. Department of Housing and Urban Development (HUD). Area Median Income (AMI) shall be adjusted for assumed household size based on unit size as follows: one person in a studio unit, two persons in a one-bedroom unit, three persons in a two-bedroom unit, four persons in a three-bedroom unit, five persons in a four-bedroom unit and six persons in a five-bedroom unit.

“Affordable Housing Low-Income Rent Housing Costs – Tier 1” means a monthly rent, including utilities in the form of a utility allowance which does not exceed thirty percent (30%) times (x’s) sixty percent (60%) times (x’s) the annual median-income limit (100% AMI Category), adjusted for family size, applicable to the Raleigh, NC Metropolitan Statistical Area (MSA) as most recently published by the U.S. Department of Housing and Urban Development (HUD). Area Median Income (AMI) shall be adjusted for assumed household size based on unit size as follows: one person in a studio unit, two persons in a one-bedroom unit, three persons in a two-bedroom unit, four persons in a three-bedroom unit, five persons in a four-bedroom unit and six persons in a five-bedroom unit.

“Affordable Housing Low-Income Ownership Income Limits – Tier 2” means those households whose annual income, does not exceed eighty percent (80%) of the Area Median Income (AMI), adjusted for family size, applicable to the Raleigh, NC Metropolitan Statistical Area (MSA) as most recently published by the U.S. Department of Housing and Urban Development (HUD).

“Affordable Housing Median-Income Ownership Income Limits” means those households whose annual income does not exceed one-hundred percent (100%) of the Area Median Income (AMI), adjusted for family size, applicable to the Raleigh, NC Metropolitan Statistical Area (MSA) as most recently published by the U.S. Department of Housing and Urban Development (HUD).

“Affordable Housing Low-Income Ownership Housing Costs – Tier 2” 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%) times (x’s) eighty percent (80%) times (x’s) the annual median-income limit (100% AMI Category), based on a family size that is equal to the actual number of bedrooms as the affordable housing low-income ownership unit, applicable to the Raleigh, NC Metropolitan Statistical Area (MSA) as most recently published by the U.S. Department of Housing and Urban Development (HUD).

“Affordable Housing Median-Income 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%) times (x's) one-hundred percent (100%) times (x's) the annual median-income limit (100% AMI Category), based on a family size that is equal to the actual number of bedrooms as the affordable housing median-income ownership unit, applicable to the Raleigh, NC Metropolitan Statistical Area (MSA) as most recently published by the U.S. Department of Housing and Urban Development (HUD).

“Affordable Housing Unit Mix” means the predetermined mix of bedroom sizes established by a restrictive recorded covenant that make up the residential affordable housing units committed to the development.

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

“Comparable Unit” means a residential unit with same number of bedrooms, similar square footage and same level of interior (cosmetic) finish and exterior appearance.

“Desk Audit” means a review of tenant files for the residential affordable housing rental units to verify that information submitted as part of the annual certification process matches the tenant files. A desk audit may be performed when a property has had no compliance issues during previous audits.

“Family” means one (1) or more persons occupying a premises and living as a single housekeeping unit, provided that no housekeeping unit shall contain more than five (5) persons unless they are related by blood, marriage adoption, guardianship, or foster care.

“Finding” means an action or a decision that is not in compliance with the restrictive recorded covenant or the Affordable Housing Incentive Zoning Policy Administration Manual. Findings may include allowing an ineligible tenant to take possession of a residential affordable housing unit or failing to fully certify a current residential affordable unit tenant(s) eligibility prior to lease renewal. If findings are identified, the Town will state them in the exit interview that is conducted at the conclusion of the monitoring, and the property owner, property developer/builder or property management company must provide a written action plan that will correct the findings and prevent them from recurring. Town staff must review and approve the written action plan and may request additional actions before such approval is granted.

“First-Time Homebuyer” means a person who has not owned a home during the three (3) year period prior to the purchase of the residential affordable housing ownership unit. A mobile home not on a permanent foundation is not considered a “home” for the purpose of this section. A first-time homebuyer also includes a displaced homemaker. A displaced homemaker is an adult who has been legally separated from a spouse or domestic partner in the last three (3) years, has no current ownership interest in a home, and has not had an ownership interest in a primary residence during the past three (3) years, except with a spouse or domestic partner. First-time homebuyer eligibility will be verified by reviewing the three (3) most recent consecutive years of signed and filed federal income tax returns for the applicant(s) household.

“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.

“Gross Income” means the household gross income as calculated by the standards of the United States Department of Housing and Urban Development (HUD) HOME Investment Partnerships Program (HOME) 24 CFR Part 5 regulations and included in Chapter 5 of the HUD Handbook 4350.3 titled Determining Income and Calculating Rent.

“HOME Program” means a federal program through the U.S Department of Housing and Urban Development (HUD).

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

“HUD Effective Date” means for U.S. Department of Housing and Urban Development (HUD) or North Carolina Housing Finance Agency (NCHFA) Low-Income Housing Tax Credit (LIHTC) Multifamily Tax Subsidy Program (MTSP) income and rent limits, the effective date is the date that starts the new set of limits. HUD and NCHFA LIHTC MTSP has a publishing date and an effective date. The Town follows the effective date for determining rent and income for leases beginning on or after the effective date.

“Initial Qualifying Household Income” means the annualized gross income originally determined for eligible households in residential affordable housing units. Initial qualifying household income must be at or below thirty-percent (30%) of Area Median Income (AMI) for extremely low-income affordable housing rental units, at or below fifty-percent (50%) of Area Median Income (AMI) for very low-income affordable housing rental units, at or below sixty-percent (60%) of Area Median Income (AMI) for low-income (Tier 1) affordable housing rental units, at or below eighty-percent (80%) of Area Median Income (AMI) for low-income (Tier 2) affordable housing ownership units, and at or below one-hundred percent (100%) of Area Median Income (AMI) for median-income affordable housing ownership units,.

“Maximum Allowable Affordable Housing Ownership Sales Price” means the highest dollar amount at which a residential affordable housing ownership unit may be sold.

“Maximum Allowable Affordable Housing Rent Limit” means the highest dollar amount at which a residential affordable housing rental unit may be rented including utilities or utility allowances.

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

“Ownership Co-Applicant” means as an adult member of the household, whether related or unrelated, who intends to apply for a residential affordable housing ownership unit, must be on the title of the property with the applicant, and occupy the unit as the primary residence.

“Period of Affordability” means the time specified in the recorded restrictive covenant for which the required number or percentage of residential affordable housing units 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 and moderate income basis.

“Planned Unit Development” 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.

“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.

“Renter Co-Applicant” means as an adult member of the household, whether related or unrelated, who intends to apply for a residential affordable housing rental unit and occupy the unit as the primary residence.

“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 residential affordable housing units or lots.

“Tenant Income Certification” means a form used for certifying and recertifying income for households to determine eligibility for residential affordable housing rental units.

“Utility Allowance” means maintenance and utilities costs as most recently published by the U.S. Department of Veterans Affairs (VA) for affordable ownership housing and utility allowance schedule as most recently published by either the Housing Authority of the County of Wake or the Raleigh Housing Authority, NC for affordable rental housing.

“VA” means the U.S. Department of Veterans Affairs.