

ARTICLE IV

PERMITS AND FINAL PLAT APPROVAL

PART I. PERMIT REQUIREMENTS

Section 15-54.1 Affordable Housing Goal and Alternative Methods of Achieving the Goal (AMENDED 6/28/05; REWRITTEN 6/26/07; AMENDED 10/28/08); AMENDED 6/26/12.

(a) The Board of Aldermen has established as a policy goal that at least fifteen percent of the housing units within all new residential developments should consist of affordable housing units as described in Section 15-182.4. That section, as well as Section 15-188, establish incentives for developers to provide for such affordable housing. The purpose of this section is to establish alternative processes whereby developers who do not achieve the 15% objective can nevertheless contribute to the fulfillment of this goal in another way, and also to create a process to ensure that developers understand the importance of attempting to meet this goal.

(b) An applicant for approval of any residential development containing five or more dwelling units or lots that does not elect to meet the Board's 15% affordable housing policy goal by constructing affordable housing units or donating affordable housing lots (as those terms are described in Section 15-182.4) shall nevertheless be considered to have met this goal if such applicant makes a payment to the Town's Affordable Housing Special Reserve Fund in lieu of such construction or donation in an amount calculated as provided in this subsection:

- 1) The number of dwelling units or lots authorized within the development (including additional units or lots authorized under Section 15-182.4 when the developer constructs affordable units, provides affordable housing lots, or is authorized by the Board to construct density bonus units by making a payment in lieu of constructing units) shall be multiplied by 0.15 and the product shall be carried to two decimal places. **(REWRITTEN 1/22/08)**
- 2) There shall be subtracted from the product derived under subsection (b)(1) of this section (i) the number of affordable housing units or affordable housing lots the developer proposes to provide under Section 15-182.4, plus (ii) the number of affordable housing payment in lieu fees the Board has agreed to allow to be regarded as the equivalent of providing an affordable housing unit under Subsection 15-182.4(d1). **(REWRITTEN 1/22/08)**
- 3) The product derived under subsection (b)(2) shall be multiplied by the affordable housing payment in lieu fee. The result is the amount that must be paid to satisfy the provisions of this subsection (b).

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- 4) The affordable housing payment in lieu fee shall be an amount established by the Board of Aldermen and shall be included in the Town's Miscellaneous Fees and Charges Schedule. In establishing the amount of this fee, the Board may consider (i) the extent to which the costs incurred by a developer in constructing and selling a two bedroom affordable housing unit (including land cost, the cost of construction, interest cost, closing costs, and other costs allocable to such unit) exceed the maximum amount for which that housing unit could be sold (as an affordable housing unit) by the developer in accordance with Section 15-182.4, (ii) the extent to which non-monetary factors might induce developers to prefer paying a fee in lieu of constructing an affordable housing unit if the monetary cost of doing one or the other were roughly equivalent, and (iii) any other factors the Board deems relevant in establishing a fee that provides developers with a practical and financially viable means of satisfying the Town's affordable housing policy goals. **(AMENDED 10/28/08; 6/26/12)**

(c) An applicant for approval of any residential development containing five or more lots restricted to single-family residential use (which lots the developer intends to sell undeveloped) who does not elect to meet the Board's 15% affordable housing policy goal by donating affordable housing lots (as those terms are described in Section 15-182.4) or making a payment in lieu as provided in subsection (b) above shall nevertheless be considered to have met this goal if such applicant chooses to follow the process that reserves lots for purchase by the Town of Carrboro and makes a payment for the eventual purchase of such lots as outlined in this subsection.

- 1) The developer shall request that a condition that obligates the developer to comply with the provisions of this subsection be added to the special or conditional use permit that authorizes the subdivision in question, and such condition shall be added by the permit issuing authority.
- 2) Before the final plat is approved, the developer shall designate on the plat a number of lots that are reserved for purchase by the Town of Carrboro. The number of lots so reserved shall be equal to the product of the number of lots within such subdivision multiplied by 0.15, rounded down to the nearest whole number.
- 3) The purchase price for each reserved lot shall be the estimated market price as agreed upon by the Town and the developer, which price shall be specified in the condition added to the special or conditional use permit.
- 4) The lots so designated shall be restricted by the permit to the development of affordable housing as defined in Section 15-182.4 of this chapter.

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- 5) The lots so designated shall be in all other ways equal to the market rate lots and shall be provided with utility connections and other necessary infrastructure so as to render them buildable at the time of sale.
- 6) With respect to all other lots within the subdivision, no certificate of occupancy shall be issued for any dwelling unit constructed on such lots unless and until a payment is made to the town in an amount determined as follows:
 - a. Prior to approval of the permit for such subdivision, the applicant for the permit shall estimate the total market value of all developed lots (i.e. lots with houses completed on them) within the subdivision that are not restricted to affordable housing units, and calculate from this number the percentage number that, when applied to the total market value of such developed lots, would yield the number of dollars necessary to purchase the lots within the subdivision that are restricted to affordable housing use.
 - b. If the town accepts the percentage number derived above as a reasonable estimate, such percentage shall be included as part of the condition on the permit prohibiting the issuance of a certificate of occupancy until a payment is made to the town as provided in this subsection.
 - c. The amount of the payment shall be determined by applying the percentage determined in accordance with this subsection to the appraised value of the completed house and lot, as determined by a licensed appraiser.
- 7) The funds so received shall be held and reserved for the purchase of the lots designated to be developed with affordable housing.
- 8) The town shall have the right to purchase the designated lots at any time after final plat approval, and must purchase the lots not later than ninety days after sufficient funds to do so have been received by the town from the other lots.
- 9) If sufficient funds have not been received by the town to purchase one or more of the affordable housing lots after the last certificate of occupancy is issued for the other lots within the subdivision, then the town shall either purchase such affordable housing lot or lots using such funds as may be available to the town within ninety days after the date of issuance of such certificate of occupancy, or the condition limiting the use of such designated lot or lots to affordable housing shall be deemed to have expired and such designated lot or lots may thereafter be conveyed without this restriction.

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- 10) If the funds received exceed the amount necessary to purchase the lots that have been reserved then such funds shall be retained in the fund and used for other purposes authorized for that fund.

(d) The Board finds that some developers may not fully understand how the affordable housing provisions of this chapter operate or the incentives that are available under the ordinance to encourage affordable housing. Therefore, the Board concludes that, when developers of proposed developments containing five or more dwelling units propose to construct such developments without meeting the affordable housing goals established by the town for new developments, it may be beneficial to both the developers and the town for the Board and such developers to have an opportunity, prior to the formal consideration of a permit request, to discuss the town's affordable housing policy, the affordable housing opportunities and incentives provided by this chapter, and any questions or concerns such developers may have about utilizing those provisions. Subsections (e) and (f) below provide for that opportunity.

(e) The applicant for any residential development containing five or more lots or dwelling units, and therefore required to obtain either a special use permit from the Board of Adjustment or a conditional user permit from the Board of Aldermen, shall be required to participate in an Affordable Housing Review Meeting with the Board of Aldermen if the residential development does not meet the Board's affordable housing goal in any of the ways described in this section or Section 15-182.4.

(f) Should an applicant for any residential development containing five or more lots or dwelling units decide in the course of the development review process to change the application in such a way that it no longer satisfies the Board's affordable housing policy goal, further review of the project will be delayed until the applicant participates in an Affordable Housing Review Meeting with the Board of Aldermen.

Section 15-55 Burden of Presenting Evidence, Burden of Persuasion.

(a) The burden of presenting a complete application (as described in Section 15-49) to the permit-issuing board shall be upon the applicant. However, unless the board informs the applicant at the hearing in what way the application is incomplete and offers the applicant an opportunity to complete the application (either at that meeting or at a continuation hearing) the application shall be presumed to be complete.

(b) Once a complete application has been submitted, the burden of presenting evidence to the permit-issuing board sufficient to lead it to conclude that the application should be denied for any reasons stated in Subdivisions 15-54(c)(1), (3), or (4) shall be upon the party or parties urging this position, unless the information presented by the applicant in his application and at the public hearing is sufficient to justify a reasonable conclusion that a reason exists for denying the application as provided in Subdivision 15-54(c)(1), (3), or (4).

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- 1) The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this chapter remains at all times on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any of the reasons set forth in Subdivision 15-54(c)(4) rests on the party or parties urging that the requested permit should be denied.