

NORTH CAROLINA
ORANGE COUNTY

Draft Community Home Trust Charter

- Section I. Definitions
- Section II. Purpose
- Section III. Agreement
 - A. Term of Agreement
 - B. Board Representation by County and Towns
 - C. CHT Responsibilities
 - D. CHT Funding
 - E. Portfolio Management
 - F. CHT Accountability

THIS AGREEMENT made and entered into by and among the County of Orange (hereinafter “County”), the Town of Carrboro, the Town of Chapel Hill, the Town of Hillsborough (hereinafter “Towns”), each being a general local governmental unit of the State of North Carolina and Community Home Trust (hereinafter CHT), a North Carolina 501(c)(3) Corporation whose stated purpose is to provide affordable housing for present and future residents of Orange County, North Carolina and surrounding communities.

WHEREAS, County and Towns agree that it is desirable and in the interests of their citizens to provide affordable housing to low and moderate income individuals and families, to ensure that such housing remains affordable in perpetuity and to have much of that housing administered and managed by a non-governmental entity;

WHEREAS, County and Towns were responsible for the creation of the predecessor organization to CHT in 1990;

WHEREAS, CHT revised its organizational structure and model for providing affordable housing in 1999 at the behest of County and the Towns;

And WHEREAS County and the Towns have provided financial operating support to CHT for many years;

NOW, THEREFORE, the County, the Towns and CHT agree as follows:

Section I. Definitions

- A. Low Income means households that earn 80% or less of the Area Median Income (AMI) in the Metropolitan Statistical Area (MSA) in which Orange County resides, as published by HUD.
- B. Moderate Income means households that earn more than 80% AMI but not more than 115% of the Area Median Income in the Metropolitan Statistical Area (MSA) in which Orange County resides, as published by HUD.

- C. HUD means the United States Department of Housing and Urban Development.
- D. Inclusionary housing refers to local policies and ordinances of Towns and County that require or incentivize the inclusion of housing that is deemed affordable for purchase by low and moderate income households within market-rate housing developments.

Section II. Purpose of Charter

Since all of CHT's homes are in Orange County, and since virtually all of CHT's work is driven by inclusionary housing policies that are supported by County and Towns, this Charter is intended to establish a shared set of expectations as to what affordable housing functions CHT will provide to County and Towns. The Charter also establishes expectations of County and Towns. County and Towns recognize that a shared and agreed upon set of expectations and responsibilities will reduce uncertainties and allow County and Towns to best utilize the expertise and experience of CHT.

Section III. Agreement

- A. **Term of Agreement** - The term of this Agreement begins on July 1, 2014 and is renewable annually.
- B. **CHT Board Representation by County and Towns** - County and Towns are entitled to appoint a representative to the board of directors of CHT. According to the CHT bylaws, one-third of the board of directors will be CHT homeowners, one-third will be appointed persons (by County, Towns and the University of North Carolina at Chapel Hill (hereinafter UNC), and one-third of the directors will be members of the community who support the work of CHT. County and Towns' appointees to the board of directors enable County and Towns to remain informed of the work of CHT and in fact, to exert influence over that work.

[Note: It has been suggested that UNC Health Care should also have an appointed person on the board. This would require that we increase the homeowner board members and community board members by one additional person in order to maintain the balance of our tri-partite board. This is not a Charter issue but a board composition matter.]

- C. **CHT Responsibilities** - Since 2003, CHT's work load has been dominated by the implementation of inclusionary housing programs, particularly in the Towns of Chapel Hill and Carrboro. In the future, CHT is expected to develop and manage inclusionary housing in the Town of Hillsborough. CHT can also serve in this same role for the County. As a result of inclusionary housing, CHT's inventory of affordable homes has increased from one home in 2000 to more than 220 homes in early 2014. It is agreed that CHT's responsibilities include the following:

1. Create and maintain homes that are affordable for purchase by low and moderate income households;
2. The CHT Board of Directors is responsible for the financial health and well-being of the organization to ensure the organization is well managed and able to meet the expectations of County and Towns;
3. The CHT Board of Directors will hire, periodically evaluate and, as necessary, replace the organization's Executive Director;
4. Sell homes using the community land trust (CLT) model, wherein homes are conveyed to buyers using a 99-year ground lease. The CLT model enables homes to remain affordable to future generations of low and moderate income households. CHT will be expected to continually revise its model to meet changing circumstances and to reflect best practices.
5. Advocate for affordable housing policies at the local, state and national levels.
6. Create affordable housing opportunities, whether through purchase and rehab, or otherwise, that is outside the inclusionary housing realm.
7. Implement and manage inclusionary housing programs as requested by Towns and County. This requires a wide variety of tasks and responsibilities, typically including, but not exclusively, or limited to, those tasks listed in Attachment A, CHT Inclusionary Housing Responsibilities.

D. CHT Funding - In order to successfully perform its roles and responsibilities, CHT requires financial operating support from County and Towns. The County and Towns agree that their annual funding of CHT will gradually grow and annually be adjusted, starting in fiscal 2015-16, from their fiscal 2014-15 levels (Orange County \$149,000, Town of Chapel Hill \$200,000, Town of Carrboro \$35,000 and Town of Hillsborough \$2,500) to allow CHT to maintain a minimum required operating cash balance. CHT's minimum required operating cash balance will be the sum of the industry-standard six months of operating expenses (\$350,000 as of July 1, 2014) plus special project reserves necessary for CHT to safeguard its portfolio of homes (\$550,000 as of July 1, 2014). Each year, CHT will re-determine these amounts and include them in its budget proposal.

The County and Towns agree that increases in operating funding are warranted to enable CHT to remain a financially sound and viable entity. County and Towns further agree that the CHT budget will include CHT staff compensation based upon compensation paid by County and Towns.

County and Towns further agree that CHT provides expertise and experience that is of value to the inclusionary housing efforts within County and Towns. County and Towns each commit to providing \$2,500 per year in base funding to CHT to support CHT's work, which in turn supports the inclusionary efforts of County and Towns. The specific work expected of CHT is detailed in Attachment A, CHT Inclusionary Housing Responsibilities. This base level of support will be subtracted from the funding formula amount arrived at in the funding formula detailed later in this paragraph.

Although it is recognized that each local government will vote independently to approve this Charter, it is expected that each jurisdiction will approve the same funding formula. Furthermore it is agreed that funding will be determined as follows:

1. CHT agrees to generate a portion of its own funding each year. The principal sources of this revenue are fees from sales of new homes added to the portfolio, resales of homes already in the portfolio, ground lease fees and fundraising efforts.
2. Following submission of CHT's proposed budget, County and Towns will agree to fully fund the budget, less the portion provided by CHT.
3. The sharing of the County and Towns portion of the annual funding will be determined by a two tier formula. First, the County will provide 33% of the total and the Towns will provide 67% of the total. Second, the Towns will share their 67% portion based on the ratio of CHT homes within each town to the total number of CHT homes. The number of homes will be determined as of January 1 prior to each fiscal year.
4. For example, if CHT's budget is \$800,000 and the number of homes in the CHT portfolio on the prior January 1st is 250, with 200 of those homes in Chapel Hill, 50 of those homes in Carrboro and none of those homes in Hillsborough, and CHT budgets providing \$200,000 of revenue itself, Orange County will be required to pay 33% of \$600,000 (\$800,000 less \$200,000), or \$198,000, Chapel Hill will be required to pay 67% of \$600,000 multiplied by 200/250, or \$321,600; Carrboro will be required to pay 67% of \$600,000 multiplied by 50/250, or \$80,400 and Hillsborough will be required to pay 67% of \$600,000 multiplied by 0/250, or \$0.

Funding payments from County and Towns to CHT will be made quarterly in equal amounts on or about July 1, October 1, January 1 and April 1.

E. Portfolio Management –

1. CHT can be most effective if allowed flexibility to manage its portfolio of affordable homes without constantly seeking permission from County and Towns. Therefore, operating guidelines will be developed for the following circumstances;
 - a. Selling homes to households above 80% of AMI
 - b. Selling homes out of the affordable housing inventory
 - c. Selling homes to households that do not meet locally imposed requirements, such as first-time homebuyer requirements, live/work requirements, etc.
 - d. Repaying subsidies embedded into homes that are sold out of the affordable housing inventory or sold to moderate income households.

2. When new development applications are expected to include affordable housing units that could become part of CHT's portfolio, the applicable local government will seek input from CHT as to how and whether the proposed homes are best incorporated into the affordable housing stock. CHT staff will also provide input on any affordable housing proposals or options if requested by County or Towns.
3. If CHT is expected to implement a change in a particular housing policy for County or Towns, the applicable local government will consult with CHT to obtain input prior to initiating a new policy or requirement that will impact CHT's work.
4. County and Towns will promote their affordable home ownership and inclusionary housing policies to their own employees and support CHT's efforts to sell homes to local government employees.

E. Accountability to County and Towns

1. CHT will provide required documentation for every sale and resale of a property that includes subsidies provided by the local governments;
2. CHT will provide a quarterly report to County and Towns with information about sales, subsidies, challenges and other requested data;
3. CHT will provide an annual audit to the County and Towns;
4. CHT will provide interim financial statements as requested;
5. CHT will provide data on home sales, subsidy use and other indicators as requested;
6. CHT will provide an annual operating budget, including a minimum cash reserve amount, an accounting of homes added to the portfolio and a calculation of the additional funding requirements.

TOWN OF CARRBORO

Town Manager

ATTEST:

Approved draft March 8, 2014

Town Clerk

**NORTH CAROLINA
ORANGE COUNTY**

This is to certify that on this day personally came before me _____, with whom I am personally acquainted, and being by me duly sworn, says that _____ is the Town Manager, and that she the said _____, is the Town Clerk of the Town of Carrboro, the municipal corporation named within and which executed the foregoing instrument; that she knows the common seal of said corporation; that the seal affixed to said instrument is said common seal; that the name of corporation was subscribed thereto by the said Town Manager and that the said Town Manager and said _____ Town Clerk subscribed their names hereto and said common seal was affixed, all by order of the Board of Alderman of the Town of Carrboro and that said instrument is the act and deed of said corporation.

Witness my hand and notariral seal, this the ____ day of _____, 20____.

Notary Public

My Commission expires: _____

TOWN OF CHAPEL HILL

Town Manager

ATTEST:

Approved draft March 8, 2014

Town Clerk

**NORTH CAROLINA
ORANGE COUNTY**

This is to certify that on this day personally came before me _____, with whom I am personally acquainted, and being by me duly sworn, says that _____ is the Town Manager, and that she the said _____, is the Town Clerk of the Town of Chapel Hill, the municipal corporation named within and which executed the foregoing instrument; that she knows the common seal of said corporation; that the seal affixed to said instrument is said common seal; that the name of corporation was subscribed thereto by the said Town Manager and that the said Town Manager and said _____ Town Clerk subscribed their names hereto and said common seal was affixed, all by order of the Town Council of the Town of Chapel Hill and that said instrument is the act and deed of said corporation.

Witness my hand and notarial seal, this the ____ day of _____, 20____.

Notary Public

My Commission expires: _____

TOWN OF HILLSBOROUGH

Town Manager

ATTEST:

Town Clerk

**NORTH CAROLINA
ORANGE COUNTY**

This is to certify that on this day personally came before me _____, with whom I am personally acquainted, and being by me duly sworn, says that Eric Peterson is the Town Manager, and that she the said _____, is the Town Clerk of the Town of Hillsborough, the municipal corporation named within and which executed the foregoing instrument; that she knows the common seal of said corporation; that the seal affixed to said instrument is said common seal; that the name of corporation was subscribed thereto by the said Town Manager and that the said Town Manager and said _____ Town Clerk subscribed their names hereto and said common seal was affixed, all by order of the Town Board of the Town of Hillsborough and that said instrument is the act and deed of said corporation.

Witness my hand and notarial seal, this the ____ day of _____, 20____.

Notary Public

My Commission expires: _____

ORANGE COUNTY

County Manager

ATTEST:

Town Clerk

**NORTH CAROLINA
ORANGE COUNTY**

This is to certify that on this day personally came before me Donna Baker, with whom I am personally acquainted, and being by me duly sworn, says that _____. is the County Manager, and that she the said Donna Baker, is the Clerk to the Board of Commissioners of the County of Orange, the body politic and corporate named within and which executed the foregoing instrument; that she knows the common seal of said County; that the seal affixed to said instrument is said common seal; that the name of corporation was subscribed thereto by the said County Manager and that the said County Manager and said Donna Baker subscribed their names hereto and said common seal was affixed, all by order of the Board of County Commissioners of Orange County and that said instrument is the act and deed of Orange County.

Witness my hand and notarial seal, this the ____ day of _____,
20_____.

Notary Public

My Commission expires: _____

Community Home Trust Charter
Attachment A
CHT Inclusionary Housing Responsibilities

A. Working with private sector developers

1. CHT staff works with Town staffs and developers on pricing, siting and other aspects of affordable housing within proposed developments that include ownership housing
2. CHT does not purchase inclusionary homes from developers until an income-eligible buyer is able to secure financing and close on the property;
3. CHT typically purchases a fee simple interest in real estate from developers and simultaneously conveys a leasehold interest to income-eligible buyers;
4. CHT is responsible for obtaining and understanding legal documents that will impact our homeowners. This typically includes advice from our attorney;
5. CHT assists buyers with property inspections and necessary pre-purchase repairs.

B. Managing the initial sale of inclusionary homes

1. CHT is responsible for educating prospective home buyers and offering financial counseling to both buyers and current homeowners;
2. CHT engages in outreach activities necessary to create awareness of home-buying opportunities. These activities include advertising, visiting with employers, electronic distribution of marketing materials, social media and more.
3. CHT collects income and other pertinent data from applicants to determine their eligibility for our program;
4. CHT works with buyers and lenders willing to make loans to those buyers to secure mortgage financing;
5. CHT is responsible for securing necessary subsidies to enable income-eligible buyers to afford our homes. This requires working with the Orange County and the Towns of Chapel Hill, Carrboro and Hillsborough and agencies that provide subsidy to our homebuyers;

6. CHT executes purchase contracts with both developers and home buyers once a buyer is able to obtain financing;
7. If necessary, CHT pays a referral fee to Realtors who provide an income-eligible buyer who closes on a CHT property;

C. Serving as a property manager

1. In 2007, CHT informed County and Towns that the organization faced challenges regarding long-term affordability and long-term maintenance of its housing inventory;
2. Since 2007 CHT has worked to ensure the long-term maintenance of its affordable homes by collecting monthly stewardship fees from its homeowners. Stewardship funds, which are segregated from operating funds, are designed to pay for big-ticket maintenance items such as new roofs and HVAC replacement;
 - a. CHT administers the stewardship program, wherein homeowners seek access to stewardship funds.
 - b. Since more than 100 CHT homes were sold prior to the start of the stewardship program, these homes did not have stewardship funds available until they resold. Some of those homes have still not resold and are still not participating in the stewardship program. As of early 2014, approximately 66 of CHT's homes still are not in the stewardship program; [Note: it has been suggested that CHT should entice some of these homeowners into the stewardship program with a generous incentive.]
 - c. As the pre-stewardship homes resell, CHT is obliged to seed the stewardship accounts for the new buyers. These funds typically are provided as subsidy when homes resell.
3. As of early 2014, CHT manages three homeowner associations in which all the homes are within the affordable housing inventory. These associations are Legion Road Townhomes, Rosemary Place Townhomes and Greenway Condominiums;
4. It is expected that CHT will also serve as a property manager of the Waterstone townhomes in Hillsborough when they are built;

5. CHT works with homeowner associations and management companies that manage inclusionary neighborhoods in which the affordable homes represent only a small portion of all the homes in the association. These are neighborhoods such as Larkspur, Vineyard Square, Claremont, etc. CHT seeks to ensure assessments are paid and that regulations are evenly enforced;
6. CHT works with homeowners, lenders and legal counsel when owners are in default to prevent foreclosure;
7. CHT strives to prevent foreclosures by paying off bank loans, terminating ground leases, and reacquiring properties. Paying off bank loans requires that CHT maintain substantial liquid reserves;
8. CHT occasionally is required to take legal action against owners who are in breach of their ground lease;

D. Manage all resales of our inventory

1. CHT is responsible for all resales of homes within its affordable housing inventory. As of early 2014, homeowners of these homes do not pay a commission to CHT;
2. CHT oversees repairs to homes before reselling them to low and moderate income buyers;
3. As with initial sales, CHT is responsible for outreach, marketing and advertising activities necessary to obtain a buyer;
4. CHT is responsible for the same activities at resale as at the initial sale;
5. CHT is responsible for financial management of its portfolio;
6. CHT collects data on sales, subsidy use, and buyer demographics in order to better understand demand for specific homes; analysis of this data allows us to better manage future sales activity;
7. CHT will earn/raise a portion of its operating revenues through earned income on home sales, property management fees, ground lease fees, fundraising and other means permissible by the IRS.