Government of the District of Columbia

FY2019 INCLUSIONARY ZONING ANNUAL REPORT

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
POLLY DONALDSON, DIRECTOR

GOVERNMENT OF THE DISTRICT OF COLUMBIA
MURIEL BOWSER, MAYOR

CONTENTS

Letter from Mayor Muriel Bowser

Mayor Muriel Bowser

As the Inclusionary Zoning program marks the 10th complete fiscal year since the program began in August 2009, we have a lot to be proud of. The total number of IZ units produced by the end of Fiscal Year 2019 is 989. That's nearly 1,000 permanently affordable homes for Washingtonians. In Fiscal Year 2019 alone, the Inclusionary Zoning program produced nearly 200 homes.

If we are to achieve our bold vision for creating 36,000 new housing units by 2025, we must leverage all tools, not just Inclusionary Zoning. But we cannot do it alone. That's why, as Chair of the National League of Cities Housing Task Force, we authored the Homeward Bound Report calling on the federal government to step up and treat our nation's housing needs seriously and recognize that housing is infrastructure.

The report also highlighted how cities can leverage financing with our own Housing Preservation Fund listed as an example. And unsurprisingly, the report spoke to how local governments can leverage land use and regulation to tackle affordable housing challenges with programs like Inclusionary Zoning.

Inclusionary Zoning complements our other affordable housing programs and investments:

- My annual commitment of at least $100 million to the Housing Production Trust Fund – more per capita than any other city in the country.
- The Housing Preservation Fund that in its first year preserved over 1,000 affordable homes and is now leveraged to over $100 million.
- Our continued investments in homeownership programs like the Home Purchase Assistance Program for all District residents and the Employer-Assisted Housing Program for District government employees and first-responders, as well as DC Open Doors.

And we know our investments are working. A Howard University study shows the increased supply of affordable and market-rate housing has slowed the rate of increases in rents. Further, a study from the University of Chicago shows residents stay in the District longer if they live in a project funded by the Housing Production Trust Fund.

After 10 consecutive years, the Inclusionary Zoning Program remains an innovative approach we use to house more Washingtonians. And in this report, we will show the program is producing affordable homes of all sizes in various locations to help build more inclusive and diverse neighborhoods throughout DC.

Review of the Inclusionary Zoning Program in Fiscal Year 2019

The Inclusionary Zoning (IZ)[1] program is one of many tools the District of Columbia uses to produce affordable housing. It requires most new housing developments (or expansions) in the District to include affordable units[2]. IZ creates both rental and sale units.

The goals of the IZ program are to:

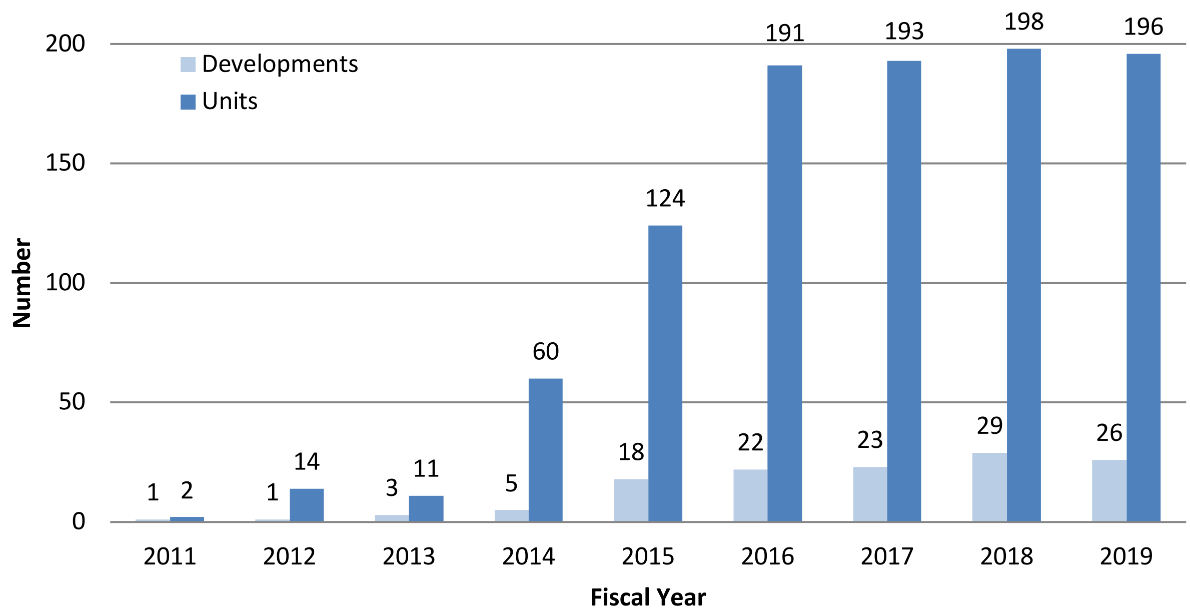
- create mixed income neighborhoods;
- produce affordable housing for a diverse labor force;
- seek equitable growth of new residents; and
- increase homeownership opportunities for moderate income households.

The Fiscal Year (FY) 2019[3] IZ Annual Report from the Department of Housing and Community Development (DHCD) marks the conclusion of the tenth complete fiscal year since the program began in August 2009. This report provides an analysis of the IZ program from 2009 to September 30, 2019, and was drafted in coordination with the DC Office of Planning (OP) and DC Department of Consumer and Regulatory Affairs (DCRA).

The IZ program produced196 IZ units[4] in FY2019, consistent with the level of production seen in the three prior fiscal years (198 units in FY2018, 192 units in FY2017 and 191 units in FY2016). This brings the total number of IZ units produced by the end of FY2019 to 989. Figure 1 (next page) shows the number of IZ units and IZ developments produced each fiscal year, since the inception of the IZ program. The number of IZ units and developments has steadily increased since the program began and these numbers have been at a consistent level since FY2016.

[1] The IZ program was developed based on the Inclusionary Zoning Implementation Amendment Act of 2006 (D.C. Law 16-275 (effective March 14, 2007), D.C. Official Code §6-1041.07) (IZ Act) and Mayor's Order 2008-59, dated April 2, 2008. These documents mandated the adoption of a new Chapter 22 entitled "Inclusionary Zoning Implementation" of Title 14 (Housing) of the District of Columbia Municipal Regulations ("IZ Regulations"). The Final Rulemaking for implementation was published in the *D. C. Register* on December 11, 2009. The current IZ administrative regulations were published as Final Rulemaking in the *D.C. Register* on December 29, 2017 and may be found at https://www.dcregs.dc.gov/Common/NoticeDetail.aspx?NoticeId=N0065229.
[2] Under the IZ regulations, most new developments with 10 or more dwelling units or proposing new gross floor area that would result in 10 or more dwelling units must include a percentage of affordable units (approximately 8 percent to 10 percent of the gross residential floor area) in exchange for a density bonus (up to 20 percent gross floor area) beyond what is allowed under existing zoning regulations.
[3] The 2019 fiscal year was October 1, 2018 through September 30, 2019.
[4] The tabulation of IZ units produced annually is based on the Notice of Availability (NOA) issue date submitted by the developer to DHCD. The NOA notifies DHCD when IZ units are ready for occupancy. The production numbers provided throughout this report do not include financially subsidized affordable housing projects that are exempt from IZ administrative and reporting rules. Title 11, Subtitle C, Section 1001.6(a) of the zoning code exempts projects receiving financing through the federal government, DHCD, the District of Columbia Housing Finance Agency (DCHFA), or the District of Columbia Housing Authority (DCHA) from the IZ administrative process, including IZ reporting requirements, provided they still set aside at least 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.

Figure 1. Inclusionary Developments and Units Produced by Fiscal Year (2011-19)



128 Developments, 989 Units through 9/30/19. Source: DHCD.

In 2016, new zoning regulations became effective[5] that allowed the use of habitable penthouse space for the first time in the District. Previously, penthouse space could only be used for mechanical purposes. As part of this change, IZ regulations specified that an area equal to a percentage of the square footage of habitable penthouse space in residential buildings must be set aside as IZ or payment may be made to the Housing Production Trust Fund (HPTF). Habitable penthouse space in non-residential buildings requires payment to the HPTF. The payment amount is calculated by DCRA and is based on the square footage of the habitable penthouse space, assessed value of the property, square footage of the property, and permitted floor area ratio. At least one half of the amount due must be paid before issuance of the building permit and the balance is due before issuance of the certificate of occupancy. During FY2019, $4,080,116 was collected, for a total of $10,415,985.80 since 2016. Over 5,800 square feet were set aside as IZ as a result of habitable penthouse space construction.[6]

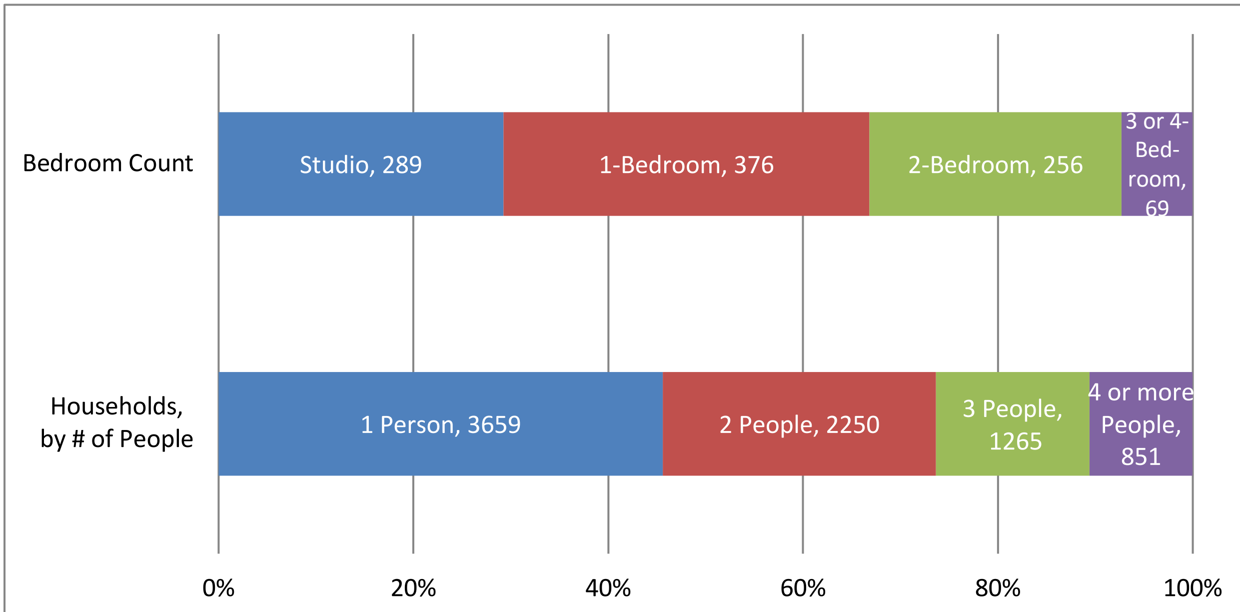
The 2016 zoning regulations also modified the requirements related to opting in to IZ, allowing projects not otherwise subject to IZ to opt in, to take advantage of the bonus density[7]. In FY2019, 9 developments opted into IZ, resulting in 30 additional units under development. Since the regulations became effective, seventeen developments have opted in, resulting in an additional three completed IZ units and 37 IZ units under development.

Figure 2 shows the total number of IZ units produced broken down by number of bedrooms: 28 percent were studios, 38 percent were one-bedroom homes, and 26 percent were two-bedroom homes. As also seen in Figure 2, one-person households are the largest number of

[5] Subtitle C, Chapter 15 of the Zoning Regulations of 2016 (ZR16) became effective on September 6, 2016, and supersedes the previous version, 1958 Regulations.
[6] This figure is reported as square footage versus number of units created, since some developers choose to allocate total IZ square footage generated as a result of habitable penthouse space construction across multiple IZ units. However, all of these units must be 50% MFI units, as required by the IZ regulations.
[7] See Title 11, Subtitle C, Section 1001.8 of the zoning code.

households registered for the IZ program (46 percent). One- and two-person households combined amount to 74 percent of all registrations.

Figure 2. IZ Unit Types Produced (by Bedroom Count) vs. IZ Household Registrations (by Number of People in Each Household), 2019



989 IZ Units and 8,025 IZ Household Registrations as of 9/30/19. Source: DHCD.

The IZ Regulations outline the unit size eligibility based on the bedroom count of the unit and the number of people in a household. From the beginning of the program through August 31, 2017, the regulations provided both minimum and maximum household sizes for each unit size. Effective December 29, 2017, the revised IZ Regulations lowered the minimum occupancy for three- and four-bedroom units and did not provide maximums, as indicated in Table 1. Maximums after September 1, 2017 are property-specific and determined by local housing code as well as fair housing practices. However, the typical maximum formula used by rental properties is two people per bedroom plus one additional person. For example, in a two-bedroom unit, there could be two people for each bedroom (or four people) plus one additional person, for a total maximum of five people in the two-bedroom rental unit.

Table 1. IZ Unit Size Eligibility (by Household Size)

	Occupancy Limits (8/31/17 and prior)	Occupancy Limits (after 9/1/17)
Studio	1 Person Only	Minimum of 1 Person
1-Bedroom	1-2 Persons Only	Minimum of 1 Person
2-Bedroom	2-4 Persons Only	Minimum of 2 Persons
3-Bedroom	4-6 Persons Only	Minimum of 3 Persons
4-Bedroom	6-8 Persons Only	Minimum of 4 Persons

Source: IZ occupancy limits, IZ Regulations (DCMR Title 14, Chapter 22)

Many of the 196 IZ units produced in FY2019 (148 units or 76 percent) are rental units, while 48 units (or 23 percent) are for sale. This coincides with the preference of most households registering for the IZ program to rent (as opposed to purchase), as shown in Figure 3.

Figure 3. IZ Unit Tenures Produced (Rent or Sale) vs. IZ Household Preferences (Rent or Purchase), FY 2019[8]

989 IZ Units and 8,025 IZ Household Registrations as of 9/30/19. Source: DHCD.

During FY2019, IZ units were produced at three affordability levels—50 percent of Median Family Income (MFI)[9] (reserved for households earning up to 50 percent MFI), 60 percent MFI (reserved for households earning up to 60 percent MFI), and 80 percent MFI (reserved for households earning between 61 and 80 percent MFI). The 50 percent and 80 percent affordability levels were previously determined by the zoning district in which each development was located. Changes ordered by the Zoning Commission (and effective June 5, 2017) shift the affordability levels of future units produced. Most new rental IZ units will be at 60 percent MFI and most new sale IZ units will be at 80 percent MFI. Of the 196 IZ units produced in FY2019:

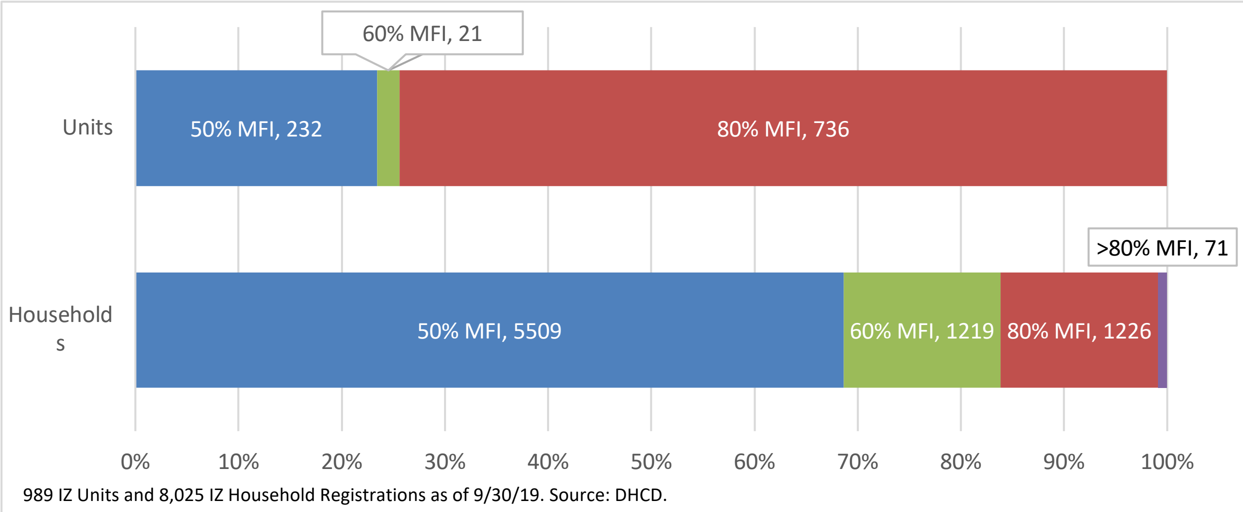
- Fifty-nine percent (116 units) were for 80 percent MFI households.
- Thirty-four percent (66 units) were for 50 percent MFI households.
- The remaining 7 percent (14 units) were available for 60 percent MFI households.

While demand for affordable units exceeds supply at all income levels, the problem is especially acute at the lowest income levels, as seen in Figure 4.

[8] Registered households are those listed in the DHCD IZ database as seeking an IZ unit. Reported numbers represent all units produced as of the end of FY2019. 758 (77%) of produced units are available as rental units; 231 (23%) are available as sale units. 7,686 (96%) of registered households are only interested in renting units, 219 (3%) are interested in either renting or purchasing, and 120 (1%) are only interested in purchasing.

[9] In FY2019, Median Family Income (MFI) for the Washington, D.C. metropolitan statistical area, as published annually by the U.S. Department of Housing and Urban Development (HUD), for a family of four was $121,300, and is adjusted for household size. (https://www.huduser.gov/portal/datasets/il.html). Median Family Income or MFI was previously referred to as Area Median Income or AMI.

Figure 4. IZ Unit Affordability Levels vs. Household Registration Income Levels, FY 2019[10]



FY2019 Annual Report (Legislative Reporting Requirement)

Each year, DHCD is required to report to the Council of the District of Columbia and the Zoning Commission on the impact of the IZ program by responding to 10 specific questions.[11] In answering these questions, this report primarily discusses data from FY2019 but makes comparisons to the program's production of units in previous years and projections for the program's future growth.

The report concludes that similar numbers of IZ units were produced each fiscal year from FY2016 through FY2019. This production should continue to hold steady with little indication of any adverse effect on the production of housing in the District.

1. Number of IZ Units[12] produced at each targeted income level:

In FY2019, 196 IZ units were produced, of which 66 units (34 percent) were set aside for 50 percent MFI households, 14 units (7 percent) were designated for 60 percent MFI households, and 116 units (59 percent) were produced for 80 percent MFI households.

At the close of FY2019, 989 IZ units had been produced since program inception. Of these units, 232 (24 percent) were designated for 50 percent MFI households, 21 (2 percent) were set aside for 60 percent MFI households, and 736 (74 percent) were reserved for 80 percent MFI households.

2. Number of IZ Units produced for sale:

In FY2019, 48 IZ units were produced for sale (24 percent of IZ units produced in FY2019). From program inception through the end of FY2019, a total of 231 for-sale units have been produced (23 percent of all IZ units produced).

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[10] In Figure 4, 60 percent MFI households are those who make between 51 percent and 60 percent of MFI, while 60% MFI units are available to households earning 60% or below.
[11] DHCD is required to submit an annual report responding to 10 questions in accordance with §6-1041.09 of the IZ Act.
[12] Unless otherwise specifically provided, the capitalized terms used in this report have the same meaning as defined in the IZ Regulations. Inclusionary Units are also referred to as IZ units in this report.

3. **Number of IZ Units produced for rent:**

In FY2019, 148 IZ units were produced for rent (76 percent of IZ units produced in FY2019). From program inception through the end of FY2019, a total of 758 rental units have been produced (77 percent of all IZ units produced).

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

In FY2019, the median income of households:

- renting IZ units was $56,700; and
- purchasing IZ units was $44,847.

A higher percentage of households renting IZ units were in the 80 percent MFI category than owners, which is why the median income of households renting IZ units is higher than the median income of households purchasing IZ units in FY2019. Ninety-one percent of renter households with reported incomes in FY2019 were in the 80 percent MFI category. In contrast, 45 percent of households that purchased an IZ unit in FY2019 were in the 80 percent MFI category.

5. **The number of IZ Units purchased or rented by DHCD, other District agencies, or third parties for resale to eligible households**:

No IZ units were purchased or rented by any District agency or third parties for resale in FY2019.

6. **The value of subsidies, if any, contributed toward the rental or purchase of units by DHCD, other District agencies, or third parties for affordability to eligible households.**

Subsidy Source	Number of Recipients	Total Subsidy	Average/Typical Subsidy Amount
Home Purchase Assistance Program (HPAP)	32	$1,750,280	$54,696
Employer Assisted Housing Program (EAHP)	17	$198,000	$20,000
Negotiated Employee Assistance Home Purchase Program (NEAHP)	1	$10,000	$10,000

Thirty-two out of forty-one (76 percent) of all purchasers closing on an IZ unit in FY2019 received an HPAP subsidy. Of the thirty-two HPAP recipients, seventeen purchasers also received funding from EAHP, and one received funding from NEAHP. DHCD does not collect information regarding subsidies from other District agencies or third parties. This response does not include subsidies provided to developers by the Federal or District government which would result in the projects being IZ Exempt, as described in Footnote 4.

7. **The average rent and sales prices[13] for IZ Units based on number of bedrooms:**

   a. **Average rent in FY2019:**
      - Average rent price, studio: **$1,445**[14]
      - Average rent price, 1-bedroom: **$1,444**
      - Average rent price, 2-bedrooms: **$1,712**

   b. **Average for-sale price in FY2019:**
      - Average for-sale price, studio: **$114,600**
      - Average for-sale price, 1-bedroom: **$188,600**
      - Average for-sale price, 2-bedrooms: **$197,177**
      - Average for-sale price, 3-bedrooms: **$219,005**

8. **The number of waivers or alternative compliance requested and granted in FY2019:**

   The Zoning Commission and the Board of Zoning Adjustment did not approve alternative compliance for any Planned Unit Development (PUD) in FY2019. The BZA did approve nine projects which voluntarily chose to opt in to IZ.

9. **Analysis of how much bonus density was achieved for each development in which IZ units were required:**

   Fifty-five projects received a Certificate of Inclusionary Zoning Compliance (CIZC) approved by DCRA in FY2019, of which 50 were multi-family projects and 5 were single family projects:

   Multi-Family

   - Eight of the 50 multi-family projects were Planned Unit Developments (PUDs), of which:
     - Six received a land use change from Production, Distribution and Repair (PDR) uses, which prohibit residential, to mixed land uses that permit residential (bonus density was not calculated for these projects); and
     - Two received density increases within land uses that permitted residential and averaged a 32-percent increase in density.
   - Forty-two multi-family projects were either matter-of-right (meaning they complied with all zoning requirements), received some zoning variance from the DC Board of Zoning Adjustment (BZA cases), or were subject to a Zoning Commission (ZC) Design Review. Of these projects:
     - There were 35 matter of right projects, of which 30 received bonus density averaging a 19 percent increase, and five did not receive any bonus density;

[13] Average rent and sales prices are based on FY2019 reporting from IZ properties.
[14] The average rent price of a studio unit is higher than the average rent of a one-bedroom unit, because a higher percentage of studio units (92%) with reported household incomes in FY2019 are set aside at 80% of MFI than one-bedroom units (90%). In general, although the IZ program produces units at the 50%, 60% and 80% levels, and recent program changes limited new rental units to 60% of MFI, at the time of the FY19 annual report data collection, 90% of the units reporting were in the 80% MFI category. Therefore, this average still skews toward the higher 80% MFI IZ pricing and does not represent the units being produced today.

- There were five BZA projects, of which four received bonus density averaging 21 percent increase, and one project did not receive any bonus density; and
- Two projects were Zoning Commission Design Review cases that averaged 27 percent bonus density.

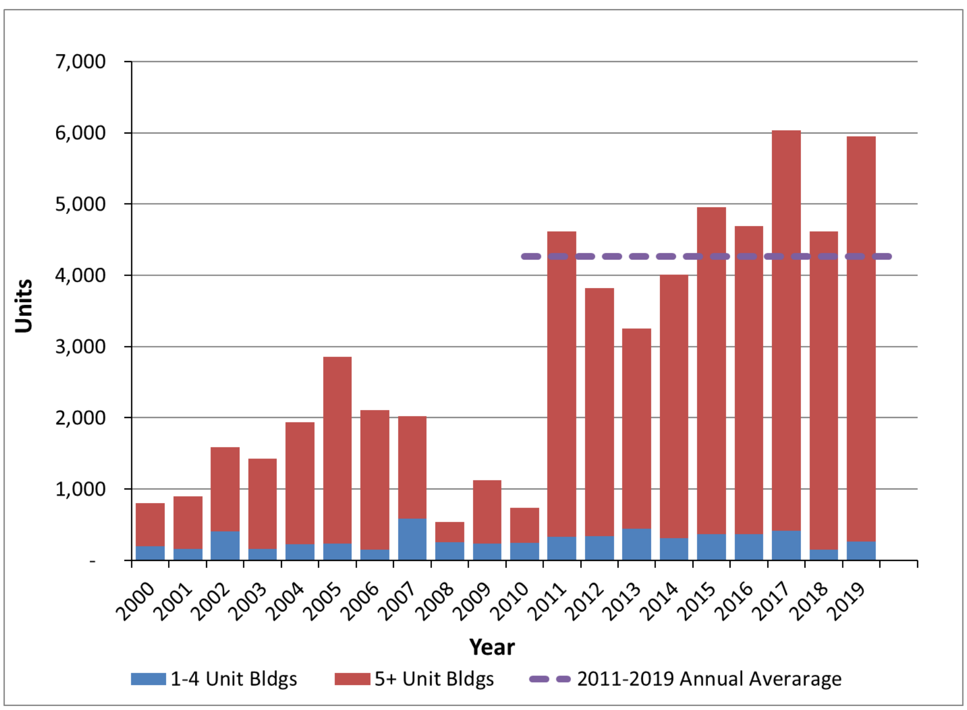
Single-Family

- There were five single-family projects of which:
  - Three were in single-family zone categories which do not allow bonus density to be calculated;
  - One was a BZA case in a multi-family zone which received 20 percent bonus density; and
  - One was a PUD that received 16 percent bonus density.

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

There is no evidence that IZ requirements have had an adverse effect on the production of housing in the District. In FY2019, the number of new residential units added to the District's housing stock exceeded the post-recession average, according to US Census Bureau Building Permits Survey, as shown in Figure 5. This has been the case in a majority of years since the first IZ units were built in FY2011.

Figure 5: Number of Permitted New Residential Units



Source: US Census Building Permits Survey.

Moreover, the number of IZ projects receiving CIZC approval has continued to increase, with 55 developments receiving CIZC approval in FY2019, compared to 52 in FY2018. Since the construction of IZ units is tied to the pace of new development, this indicates that developers are not developing fewer buildings as a result of IZ Regulations.

IZ developments range in both size and location across the District, from small projects without a mandatory requirement, but that choose to opt in to IZ, to large developments containing 43 IZ units and 325 total units. Map 1 (on the next page) shows that IZ units are located in developments constructed throughout the District and that the IZ program is not adversely affecting housing production in any one area of the city or District-wide.

Map 1. Filed Certificates of Inclusionary Zoning Compliance