

Government of the District of Columbia
Department of Housing and Community Development



Inclusionary Zoning 2013 Annual Report
October, 2014

Executive Summary

The 2013 Inclusionary Zoning (IZ) Annual Report from the Department of Housing and Community Development (DHCD) marks the conclusion of the fifth calendar year of Inclusionary Zoning implementation since in the program's implementation in August of 2009. The District's housing market is showing continued strength with 3,059 new units of housing issued above grade building permits in 2013 and another 1,285 permits in the first quarter of 2014 alone. Nineteen projects with 95 Inclusionary Units started above grade construction in 2013 and the Office of Planning is tracking another 99 IZ applicable projects in pre-development that will provide another 1,124 Inclusionary Units. This represents an increase of 45 Inclusionary Units in the IZ pre-development pipeline since the 2012 Annual Report.

About Inclusionary Zoning

Inclusionary Zoning supports the city's and the agency's mission to create and preserve affordable housing opportunities by requiring new rental or condominium buildings over 10 units, and renovations increasing the building size by over 50 percent, to include an assigned percentage of affordable units in exchange for a density bonus.

The program was developed pursuant to the authority set forth in § 107 of the Inclusionary Zoning Implementation Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-275; D.C. Official Code § 6-1041.07) and Mayor's Order 2008-59, dated April 2, 2008. These documents mandate the adoption of a new Chapter 22 entitled "Inclusionary Zoning Implementation" of Title 14 (Housing) of the District of Columbia Municipal Regulations. The Final Rulemaking for Inclusionary Zoning implementation was published in the D.C. Register on December 11, 2009. This report was drafted in coordination with the Office of Planning and the Department of Consumer and Regulatory Affairs.



The goals of the IZ program are to:

- create mixed income neighborhoods;
- produce affordable housing for a diverse labor force;
- seek equitable growth of new residents; and
- increase homeownership opportunities for low and moderate income levels.

Legislative Reporting Requirement

DHCD is required to submit an annual report to the Council of the District of Columbia and the Zoning Commission that provides basic program productivity. The production numbers provided in questions #1 through #5 and #7 do not include financially subsidized affordable housing projects that are exempt from IZ administrative rules. Section 2602.3(f) of the zoning code exempts projects receiving subsidized financing through Department of Housing and Community Development (DHCD), the District of Columbia Housing Finance Agency, or the District of Columbia Housing Authority from the IZ administrative process, including IZ reporting requirements, provided they still set aside the IZ equivalent number of units that would stay affordable after the subsidy controls expire. These projects are eligible to receive bonus density from the IZ program enabling them to build more affordable units.

Subsidized projects are exempted from the administrative and reporting requirements of IZ due to the reporting requirements of their financial subsidies. Questions #6 and #8 and #9 do include information on the subsidized affordable housing projects as it pertains to Inclusionary Zoning.

1. Number of Inclusionary Units produced¹ at each targeted income level:

Fifteen (15) IZ units were produced in 2013. Fourteen (14) IZ Units were for moderate-income households and one (1) was produced for low-income households.

The addition of units produced in 2013 brings the IZ program totals to thirty (30) units had been produced. Twenty-Eight (28) of these units were moderate-income units and two (2) were a low-income unit.

2. Number of Inclusionary Units produced for sale:

Six (6) Inclusionary Units were produced for sale in 2013 for a program total of nine (9) as of December 31, 2013. Of the nine (9) units, the first two remain under a lawsuit, three (3) were sold in 2013 and the remaining four (4) have either been sold or are in the selection process.

3. Number of Inclusionary Units produced for rent:

Nine (9) Inclusionary Units were produced for rent in 2013 for a program total of twenty-one (21) as of December 31, 2013. All of which were rented by the end 2013.

¹ DHCD uses the date of the Notice of Availability to tabulate the number of units the IZ has produced on a yearly basis.

4. The median income of the households that purchased or rented Inclusionary Units:

The median income of households who are renting IZ Units as of the end of 2013 was \$60,000. Due to the small number of IZ for-sale units sold by the IZ program in 2013, DHCD is not reporting the median income of the purchasers to avoid disclosing personal information. Based on the pipeline expected in 2014, DHCD expects to be able to report the median household income in next year's annual report.

5. The number of Inclusionary Units purchased or rented by DHCD, other District agency, and 3rd parties, for resale to low- or moderate-income households:

No Inclusionary Units have been purchased or rented by the stated parties for resale in 2013.

6. The value of the subsidy, if any, contributed toward the rental or purchase of units by DHCD, other District agency, and 3rd party to make them affordable to low- or moderate-income households.

Buyer subsidies for purchasing IZ units in 2013 totaled \$100,764 for an average per unit of \$33,588. Based on the pipeline expected in 2014, DHCD expects to be able to report greater detail on the nature of buyer subsidies in next year's annual report.

In 2013 there were three (3) subsidized projects that were completed totaling 181 units of which 22 were required by IZ to stay affordable after the expiration of subsidies². The average subsidy for all 181 units was \$89,719 for a total subsidy toward Inclusionary Units of \$1,973,821.

7. The average rent and sales prices for Inclusionary Units based on number of bedrooms:

a) Average Rent in 2013:

- Average rent price -Studio: **\$ 1,505**
- Average rent price -One Bedroom: **\$ 1,720**
- Average rent price -Two Bedrooms: **\$ 1,935**

b) Homeownership – Average For Sale price in 2013:

- Average For Sale price 2013 - Studio: **\$ 227,200.00**
- Average For Sale price 2013 - One Bedroom: **\$ 195,700.00**
- Average For Sale price 2013 -Two Bedrooms: **\$ 202,567**

8. The number of waivers and alternative compliance requested and granted through 2013:

Four projects requested exemption from inclusionary zoning.

9. An analysis of how much bonus density was actually achieved for each development in which Inclusionary Units were required:

² These are units that are exempt per Section 2602.3(f) of the zoning code regarding inclusionary zoning applicability.

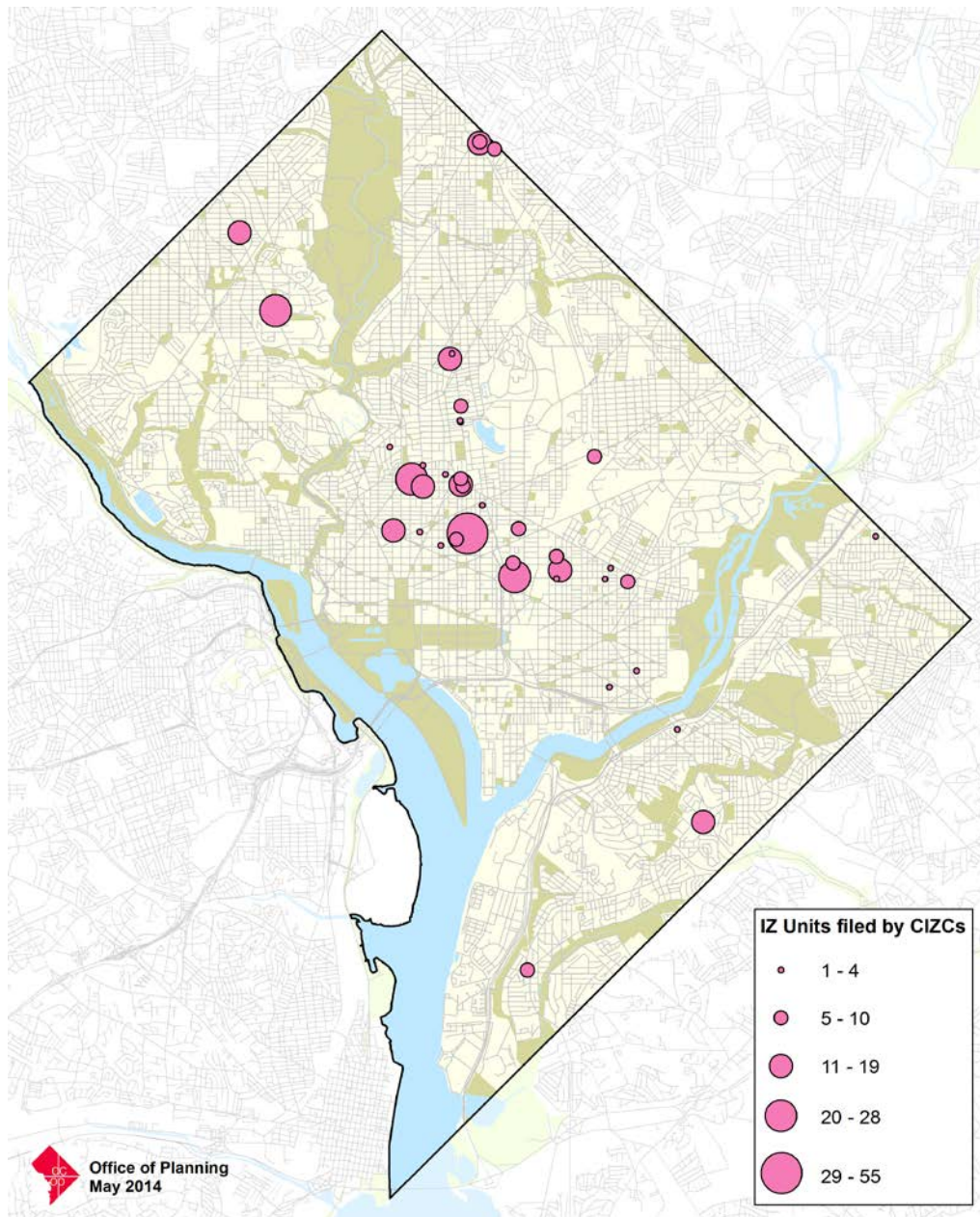
Of the 23 projects that filed a Certificate of Inclusionary Zoning Compliance (CIZC) in 2013, 20 projects will use bonus density ranging from 9 percent to 20 percent.

The three projects that did not receive any bonus were all subsidized affordable projects.

10. An assessment of whether the Inclusionary Zoning Program has had any adverse effect on the production of housing in the District.

Housing Permit Trends

In 2013, the District's housing supply continued to grow albeit at a slower pace. 414 residential construction permits were issued in 2013 totaling approximately 3,059 new units of housing. This total is less than the 283 permits issued in 2012 totaling 4,162 units. Projects with IZ requirements were located across several parts of the city including such high cost neighborhoods as Upper Connecticut Avenue, Dupont Circle and U Street as well as emerging areas like Near Northeast close to NoMa. The map below is of sites that have filed Certificates of Inclusionary Zoning Compliance.



Several factors support new residential development in the District:

- Population growth – The US Census estimated that between 2012 and 2013, the District gained over to 13,000 new residents. A larger percent of this growth is due to a greater number of births than in the past, so population may be growing more rapidly than households.
- Jobs – The District added 3,800 jobs between December, 2012 and December, 2013 but the District’s employed residents declined by 1,300 (Bureau of Labor Statistics).

Through the first quarter of 2014 a total of 1,285 units were issued above grade construction permits, which is 39 percent above the last quarter of 2013 when 925 units were issued permits. However, seven large projects totaling over 860 units were also issued sheeting and shoring permits. IZ is applicable to five of these of these seven.

Projects Involving IZ

The Office of Planning (OP) is tracking approximately 99 IZ applicable projects totaling over 10,800 units of housing and 1,124 Inclusionary Units. There are 19 projects with CIZCs that started construction in 2013.

Pre-development IZ Exemptions

OP is tracking 114 projects totaling 34,000 units that are exempt from IZ because of one or more of the following exemptions:

1. Timing – 35 projects have development approvals such as building permits, Board of Zoning Adjustments (BZA) approvals or Planned Unit Development (PUD) approvals from the Zoning Commission (ZC) prior to the effective date of IZ. It is important to note that the PUD projects will provide affordable units based on IZ due to commitments made during the ZC approval process.
2. Geographic – 34 projects have no IZ requirement because the Zoning Regulations exempt certain areas where bonus density is not theoretically available, such as the DD overlay area of downtown, or where it is not consistent with the sensitive neighborhood character, such as Historic Anacostia and Lower Barracks Row;
3. Use & Size – 17 projects are exempt because the Zoning Regulations exempt special residential uses such as dormitories or housing for foreign missions; and/or because they have fewer than the 10 units required to trigger IZ.
4. Administrative Exemption for Subsidized Affordable Units – Approximately 35 projects totaling over 7,000 units are currently exempt from the IZ administrative regulations due to development financing from the District for affordable housing including DHCD, DCHFA and the D.C. Housing Authority. The projects are still able to access the bonus density and must dedicate the same percentage of units to be affordable for the life of the project as required by IZ³.

³ This exemption stems from the amendment to the Zoning Regulations for developments that are financed, subsidized, or funded in whole or in part by the federal or District government and administered by DHCD, the District of Columbia Housing Finance Agency, or the District of Columbia Housing Authority (11 D.C. Municipal Regulations 2602, 2011). In order to fall under this exemption, the number of units reserved for low or moderate-income households in the project must be at least equal to the gross square footage that would be required by IZ and a covenant must be recorded on the property in order to insure this affordability for the life of the project.

The IZ pre-development exemption numbers are subject to change for a variety of reasons. Predevelopment approvals granted by the BZA or ZC allow a developer two years to obtain a building permit or request an extension of the approval. If neither of these is completed, a developer is subject to losing their IZ exemption. In light of the economics of the past several years, the BZA and the ZC have been extending predevelopment approvals as a matter of policy, thus prolonging the time that these projects are exempt from IZ. However, many projects failed to either renew their approvals or file for building permits on time. Once a building permit has been issued, construction must start within one year or the permit must be extended or it will expire. Permits may be extended up to three times. If a building permit expires, then IZ would likely apply to any residential project developed on that site. It is difficult to enumerate how many of these projects and permits will expire, thus it is difficult to get a definitive count of how many of these may fall under IZ requirements in the future.

IZ Pipeline Summary

Status	IZ Applicable Projects				IZ Exempt Projects			
	Projects	IZ Units	Total Units	% IZ	Projects	Affordable Units	Total Units	% AU
Under Construction	11	96	1,137	8%	49	2,189	14,186	15%
Planned	30	417	3,893	11%	33	1,512	11,411	13%
Conceptual	58	611	5,828	10%	32	2,079	8,496	24%
Total	99	1,124	10,858	10%	114	5,780	34,093	17%

Source: DC Office of Planning

Notes:

- 1) The majority of numbers are estimates and subject to change.
- 2) Numbers are for project totals and do not represent actual units under construction.
- 3) "Under Construction" means the project has received a sheeting and shoring, above grade construction permit as of December 31, 2013.
- 4) IZ exemptions include timing, use, geographic, size, and subsidized affordable. A project may qualify for one or more exemption.

Conclusion

With the support of the Mayor and Council, and coordination with the Office of Planning, DHCD has implemented the Inclusionary Zoning Program by developing a framework for the administration of IZ. This includes the creation of procedures that conform to the statute, regulations and stated requirements, to support these first Inclusionary Units being produced, as well as the substantial pipeline of Inclusionary Units in pre-development.

Based on the fact that IZ developments are now under construction across the District, particularly in high cost neighborhoods like Dupont Circle, Adam's Morgan and U Street, NW, DHCD concludes that IZ is

not negatively affecting residential development or land values in the District in a significant way. DHCD and OP have seen some change in developer behavior such as the development of 9 large units which would not trigger IZ as opposed to building 10 smaller units which would trigger IZ. In addition, some developers have asked for rezonings through the PUD process to reduce the percent of IZ units required. But given the growing number of matter-of-right IZ projects that have started construction, DHCD recommends that no actions be taken to significantly change the basic requirements of the Inclusionary Zoning Program. However, OP and DHCD are currently reviewing if any policy changes are warranted to improve the IZ program's ability to deliver greater affordability.



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