

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



**Inclusionary Zoning Annual Report**  
**March 14, 2012**

**Executive Summary**

The 2011 Inclusionary Zoning (IZ) Annual Report from the Department of Housing and Community Development (DHCD) marks the conclusion of the third calendar year of Inclusionary Zoning implementation. There is renewed strength in the District’s housing market and 4,726 new units of housing were issued above grade building permits in 2011, many of which were Planned Unit Developments with affordable units that meet IZ requirements. Three other projects with mandatory IZ units also started below grade construction in 2011 and the Office of Planning is tracking another 79 IZ applicable projects in pre-development that will provide another 907 Inclusionary Units. The two Inclusionary Units that were produced in 2011 are soon to be part of a much larger affordable housing production pipeline.

**About the 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%, 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 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 the following information:

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

Two Inclusionary Units have been produced, one at each Low and Moderate Income levels.

**2. Number of Inclusionary Units produced for sale:**

Two Inclusionary Units have been produced for sale as of the date of this report.

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

No Inclusionary Units for rent have been produced as of the date of this report.

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

No households have purchased or rented Inclusionary Units, so the median income has yet to be established.

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

No Inclusionary Units have been purchased or rented by the stated parties for resale as of the date of this report.

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

Until such time that Inclusionary Units have been being rented and purchased, it is not possible to determine the value of the subsidy that made them affordable to low- or moderate-income households.

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

Though no households have yet purchased or rented Inclusionary Units, the Maximum Rent and Purchase Price Schedule, effective March 30, 2012, outlines the maximum rents and sales prices allowed based on Washington Metropolitan Statistical Area 2012 Area Median Income of \$107,500 for a family of four (4) as published by HUD. A portion of this schedule is reproduced below.

**Multi-Family Inclusionary Developments**

					50% of AMI Units		80% of AMI Units	
Number of Bedrooms	Occupancy Pricing Standard	Occupancy Limits	Estimated Utility Allowance	Estimated Condo Fees	Maximum Allowable Rent	Maximum Purchase Price	Maximum Allowable Rent	Maximum Purchase Price
Studio	1	1	\$127	\$250	\$941	\$128,800	\$1,505	\$227,200
1	2	1 - 2	\$173	\$313	\$1,075	\$141,300	\$1,720	\$253,800
2	3	2 - 4	\$223	\$425	\$1,209	\$145,200	\$1,935	\$271,700
3	5	4 - 6	\$270	\$525	\$1,478	\$174,600	\$2,365	\$329,300

**Single-Family Inclusionary Developments**

					50% of AMI Units		80% of AMI Units	
Number of Bedrooms	Occupancy Pricing Standard	Occupancy Limits	Estimated Utility Allowance	Estimated Homeowner Assoc. Fees	Maximum Allowable Rent	Maximum Purchase Price	Maximum Allowable Rent	Maximum Purchase Price
2	3	2 - 4	NC	110	\$1,209	\$184,200	\$1,935	\$310,800
3	5	4 - 6	NC	130	\$1,478	\$227,600	\$2,365	\$382,300
4	7	6 - 8	NC	150	\$1,747	\$271,000	\$2,795	\$453,800

**8. The number of waivers and alternative compliance requested and granted through 2011:**

The Zoning Administrator made determinations that the proposed affordability programs in the Planned Unit Developments (PUDs) for Canal Parc (determination date of November 22, 2010) and Catholic University of America South Campus (determination date of December 6, 2010) fulfilled the IZ requirements. The Zoning Administrator also determined that the affordability programs in the PUDs for the Heights of Georgia Avenue, Matthews Memorial Terrace, and Brookland Artspace fulfilled the IZ requirements. The Zoning Administrator granted two exemptions of the IZ administrative requirements through the Zoning Regulations for Israel Manor Senior Housing and Alabama Avenue Senior Housing through 2011, as well as an IZ exemption for Severna – Phase I. DHCD granted no waivers through the IZ Administrative Regulations through 2011.

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

Of the four projects that filed a CIZC in 2011, three projects will use bonus density of 8 percent, 14 percent and the full 20 percent bonus in Floor Area Ratio (FAR) above that permitted by their zone districts. The fourth project did not use the bonus density and will use 25 percent less than that permitted by matter of right.

All other projects receiving bonus density have been Planned Unit Development (PUD) cases through the Zoning Commission (ZC). PUDs require a comprehensive review of projects that take into account the Comprehensive Plan Land Use designation, project design, neighborhood infrastructure and assets, and an extensive list of public benefits and amenities of which affordable housing is only one. In some cases, PUD projects may receive more than a 200 percent increase in density and in other cases they involve a rezoning from Manufacturing to Residential zoning which may technically have reduced the on-site density. Given the uniqueness of each site in the PUD process, it is not possible to determine if bonus density was 1) tied directly to the provision of affordable units or other public benefits and 2) was available as compensation; however the Zoning Commission has made clear that the provision of the minimum required IZ percentage of any residential project is expected.

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

### Housing Permit Trends

In 2011 the District's housing market appeared to have returned to full strength. 249 residential permits were issued in 2011 totaling approximately 4,726 new units of housing. This total far exceeds the number of housing units issued permits in 2010 (251 permits creating 1,454 housing units) and 2009 (225 permits, creating 1,532 units). Over 1,800 housing units were in large public/private partnerships or subsidized developments including the Arthur Capper-Carrolsburg HOPEVI, CityCenter, Northwest One, and Progression Place with their own affordability requirements.

Several factors support new residential development in the District:

- Jobs – The District added 20,000 jobs between December, 2010 and December, 2011 (Bureau of Labor Statistics);
- Limited Supply; Strong Absorption – A low level of construction during the previous few years has resulted in a limited supply of housing to meet current demand. Well located projects that delivered in the past year are seeing very strong rates of absorption;
- Population growth – The US Census estimated that between 2010 and 2011, the District gained over 14,000 new residents.

### Projects Involving IZ

The Office of Planning (OP) is tracking approximately 82 IZ applicable projects totaling over 8,500 units of housing and 930 Inclusionary Units. There are three projects with CIZCs that started construction in 2011; however one appears to be stalled reportedly due to financial problems

unrelated to IZ. The fourth project started below grade construction in 2011 but has not yet filed a CIZC<sup>1</sup> and was reportedly stalled due to environmental site concerns, but recent reports suggest the project is once again moving forward.

IZ is expected to apply to 79 other projects currently in various stage of pre-development. OP currently estimates these projects total 7,349 units and 907 Inclusionary Units.

## Pre-development IZ Exemptions

Almost all of the projects under construction in 2011 are exempt from IZ because of one or more of the following exemptions:

1. Timing – Projects received 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 ;
2. Geographic – 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. Financing – Projects subject to affordability requirements of District financing are exempt from IZ rules, but must still dedicate the same percentage of units to be affordable for the life of the project as required by IZ<sup>2</sup>;
4. Use – The Zoning Regulations exempt special residential uses such as dormitories or housing for foreign missions; and/or
5. Size – The project did not meet the minimum size threshold of 10 or more units to trigger IZ.

OP is tracking a pipeline of 120 projects totaling over 32,000 units that will be exempt from IZ requirements due to one or a combination of the exemptions listed above and summarized below:

- Timing - Approximately 53 projects and 16,000 units are currently exempt because they received pre-development approvals 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.

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<sup>1</sup> A Certificate of Inclusionary Zoning Compliance is not required until a project applies for above grade construction.

<sup>2</sup> This exemption stems from the most recent 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.

- Geographic – A geographic exemption is the next biggest category and accounts for 27 of the projects for a total of 10,530 units.
- Financing – Approximately 28 projects totaling over 3,800 units are currently exempt from IZ rules due to development financing from the District for affordable housing including DHCD, DCHFA and the Housing Authority.
- Other – Finally, size and use exemptions add to approximately 12 projects and total 1,121 units.

Only one project has requested relief from the IZ regulations altogether. That project was a Land Disposition of public land and a PUD reviewed by the Zoning Commission where the District is receiving significant other public benefits including a new library and fire station.

Many of these 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 economic downturn, 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. 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.

Several reports indicate that the two projects that had been or are stalled experienced delays unrelated to IZ. Given this, the fact that other IZ projects are actively moving forward along with several unsubsidized PUDs with similar affordability requirements suggests that IZ is not having a measurable effect on the production of housing in the District.

### IZ Pipeline Summary

Status	<u>IZ Applicable Projects</u>				<u>IZ Exempt Projects</u>			
	Projects	Units	Total Units	%	Projects	Affordable Units	Total Units	%
Under Construction	3	23	235	10%	36	1,948	8,044	24%
Planned	29	382	3,232	12%	54	2,039	16,594	12%
Conceptual	50	525	5,117	10%	30	1,658	7,897	21%
<b>Total</b>	<b>82</b>	<b>930</b>	<b>8,584</b>	<b>11%</b>	<b>120</b>	<b>5,645</b>	<b>32,535</b>	<b>17%</b>

Source: DC Office of Planning

#### Notes:

- 1) The majority of numbers are estimates and subject to change.
- 2) Of the three IZ projects under construction only two have filed a CIZC. CIZCs are not required until above grade construction.
- 3) Projects under construction as of December 31, 2011.

- 4) IZ exemptions include Timing, Use, Geographic, Financing, and Size.
- 5) IZ Exempt Projects include projects that will be exempt from only the IZ administrative process as well as those projects that are fully exempt due to geography, zone, etc.
- 6) Total units under construction represent the totals for the project and not the number of units actually under construction.

## Conclusion

With the support of the Mayor and Council, and coordination with the Office of Planning, DHCD has implemented Inclusionary Zoning by developing a framework for administration of IZ, including the creation of procedures that conform to the statute, regulations and stated requirements, in preparation for the completion of the first IZ applicable units.

Based on the current economic conditions, DHCD concludes that it is too early to determine if IZ has affected residential development or land values in the District and therefore recommends that no actions be taken to significantly change the Inclusionary Zoning Program.

The Office of the Deputy Mayor for Planning and Economic Development published a Notice for Comments to the IZ Administrative Regulations on March 30, 2012 and is currently reviewing the received comments through a multi-agency effort. Any proposed changes to the IZ Administrative Regulations will be published in the D.C. Register.



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