

**THE DEPUTY MAYOR FOR PLANNING
AND ECONOMIC DEVELOPMENT**

NOTICE OF SECOND PROPOSED RULEMAKING

The Deputy Mayor for Planning and Economic Development (Deputy Mayor), pursuant to the authority set forth in Section 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 (2012 Repl.)) (Inclusionary Zoning Act) and Mayor's Order 2008-59, dated April 2, 2008, hereby gives notice of the proposed adoption of amendments to Chapter 22, entitled "Inclusionary Zoning Implementation", of Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

These rules will amend the procedures for implementing the Inclusionary Zoning Act and the Inclusionary Zoning Regulations adopted by the Zoning Commission for the District of Columbia and codified in Chapter 26 (Inclusionary Zoning) of Title 11 (Zoning) of the DCMR.

On August 2, 2013 a Notice of Proposed Rulemaking was published in the *D.C. Register* at 60 DCR 11258. In response to public comments received after the issuance of that notice, certain changes were determined necessary to effectively implement the Inclusionary Zoning Program. Changes in the text are indicated by ~~strike throughs~~, and underlining to show new text.

Chapter 22, INCLUSIONARY ZONING IMPLEMENTATION, of Title 14, HOUSING, of the DCMR is amended to read as follows:

CHAPTER 22 INCLUSIONARY ZONING IMPLEMENTATION

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2200 GENERAL PROVISIONS

- 2200.1 The purpose of this chapter is to implement the Zoning Commission's Inclusionary Zoning Regulations (Title 11 DCMR, Chapter 26) and the Inclusionary Zoning Act.
- 2200.2 This chapter implements these aspects of the Inclusionary Zoning Act by establishing, among other things:
- (a) The process and prerequisites for obtaining building permits and certificates of occupancy for Inclusionary Developments;
 - (b) The process for selecting households for an Inclusionary Unit; and
 - (c) The responsibilities of and limitations on Inclusionary Development Owners, Inclusionary Unit Owners and Inclusionary Unit Tenants.
- 2200.3 All timeframes established in this chapter for an agency to take an action are guidelines only. An agency's failure to act within a timeframe established in this chapter shall not constitute a default by the agency and shall not permit any person to take or refuse to take any action governed by the Inclusionary Zoning Program.
- 2200.4 In computing a period of time specified in this chapter, calendar days shall be counted unless otherwise provided.
- 2200.5 In computing a period of time specified in this chapter, the day of the act, event, or default after which the designated period of time begins to run shall not be included. The last day of the period of time so computed shall be included unless it is a Saturday, Sunday, or official District of Columbia holiday, in which case

the period of time shall run until the end of the next day that is neither a Saturday, Sunday, nor official District of Columbia holiday.

2200.6 When, under this chapter, a person has the right or is required to perform an act within a prescribed period of time after the sending of or the date of a notice or other paper, and the paper or notice is sent by mail, three (3) days shall be added to the prescribed period of time.

2200.7 In the event of a conflict between the provisions of this chapter and the provisions of the Inclusionary Zoning Act or the Zoning Commission's Inclusionary Zoning Regulations, the most stringent provision shall apply.

2201 PREREQUISITES FOR OBTAINING BUILDING PERMITS FOR AN INCLUSIONARY DEVELOPMENT

2201.1 No building permit shall be issued for an Inclusionary Development unless:

- (a) DCRA receives and approves an application for a Certificate of Inclusionary Zoning Compliance, signed by the Owner of the Inclusionary Development, demonstrating that the Inclusionary Development will meet the requirements of the Inclusionary Zoning Program; and
- (b) The Inclusionary Development DHCD pursuant to § 2204 approves and the Owner files of the Inclusionary Development Covenant executes the draft Inclusionary Development Covenant with the attached Certificate of Inclusionary Zoning Compliance approved by DCRA to be filed with the District of Columbia Recorder of Deeds the Inclusionary Development Covenant approved and executed by DHCD pursuant to § 2204 prior to the issuance of a Certificate of Occupancy.

2202 APPLICATION FOR CERTIFICATE OF INCLUSIONARY ZONING COMPLIANCE

2202.1 The Inclusionary Development Owner shall file a written application for a Certificate of Inclusionary Zoning Compliance with DCRA no later than the date upon which the first application for an above grade building permit is filed for the Inclusionary Development.

2202.2 The Inclusionary Development Owner shall include with its application for a Certificate of Inclusionary Zoning Compliance payment of an application fee of two hundred fifty dollars (\$250).

2202.3 The Inclusionary Development Owner shall file its application for a Certificate of Inclusionary Zoning Compliance on a form prescribed by DCRA and shall provide such information as is requested on the form.

2202.4

The application form for a Certificate of Inclusionary Zoning Compliance shall include:

- (a) The name of the Inclusionary Development, its marketing name if different, and the apartment house or condominium name, if applicable;
- (b) The street address of the Inclusionary Development;
- (c) The zone district and, if applicable, overlay district in which the Inclusionary Development is located;
- (d) The current and proposed square, suffix, and lot numbers on which the Inclusionary Development will be located;
- (e) A list of all Market Rate and Inclusionary Units in the Inclusionary Development. Each ~~Inclusionary~~ Unit shall be identified by unit number, net square footage, floor location, and the number of bedrooms. The list shall also include, and separately identify, any Inclusionary Units that will serve as the location for the offsite compliance of another Inclusionary Development, as approved by the Board of Zoning Adjustment, together with a copy of the Board of Zoning Adjustment order approving the offsite compliance;
- (f) A certification from the Inclusionary Development's architect or engineer that the size of each Inclusionary Unit is at least ninety-eight percent (98%) of the average size of the same type of Market Rate Unit in the development or at least ninety-eight percent (98%) of the size indicated in the following table, whichever is less:

Types of Dwelling	Type of Unit	Minimum Unit Size (square feet)
Multiple Family Dwelling	Studio/ Efficiency	400
	One Bedroom	550
	Two Bedroom	800
	Three Bedroom	1000
	Four Bedroom	1050
One or Two Household Dwellings	Two Bedroom	1000
	Three Bedroom	1200
	Four Bedroom	1400

- (g) A copy of the site plan, front elevation or block face, and all residential floor plans for the Inclusionary Development. The floor plans shall show the location of each Inclusionary Unit and each Market Rate Unit and shall identify each by unit number;
- (h) A copy of the building plat, if required by DCRA pursuant to 12-A DCMR § 106.1.12;

- (i) A plan for the phasing of construction that demonstrates compliance with 11 DCMR § 2605.5, which requires that all Inclusionary Units in an Inclusionary Development be constructed prior to or concurrently with the construction of Market Rate Units, except that in a phased development, the Inclusionary Units shall be constructed at a pace that is proportional with the construction of the Market Rate Units;
- (j) The total land area of all of the lots included in the Inclusionary Development;
- (k) The total gross square footage of the Inclusionary Units in the Inclusionary Development, the net residential square footage of the Inclusionary Development, and the gross residential square footage of the Inclusionary Development;
- (l) The total net floor area that will be set aside for Inclusionary Units as calculated by multiplying the total gross square footage of the Inclusionary Units required by 11 DCMR § 2603 by the ratio of the net residential square footage to the gross residential square footage of the Inclusionary Development;
- (m) The total gross floor area of Inclusionary Units that will be set aside for Low and Moderate Income Households, if such Inclusionary Units are required by 11 DCMR § 2603.3;
- (n) A proposed schedule of standard finishes, fixtures, equipment, and appliances for both Inclusionary Units and Market Rate Units;
- (o) For each Inclusionary Unit, the approximate date by which the Inclusionary Development Owner will provide a Notice of Availability pursuant to § 2206;
- (p) If construction of the Inclusionary Development will result in the temporary displacement of tenants who are entitled by law to return to comparable units, a list of the Inclusionary Units for which a right of return exists and where the right to return originated; and
- (q) Such other information as may be requested by DCRA.

2203

REVIEW AND APPROVAL OF APPLICATION FOR CERTIFICATE OF INCLUSIONARY ZONING COMPLIANCE

2203.1

If DCRA determines that an application for a Certificate of Inclusionary Zoning Compliance does not demonstrate compliance with the Inclusionary Zoning Program or the information provided is insufficient, DCRA shall provide to the

Inclusionary Development Owner a written notice of the deficiency and shall allow the Inclusionary Development Owner a reasonable period of time, designated in the written notice, to cure the deficiency.

2203.2 If the Inclusionary Development Owner fails to cure the deficiency within the period of time set forth in the written notice, DCRA may deny the application for the Certificate of Inclusionary Zoning Compliance.

2203.3 If the application for a Certificate of Inclusionary Zoning Compliance demonstrates compliance with the Inclusionary Zoning Program, and the proposed Inclusionary Development Covenant conforms to the requirements of § 2204, DCRA shall review and execute the Certificate of Inclusionary Zoning Compliance and DHCD shall review and execute the Inclusionary Development Covenant prior to ~~final approval~~ issuance of the building permit ~~application~~.

2203.4 The building permit application may be approved only after both the Certificate of Inclusionary Zoning Compliance has been approved by DCRA and the Inclusionary Development Covenant ~~are filed among land records~~ has been approved and executed by DHCD.

2204 INCLUSIONARY DEVELOPMENT COVENANT

2204.1 The Inclusionary Development Covenant shall be in a form found legally sufficient by the Office of Attorney General and shall bind all persons with a property interest in any or all of the Inclusionary Development, and all assignees, mortgagees, purchasers, and other successors in interest, to such declarations as DHCD may require, but, at a minimum, shall include:

- (a) A provision requiring that the present and all future Owners of a Rental Inclusionary Development shall construct or maintain and reserve Inclusionary Units at such affordability levels and in such number, square footage, and comparable level of finish as indicated on the Certificate of Inclusionary Zoning Compliance and shall rent such Inclusionary Units in accordance with the Inclusionary Zoning Program and the Certificate of Inclusionary Zoning Compliance;
- (b) A provision requiring that the present and all future Owners of a For Sale Inclusionary Development shall construct and maintain Inclusionary Units at such affordability levels and in such number, and square footage as indicated on the Certificate of Inclusionary Zoning Compliance and shall sell each Inclusionary Unit in accordance with the Inclusionary Zoning Program and the Certificate of Inclusionary Zoning Compliance;
- (c) A provision binding all assignees, mortgagees, purchasers, and other successors in interest to the Inclusionary Development Covenant;

- (d) A provision providing for the whole or partial release or extinguishment of the Inclusionary Development Covenant only upon the reasonable approval of the Director of DHCD;
- (e) A provision requiring that the sale or resale of a For Sale Inclusionary Unit shall be only to a Household selected by DHCD or otherwise authorized by this chapter, at a price that does not exceed the Maximum Resale Price established in accordance with § 2219;
- (f) A provision requiring that the lease rider shall be attached as an Exhibit to the lease for a Rental Inclusionary Unit and shall be executed by the Inclusionary Development Owner and each Inclusionary Unit Tenant, including any occupant of a Rental Inclusionary Unit that is eighteen (18) years old or older; and
- (g) To the extent allowed by law, a provision requiring that in the event title to an Inclusionary Unit is transferred according to the provisions of Section 2223.1, the proceeds from such foreclosure or transfer shall be apportioned and paid as described therein.

2204.2 DHCD may require, in its sole discretion, the use of a deed of trust to ensure compliance by an Inclusionary Development Owner or Inclusionary Unit Owner with the Inclusionary Development Covenant.

2205 CERTIFICATES OF OCCUPANCY FOR INCLUSIONARY UNITS

2205.1 An Inclusionary Development Owner shall apply for and obtain a Certificate of Occupancy for each property that contains Inclusionary Units that identifies and includes each Inclusionary Unit in the Inclusionary Development.

2205.2 Prior to the issuance of a certificate of occupancy for an Inclusionary Development, an Inclusionary Development Owner shall provide to DCRA a copy of the recorded Inclusionary Development Covenant along with an update of all information provided in its application for a Certificate of Inclusionary Zoning Compliance, if there has been any substantive change to such information since the filing of the application. DCRA shall review the updated information pursuant to the procedures set forth in § 2203.

2205.3 After the submission of the application for a Certificate of Occupancy, DCRA shall inspect the Inclusionary Development for compliance with the Certificate of Inclusionary Zoning Compliance and the Inclusionary Zoning Program.

2205.4 DCRA shall make good faith efforts to complete its Inclusionary Zoning compliance inspection within seventeen (17) days after receipt of the Certificate of Occupancy application.

2205.5 No Certificate of Occupancy for an Inclusionary Development shall be issued unless;

(a) DCRA determines that the Inclusionary Development Covenant has been recorded with the District of Columbia Recorder of Deeds and the Inclusionary Development is in compliance with the Certificate of Inclusionary Zoning Compliance and the Inclusionary Zoning Program; and

(b) DHCD has received and acknowledged a Notice of Availability pursuant to § 2206.

2206 NOTICE OF AVAILABILITY; HOUSING LOCATOR WEBSITE REGISTRATION

2206.1 The provisions of this section govern the process by which:

(a) The owner of a For Sale Inclusionary Development or a For Sale Inclusionary Unit fulfills its obligation to notify DHCD that an Inclusionary Unit is available for purchase; and

(b) The owner of a Rental Inclusionary Development fulfills its obligation to notify DHCD that an Inclusionary Unit is available for lease.

2206.2 An Owner shall provide the notification described in § 2206.1 to DHCD by filing a written Notice of Availability in accordance with the provisions of this section.

2206.3 An Owner shall file the initial Notice of Availability for an Inclusionary Unit in an Inclusionary Development prior to the date of submission of the Certificate of Occupancy application to DCRA applicable to such Inclusionary Unit.

2206.4 An Owner of a For Sale Inclusionary Unit shall file all subsequent Notices of Availability prior to marketing the Inclusionary Unit for sale.

2206.5 A single Notice of Availability may be filed for one or more Inclusionary Units at a time.

2206.6 The Notice of Availability shall include:

(a) The street address and unit number for the Inclusionary Unit(s);

(b) The estimated date upon which the Inclusionary Unit(s) will be available for occupancy;

(c) For each Notice of Availability for a For Sale or Rental Inclusionary Unit, a list of any optional or required upfront or recurring fees and costs,

including but not limited to condominium, cooperative, or homeowner association fees and fees or costs for amenities, services, upgrade options, or parking. For each such fee or cost, the following information shall be provided:

- (1) The amount of the fee or cost;
 - (2) A description of the fee or cost and how it will be charged; and
 - (3) For the initial sale of a For Sale Inclusionary Unit, the budget for the condominium, cooperative, or homeowner association, the condominium, cooperative, or homeowner association fee for each Market Rate Unit and each Inclusionary Unit, and the formula by which such fee is assessed;
- (d) For each subsequent Notice of Availability for a For Sale Inclusionary Unit, an itemized list of all capital improvements and upgrades made to the Inclusionary Unit that the Owner wishes DHCD to consider when establishing the Maximum Resale Price pursuant to § 2219.9. The Inclusionary Unit Owner shall document each cost or value claimed with receipts, contracts, or other supporting evidence;
- (e) A statement as to the Owner's chosen method of selection of Households for the Inclusionary Units in accordance with § 2208; and
- (f) Such other information as may be required by DHCD.

2206.7 Within five (5) days after the Owner files a Notice of Availability, the Owner shall register the Inclusionary Unit for which the Notice of Availability was filed with the housing locator website established by the District pursuant to the Affordable Housing Clearinghouse Directory Act of 2008, effective August 15, 2008 (D.C. Law 17-215; 55 DCR7494 (July 11, 2008)).

2207 DESIGNATION OF MAXIMUM PURCHASE PRICE OR RENT

2207.1 Within seven (7) days after the receipt of a Notice of Availability, DHCD shall notify the Owner of the maximum purchase price or rent for each Inclusionary Unit listed in the Notice of Availability.

2207.2 Except as provided in § 2207.5, the initial maximum purchase price or rent for an Inclusionary Unit shall be the greater of:

- (a) The purchase price or rent in the Rent and Price Schedule in place on the filing date of the application for the Certificate of Inclusionary Zoning Compliance issued for the Inclusionary Development in which the Inclusionary Unit is located; or

- (b) The purchase price or rent in the Rent and Price Schedule in place on the filing date of the Notice of Availability for the Inclusionary Unit; or
- (c) The purchase price or rent in the Rent and Price Schedule in place on the date of the lease or sales contract for the Inclusionary Unit.

2207.3 The maximum purchase price for all subsequent sales of an Inclusionary Unit Owner shall be the Maximum Resale Price determined by DHCD pursuant to § 2219.

2207.4 The maximum rent for all subsequent rentals shall be the rent set forth in the Rent and Price Schedule in place on the date of execution of the most recent lease for an Inclusionary Unit.

2207.5 If the costs provided for a For Sale Inclusionary Unit in response to § 2206.6(c) exceed by ten percent (10%) or more the cost assumptions in the applicable Rent and Price Schedule, DHCD may lower the maximum purchase price to the extent needed to maintain the affordability standard set forth in § 103(a) of the Inclusionary Zoning Act (D.C. Official Code § 6-1041.03(a)) and this chapter.

2208 METHOD OF SELECTION OF HOUSEHOLDS

2208.1 Households may be selected for an Inclusionary Unit as follows:

- (a) Except as provided in §§ 2208.2 through 2208.4, a Household may be selected for the initial or subsequent sale and for the initial lease of an Inclusionary Unit through a lottery conducted pursuant to § 2211.1;
- (b) The Owner may select a Household through a method established by the Owner in a marketing plan approved by DHCD; or
- (c) An Inclusionary Unit Owner may select a Household to purchase a For Sale Inclusionary Unit through a District licensed real estate broker.

2208.2 No lottery shall be conducted for the initial or subsequent sale or the initial lease of an Inclusionary Unit if the Inclusionary Unit is to be:

- (a) Leased or sold to a household displaced from and entitled by law to return to the Inclusionary Unit;
- (b) Leased or sold as a replacement unit as part of the New Communities Initiative; or
- (c) Sold by an Inclusionary Unit Owner to the Inclusionary Unit Owner's spouse, domestic partner, parent, trust for the benefit of a child, child who

is subject to a guardianship, or child who is eighteen (18) years of age or older, if the spouse, domestic partner, parent, or child submits the information and documents required by § 2214.1.

2208.3 A Household may be selected for the subsequent lease of a Rental Inclusionary Unit through:

- (a) A method described in § 2208.2(a) or (b) or
- (b) A method established by the Owner in a marketing plan approved by DHCD.

2208.4 If an Inclusionary Unit is subject to a requirement imposed by law or zoning that a specific group, class or type of Household occupy the Inclusionary Unit, or if the Inclusionary Unit meets the accessibility guidelines under the Fair Housing Act, the Household shall be selected for the initial or subsequent sale or lease of an Inclusionary Unit through a method established by the Owner in a marketing plan that is approved by DHCD.

2208.5 For the purposes of resale, an Inclusionary Unit Owner may execute a sales contract for the For Sale Inclusionary Unit at an agreed upon price up to the Maximum Resale Price with the first eligible household who can provide an active prequalification letter and complete the requirements of § 2214.3 and § 2214.4.

2209 INCLUSIONARY ZONING HOUSEHOLD REGISTRATION

2209.1 In order to be eligible to participate in the household selection process for the rental of an Inclusionary Unit under § 2208.1, a Household shall ~~complete a registration application form with such information as DHCD deems necessary and an Inclusionary Zoning Program education class conducted by DHCD or its designee.;~~

- (a) Complete a registration application form with such information as DHCD deems necessary including, but not limited to, the family size and preferred unit(s) size for which the household is eligible under § 2214.5, and;
- (b) Complete an Inclusionary Zoning Program education class conducted by DHCD or its designee.

2209.2 In order to be eligible to participate in the household selection process for the purchase of an Inclusionary Unit under § 2208.1 and under § 2208.3, a Household shall:

~~(a) Complete a registration application form with such information as DHCD deems necessary, attend an Inclusionary Zoning Program education class conducted by DHCD or its designee, the requirements of 2209.1;~~

~~(b) Complete a homeownership pre-purchase training by DHCD or its designee; and~~

~~(c) Hold an active pre-qualification letter from a first trust lender indicating the household's creditworthiness and ability to afford the purchase price.~~

2209.3 Registration shall become effective on the date that DHCD considers the registration to be complete and shall expire one (1) year thereafter, unless renewed prior to expiration.

2209.4 A Full-Time Student shall not be eligible for the registration list unless they are Dependents of Parents or Guardians whose Household would otherwise meet the Requirements for IZ program.

2209.5 An application to renew a registration shall indicate any change in any information that was required to be provided in the initial application.

2210 REGISTRATION FOR AN INCLUSIONARY UNIT

2210.1 If the Notice of Availability identifies a DHCD lottery as the chosen selection method or if the Notice of Availability identifies a marketing plan as the chosen selection method, but, as of the date of the Notice of Availability no such marketing plan has been approved by DHCD, then the provisions of this section shall apply.

2210.2 Within five (5) days of receipt of a Notice of Availability, DHCD shall notify the Households on the registration list by email of the availability of the Inclusionary Unit(s) and post the availability on a website designated by DHCD.

2210.3 After a notice is posted on a website designated by DHCD, Households with active registrations under § 2209 who wish to confirm their interest in the available Inclusionary Unit(s) shall provide to DHCD the following within fourteen (14) days of the posting in order to be considered in the household selection process for the Inclusionary Unit(s):

(a) A notice of the Household's interest to rent or purchase the Inclusionary Unit(s) for which the Notice of Availability was filed, in such form as may be approved by DHCD; and

~~(b) A certificate that confirms the Household's completion of an Inclusionary Zoning Program education class; and~~

(b) If the available Inclusionary Unit is a For Sale Inclusionary Unit, an active pre-qualification letter from a lender indicating the Household's credit worthiness and ability to afford the purchase price.

~~A certificate that confirms the household's completion of a homeownership pre-purchase training by DHCD or its designee~~

2210.4 DHCD will place all Households who meet the income and household size requirement and have complied with the requirements of § 2210.23 onto one of two (2) lists:

(a) The District List, consisting of Households with at least one (1) member who Lives in the District of Columbia or Works in the District of Columbia, and

(b) The Miscellaneous List, consisting of Households that do not qualify to be placed on the District List.

2211 HOUSEHOLD SELECTION THROUGH DISTRICT LOTTERY

2211.1 No later than twenty-one (21) days after DHCD posts the availability of an Inclusionary Unit(s) on a website designated by DHCD, DHCD shall hold a lottery of those Households that ~~identify~~ indicated their interest in the Inclusionary Unit under § 2210.23, that meet the size and Annual Income requirements for the available Inclusionary Unit(s), and provide all the documents required pursuant to § 2210.23.

2211.2 For each Inclusionary Unit, DHCD shall randomly select at least four (4) Households through a lottery from the District List. If fewer than four (4) Households on the District List meet the Household size and Annual Income standards applicable to the Inclusionary Unit, DHCD shall randomly select additional Households through a lottery from the Miscellaneous List in order to select at least four (4) Households that meet the Household size and Annual Income standards applicable for the Inclusionary Unit. If fewer than four (4) households that meet the Household size and Annual Income standards are available on both the District List and the Miscellaneous List, all Households that meet the Household size and Annual Income standards and are interested in the Inclusionary Unit will be given an opportunity to purchase or lease the Inclusionary Unit.

2211.3 If none of the Households selected through a lottery purchase or lease the Inclusionary Unit, DHCD shall continue to hold lotteries pursuant to the procedures set forth in this section until a Household purchases or leases the Inclusionary Unit or the Inclusionary Unit is leased or sold; except as provided in § 2211.64.

- 2211.4 DHCD may permit, in its sole and absolute discretion, the rental or sale of the Inclusionary Unit to a Household that is not registered under § 2209 but has been determined eligible under § 2214, ~~(a) if more provided:~~
- (a) More than three (3) months have passed since the Notice of Availability was submitted for the Inclusionary Unit or at least one (1) lottery has been conducted ~~under § 2210~~ pursuant to this section; or ~~(b) at~~
 - (b) At any time upon request of the Owner through a marketing plan approved by DHCD, as long as no Household selected through a lottery is still within the qualification process for an Inclusionary Unit at the time of the request.
- 2211.5 With respect to each Household selected pursuant to a lottery under this section, DHCD shall provide a notice under § 2212.2.
- 2212 DISTRICT LOTTERY – NOTIFICATION OF HOUSEHOLDS AND OWNERS**
- 2212.1 No later than seven (7) days after a lottery is held, DHCD shall provide to the Owner a written list of the Households selected pursuant to the lottery.
- 2212.2 No later than seven (7) days after a lottery is held, DHCD shall provide a notice to each of the Households selected in the lottery of their selection and shall provide to each Household the address, unit type, and maximum rent or purchase price of the Inclusionary Unit for which the lottery was held and the means by which the Household may provide to the Owner the information required by § 2212.3.
- 2212.3 The notice provided pursuant to § 2212.2 for a For Sale Inclusionary Unit shall inform each Household that the Household is required to provide the following, as appropriate, to the Owner within thirty (30) days after the date of the notice:
- (a) A Declaration of Eligibility, as described in § 2214.4;
 - (b) A Certification of Income, Affordability, and Housing Size, as described in § 2214.4;
 - (c) A mortgage pre-approval letter from a lender for the Inclusionary Unit for which the Household was selected;
 - (d) An executed sales contract for the For Sale Inclusionary Unit; and
 - (e) Any other documents requested by DHCD.
- 2212.4 The notice provided pursuant to § 2212.2 for a Rental Inclusionary Unit shall inform each Household that the Household is required to provide the following, as appropriate, to the Owner within fifteen (15) days after the date of the notice:

- (a) A Declaration of Eligibility, as described in § 2214.4;
- (b) A Certification of Income, Affordability, and Housing Size, as described in § 2214.4;
- (c) An executed lease for the Rental Inclusionary Unit; and
- (d) Any other documents requested by DHCD.

2212.5 A Household that fails to meet a deadline set forth in § 2212.3 or § 2212.4 shall be ineligible to purchase or rent the Inclusionary Unit(s) for which they have confirmed their interest, unless the Owner extends the deadline.

2213 DISTRICT LOTTERY — MARKETING OF INCLUSIONARY UNITS TO HOUSEHOLDS SELECTED PURSUANT TO THE LOTTERY

2213.1 The Owner shall market an Inclusionary Unit to each of the Households referred to the Owner under § 2212.1.

2213.2 The Owner may lease or sell the Inclusionary Unit to the first Household referred to the Owner that is ready and eligible to lease or purchase the Inclusionary Unit and also meets the Owner's non-income based rental or sale criteria.

2213.3 If more than one (1) Household is ready and eligible to lease or purchase the Inclusionary Unit at the same day, then the Household who has been on the Registration list the longest will have priority to lease or purchase the unit.

2213.4 The Inclusionary Unit Owner shall provide the Inclusionary Covenant to a Household referred to the Owner within five (5) days after a request from the Household.

2214 VERIFICATION OF HOUSEHOLD ELIGIBILITY; REQUIRED CERTIFICATIONS

2214.1 In order to be eligible to rent or purchase an Inclusionary Unit, a Household shall provide to the Owner of the Inclusionary Unit and DHCD a Declaration of Eligibility and a Certification of Income, Affordability, and Housing Size.

2214.2 Except as set forth in § 2208.2(a), an Owner shall sell or rent an Inclusionary Unit only to a Household which:

- (a) Has provided a Certification of Income, Affordability, and Housing Size, obtained from a Certifying Entity, that complies with the requirements of this section and

- (b) Has executed and provided a Declaration of Eligibility that complies with the requirements of this section.

2214.3 A Declaration of Eligibility required by this section shall be made on a form prescribed by DHCD and shall include a notarized statement sworn under penalty of perjury by all members of the Household who are at least eighteen (18) years of age that:

- (a) The Certification of Income, Affordability, and Housing Size provided to the Owner was obtained from a Certifying Entity;
- (b) The Household provided accurate and complete information to the Certifying Entity;
- (c) Each member of the Household will occupy the Inclusionary Unit as his or her principal residence;
- (d) No member of the Household has an ownership interest in any other housing or the member will divest such interest before closing on the purchase of, or signing the lease for, the Inclusionary Unit;
- (e) If a For Sale Inclusionary Unit, the members of the Household who are at least eighteen (18) years of age have satisfactorily completed an Inclusionary Zoning Program counseling class for homebuyers approved by DHCD and evidence of such satisfactory completion is attached to the Declaration of Eligibility;
- (f) If a Rental Inclusionary Unit, the members of the Household who are at least eighteen (18) years of age have satisfactorily completed a Inclusionary Zoning Program counseling class for renters approved by DHCD and evidence of such satisfactory completion is attached to the Declaration of Eligibility;
- (g) The Household understands its rights and obligations under the Inclusionary Covenant or lease riders required pursuant to § 2217.1; and
- (h) Any other representations required by DHCD as part of the form.

2214.4 A Certification of Income, Affordability, and Housing Size required by this section shall be made on a form prescribed by DHCD and signed by an authorized representative of a Certifying Entity , certifying:

- (a) The Household's Annual Income;

- (b) That the Household's Annual Income qualifies the Household as being either a Low-Income Household or Moderate-Income Household, except that upon lease renewal for a Rental Inclusionary Unit, the Household's Annual Income does not exceed 140% of the income limit imposed by the Certificate of Inclusionary Zoning Compliance applicable to the Inclusionary Unit;
- (c) The Household's size;
- (d) That the Household's size is at least the size applicable to the Inclusionary Unit under § 2214.5 upon initial occupancy only;
- (e) For a For Sale Inclusionary Unit, that the Household will not expend more than forty-one percent (41%) of its Annual Income on mortgage payments, Insurance, real property taxes, and condominium and homeowner association fees for the applicable Inclusionary Unit;
- (f) For the initial Rental Inclusionary Unit, that the Household will not expend more than thirty-eight percent (38%) of its Annual Income on rent and Utilities; and
- (g) Any other information or certifications required by DHCD.

2214.5 Unit size eligibility shall be determined based upon the following standards, regardless of the number of bathrooms or the existence of dens or other rooms that are not Bedrooms:

Unit Size (Bedroom)	Minimum Number of Persons in Unit
Studio or Efficiency (0)	1
1	1
2	2
3	3
4	4
5	5
6	5

2214.6 DHCD shall finalize its review of the information in § 2214.4 and notify the Certifying Entity or its authorized representative within ten (10) business days of receipt.

2215 CERTIFYING ENTITY

- 2215.1 A Household shall obtain, and an Owner shall accept, a Certification of Income, Affordability, and Housing Size only from a Certifying Entity.
- 2215.2 DHCD may approve a Certifying Entity pursuant to a request for proposals process or through an application process.
- 2215.3 DHCD shall approve a Certifying Entity based on the entity's experience in successfully implementing activities similar to those described in § 2215.4, the capacity and experience of the entity's staff and management, the capacity and support of the entity's board of directors, the strength of the entity's financial and management systems, and any other factors DHCD deems relevant.
- 2215.4 A Certifying Entity shall be responsible for verification of a Household's Annual Income, verification of a Household's household size, verification that the rent or purchase price of an Inclusionary Unit is affordable to the Household, counseling and training Households on the Inclusionary Zoning Program, reporting data to DHCD, compliance with relevant regulations, and any other activities required by DHCD.

2216 CLOSING PROCEDURES

- 2216.1 Prior to closing, the Owner shall attach as exhibits to the deed used to convey a For Sale Inclusionary Unit the Declaration of Eligibility provided to the Owner by the Household purchasing the Inclusionary Unit, or such portions of the document designated by DHCD.
- 2216.2 The Owner shall include the following statement in twelve (12) point or larger type, in all capital letters, on the front page of the deed:

THIS DEED IS DELIVERED AND ACCEPTED SUBJECT TO THE PROVISIONS AND CONDITIONS SET FORTH IN THAT CERTAIN INCLUSIONARY DEVELOPMENT COVENANT, DATED AS OF _____, 20__, RECORDED AMONG THE LAND RECORDS OF THE DISTRICT OF COLUMBIA AS INSTRUMENT NUMBER _____, ON _____ 20__, WHICH AMONG OTHER THINGS IMPOSES RESTRICTIONS ON THE SALE AND CONVEYANCE OF THE SUBJECT PROPERTY.

- 2216.3 Within seventeen (17) days after closing, the new Inclusionary Unit Owner shall provide DHCD with a signed copy of the United States Department of Housing and Urban Development Settlement Statement and a copy of the new deed (including the Declaration of Eligibility).

2217 RESPONSIBILITIES OF RENTAL INCLUSIONARY DEVELOPMENT

OWNERS AND TENANTS

- 2217.1 No later than sixty (60) days before each anniversary of the first day of the lease, a Household leasing a Rental Inclusionary Unit shall submit to the Inclusionary Development Owner the following information and documents on or with such form as may be prescribed by DHCD:
- (a) A statement as to whether the Tenant intends to renew the lease or vacate the Inclusionary Unit; and
 - (b) If the Tenant states that he or she intends to renew the lease:
 - (1) The names of each person residing in the unit;
 - (2) A Certification of Income, Affordability, and Housing Size that meets the requirements of § 2214.4; and
 - (3) A Declaration of Eligibility that meets the requirements of § 2214.4.
- 2217.2 A rider shall be attached to the lease agreement for each Rental Inclusionary Unit. The rider shall contain, but shall not be limited to, the following terms:
- (a) The Tenant shall provide a Certification of Income, Affordability, and Housing Size in accordance with § 2217.1;
 - (b) The Tenant shall provide a Declaration of Eligibility in accordance with § 2217.1;
 - (c) The Tenant shall annually confirm its eligibility for the Inclusionary Unit based on the Annual Income requirements;
 - (d) The Tenant shall provide the information and documents required by § 2217.1 within the time period specified by § 2217.1;
 - (e) The Inclusionary Unit shall be the principal residence of all adult Household members who occupy the Inclusionary Unit; and
 - (f) The Tenant shall not make intentional misrepresentations to DHCD or the Certifying Entity.
- 2217.3 The Owner may, in the Owner's discretion, extend the deadline established by § 2217.1; provided, the deadline shall not be extended beyond the last day of the Tenant's lease.

- 2217.4 If a Tenant is in violation of a lease agreement or rider, the Inclusionary Development Owner shall provide to the Tenant a notice to vacate in accordance with § 42-3505.01(b) of the D.C. Official Code.
- 2217.5 If a notice to vacate is provided pursuant to § 2217.4, the Inclusionary Development Owner may permit the Household to continue to occupy the unit at the current rent for no more than six (6) months after the Inclusionary Development Owner provides to the Tenant the notice to vacate. Acceptance of rent during this period will not constitute a waiver of the violation of the lease or another obligation of tenancy or void the notice to vacate.
- 2217.6 The Inclusionary Development Owner shall not require payment of rent that is greater than the maximum allowable rent determined in accordance with §§ 2207.2 and 2207.4.
- 2217.7 Annually within fifteen (15) days after the anniversary of the issuance date of the first Certificate of Occupancy for an Inclusionary Unit in a Rental Inclusionary Development, the Inclusionary Development Owner shall submit a report to DHCD setting forth the following information for the entire Rental Inclusionary Development:
- (a) The number of Rental Inclusionary Units, by bedroom count, that are occupied;
 - (b) The number of Rental Inclusionary Units, by bedroom count, that were vacated during the previous twelve (12) months;
 - (c) For each Rental Inclusionary Unit vacated during the previous twelve (12) months, the unit number of the unit that was vacated, the number of days the unit was vacant (or a statement that the unit is still vacant), and the date on which a Notice of Availability was provided to DHCD pursuant to § 2206;
 - (d) For each occupied Rental Inclusionary Unit, the names of all occupants, the Household size, and the Household's Annual Income as of the date of the most recent Certification of Income, Affordability, and Housing Size;
 - (e) A sworn statement that to the best of the Inclusionary Development Owner's information and knowledge, the Annual Income of each Household occupying each Rental Inclusionary Unit complies with the income limits applicable to the Rental Inclusionary Unit;
 - (f) A copy of each new and revised Certification of Income, Affordability, and Housing Size provided in accordance with § 2217.1; and

- (g) A certification that for each Rental Inclusionary Unit that became available over the course of the reporting year Households were selected to occupy the Rental Inclusionary Units pursuant to the approved marketing plan.

2218 RESPONSIBILITIES OF INCLUSIONARY UNIT OWNERS

- 2218.1 Annually on the anniversary of the closing date for a For Sale Inclusionary Unit, the Inclusionary Unit Owner shall submit to DHCD a certification that it continues to occupy the unit as its principal residence. The certification shall be submitted on or with such form as may be prescribed by DHCD.

2219 DETERMINATION OF MAXIMUM RESALE PRICE

- 2219.1 The Maximum Resale Price (“MRP”) shall be equal to the greater of:

- (a) The original purchase price during the first year of ownership, or (for all subsequent years) the Maximum Resale Price of the previous year, multiplied by the annual rate of change in the AMI over a ten year period starting with the first AMI published by HUD after the purchase of the Inclusionary Unit by the Inclusionary Unit Owner. The resulting formula for the new Maximum Resale Price in any given year “n” is therefore $MRP_n = \underline{MRP_{n-1}} + (MRP_{n-1} \times F_n)$ (“Formula”), where:
 - (1) n = is the current AMI year starting from the most recent publication of the AMI by HUD and
 - (2) F_n = the rate of appreciation of the current AMI of any given year “n.” F_n is calculated by determining the ten year compounded annual growth rate of the AMI; or
- (b) The maximum purchase price for the same unit type from the current published Maximum Price and Purchase Schedule as of the date of the Notice of Availability.

- 2219.2 Upon the submission of a Notice of Availability by an Inclusionary Unit Owner to DHCD, the Maximum Resale Price may be adjusted for the value of all the Eligible Capital Improvements and Eligible Replacement and Repair Costs made to the property during that Inclusionary Unit Owner’s ownership of the Inclusionary Unit to the extent they are permanent in nature and add to the market value of the property at the percentage of cost indicted:

- (a) Eligible Capital Improvements, which will be valued at 100% of reasonable cost, as determined by DHCD, and

- (b) Eligible Replacement and Repair Costs, which shall be valued at 50% of reasonable cost, as determined by DHCD.

- 2219.3 Any For Sale Inclusionary Development for which the Inclusionary Development Owner has executed and recorded an Inclusionary Development Covenant prior to [input effective date of amended rules] shall be subject to the terms of § 2219.1 effective as of the recordation date of the Inclusionary Development Covenant.
- 2219.4 Ineligible costs shall not be considered in determining the value of Eligible Capital Improvement and Eligible Replacement and Repair Costs.
- 2219.5 The value of improvements may be determined by DHCD based upon documentation provided by the Inclusionary Unit Owner or, if not provided, upon a standard value established by DHCD.
- 2219.6 DHCD may disallow an Eligible Capital Improvement or Eligible Replacement and Repair Cost if DHCD finds that the improvement diminished or did not increase the fair market value of the Inclusionary Unit.
- 2219.7 DHCD may reduce the value of an improvement claimed by the Inclusionary Unit Owner if there is evidence of abnormal physical deterioration of, or abnormal wear and tear to, the improvement.
- 2219.8 The Owner shall permit a representative of DHCD to inspect the Inclusionary Unit upon request to verify the existence and value of any improvements that are claimed by the Inclusionary Unit Owner.
- 2219.9 An allowance may be made in the Maximum Resale Price for the payment of legal fees associated with the sale of the Inclusionary Unit if written approval is obtained from DHCD.
- 2219.10 The value of personal property transferred to a purchaser in connection with the resale of a For Sale Inclusionary Unit shall not be considered part of the sales price of the For Sale Inclusionary Unit for the purposes of determining whether the sales price of the For Sale Inclusionary Unit exceeds the Maximum Resale Price.

2220 RENTAL OF A FOR SALE INCLUSIONARY UNIT

- 2220.1 An Inclusionary Unit Owner may temporarily lease a For Sale Inclusionary Unit in accordance with the provisions of this section if such lease is not otherwise prohibited by applicable cooperative, condominium, or homeowner association rules.
- 2220.2 Upon written submission of a request for a waiver of the principal occupancy requirement for a temporary absence from an Inclusionary Unit and supporting

documentation, DHCD may permit an Inclusionary Unit Owner to temporarily lease a For Sale Inclusionary Unit for a period not to exceed thirty-six (36) months. DHCD shall approve or disapprove the request in its sole discretion considering the evidence before it.

~~2220.3 The lease term may not exceed twelve (12) months.~~

2220.3 If the request or any subsequent renewal is denied by DCHD the Inclusionary Unit Owner must reoccupy the unit as their principal residence or sell the unit in accordance with § 2206.

2220.4 An Inclusionary Unit Owner who is leasing a For Sale Inclusionary Unit in accordance with this section shall select tenant Households pursuant to § 2208.2(c) and § 2208.3(b).

Inclusionary Unit Owners that are approved by DHCD to temporarily lease their For Sale Inclusionary Units, and tenants of these For Sale Inclusionary Units, shall comply with the requirements in § 2217.

2220.5 The maximum rent charged during a temporary lease of a For Sale Inclusionary Unit shall be the rent set forth in the Rent and Price Schedule in place on the date of the lease.

2220.6 A condominium fee or assessment that a tenant of a For Sale Inclusionary Unit Owner leased under this section is required to pay pursuant to the terms of his or her lease shall be considered part of the rent of the tenant when determining whether the rent charged is consistent with the Maximum Rent and Purchase Price Schedule.

2221 CONVERSION OF A RENTAL INCLUSIONARY DEVELOPMENT TO A FOR SALE INCLUSIONARY DEVELOPMENT

2221.1 No condominium or cooperative documents may be filed to convert a Rental Inclusionary Development to a condominium or cooperative until a new application for a Certificate of Inclusionary Zoning Compliance is filed by the Inclusionary Development Owner and approved by DCRA and a Certificate of Inclusionary Zoning Compliance is issued by DCRA pursuant to the provisions set forth in § 2203.

2221.2 Following the issuance of a new Certificate of Inclusionary Zoning Compliance under this section, the Inclusionary Development Owner shall record a new or amendatory Inclusionary Development Covenant, applicable to a For Sale Inclusionary Development that complies with § 2204 prior to the conveyance of any For Sale Inclusionary Unit.

- 2221.3 The application for a Certificate of Inclusionary Zoning Compliance filed under this section shall comply with § 2202.4.
- 2221.4 Tenants occupying Rental Inclusionary Units shall have the same rights as are provided in the Rental Housing Conversion and Sale Act of 1980, effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code §§ 42-3401.01 *et seq.*) (“Conversion Act”).
- 2221.5 The offered sales price for a Rental Inclusionary Unit converted to a For Sale Inclusionary Unit shall not exceed the applicable maximum purchase price stated on the Price and Rent Schedule that is in effect on the date that the Tenant receives the first notice of conversion pursuant to the Conversion Act.
- 2221.6 If the tenant does not purchase the Inclusionary Unit within the time provided in the Conversion Act, and the tenant is not entitled to remain in the unit pursuant to Section 208 of the Conversion Act (D.C. Official Code § 42-3402.08), the Inclusionary Development Owner shall furnish DHCD with a Notice of Availability pursuant to § 2206 and register the Inclusionary Unit with the website established by the District pursuant to the Affordable Housing Clearinghouse Directory Act of 2008, effective August 15, 2008 (D.C. Law 17-215; 55 DCR 7494 (July 11, 2008)).

2222 SALE BY HEIRS

- 2222.1 If an Inclusionary Unit Owner dies, at least one (1) heir, legatee, or other person taking title to the Inclusionary Unit by will or by operation of law shall occupy the Inclusionary Unit in accordance with these regulations or shall provide DHCD with a Notice of Availability in accordance with § 2206.

2223 FORECLOSURE

- 2223.1 If title to a For Sale Inclusionary Unit is transferred following foreclosure by, or deed-in-lieu of foreclosure to, a mortgagee in first position, or a mortgage in first position is assigned to the Secretary of the U.S. Department of Housing and Urban Development, Inclusionary Unit Covenant shall be released in accordance with the provisions of the Zoning Commission’s Inclusionary Zoning Regulations (Title 11 DCMR, Chapter 26).

2224 VIOLATIONS AND OPPORTUNITY TO CURE

- 2224.1 Prior to exercising the authority to revoke a building permit or Certificate of Occupancy pursuant to § 104 of the Inclusionary Zoning Act, DCRA shall provide to the person who is alleged to have violated the Inclusionary Zoning Act or this chapter a written notice setting forth with particularity the alleged violation and shall provide to that person at least thirty (30) days to cure the alleged violation. If the person cures the violation within the designated cure period,

DCRA shall not exercise its authority to revoke a building permit or Certificate of Occupancy pursuant to § 104 of the Inclusionary Zoning Act. DCRA may extend the designated cure period for good cause shown.

- 2224.2 DCRA shall not revoke a building permit or Certificate of Occupancy pursuant to § 104 of the Inclusionary Zoning Act except for a willful, substantial violation of the Inclusionary Zoning Act or this chapter.

2225 WAIVER

- 2225.1 The Director of DHCD may, upon the request of an agency of the District or the written request of an Inclusionary Development Owner, waive any or all of the provisions of this chapter in the DHCD's sole and absolute discretion if waiver of the provision supports the general purposes of the Inclusionary Zoning Program within 11 DCMR § 2600.3.

2226 APPLICABILITY

- 2226.1 These rules shall become applicable immediately in accordance with the Zoning Commission's Inclusionary Zoning Regulations (Title 11 DCMR, Chapter 26) and the provisions of the Inclusionary Zoning Act.

2299 DEFINITIONS

- 2299.1 When used in this chapter, the following words and phrases shall have the meanings ascribed below:

Annual Income – annual income as defined in 24 C.F.R. § 5.609 as of [input effective date of amended rules].

Area Median Income – the area median income for a household in the Washington Metropolitan Statistical Area as set forth in the periodic calculation provided by the United States Department of Housing and Urban Development, adjusted for household size without regard to any adjustments made by the United States Department of Housing and Urban Development for the purposes of the programs it administers. Adjustments of Area Median Income for household size shall be made as prescribed in Section 2(1) of the Housing Production Trust Fund Act, effective March 16, 1989 (D.C. Law 7-202; D.C. Official Code §§ 42-2801(1)).

Bedroom – a room with immediate access to an exterior window and a closet that is designated as a “bedroom” or “sleeping room” on construction plans submitted with an application for a building permit for an Inclusionary Development.

Certificate of Occupancy - a document issued by the Department of Consumer and Regulatory Affairs's Office of the Zoning Administrator certifying a building's compliance with applicable building codes and other laws, and indicating it to be in a condition suitable for occupancy.

Certifying Entity – an entity approved by DHCD pursuant to § 2215.5.

DCRA – the D.C. Department of Consumer and Regulatory Affairs.

Dependent – an individual as defined in § 152 of the Internal Revenue Code (26 U.S.C. § 154).

DHCD – the D.C. Department of Housing and Community Development.

Eligible Capital Improvement – major structural system upgrades, special assessments, new additions, and improvements related to increasing the health, safety, or energy efficiency of an Inclusionary Unit. Such improvements generally include: (i) major electrical wiring system upgrades; (ii) major plumbing system upgrades; (iii) room additions; (iv) installation of additional closets and walls; (v) alarm systems; ~~(vi) smoke detectors;~~ ~~(vii);~~ (vi) removal of toxic substances, such as asbestos, lead, mold, or mildew; (vii) insulation or upgrades to double-paned windows or glass fireplace screens; and (viii) upgrade to Energy Star built-in appliances, such as furnaces, water heaters, stoves, ranges, dishwashers, and microwave hoods.

Eligible Replacement and Repair Cost – in-kind replacement of existing amenities and repairs and general maintenance that keep an Inclusionary Unit in good working condition. Such improvements generally include: (i) electrical maintenance and repair, such as switches and outlets; (ii) plumbing maintenance and repair, such as faucets, supply lines, and sinks; (iii) replacement or repair of flooring, countertops, cabinets, bathroom tile, or bathroom vanities; (iv) non-Energy Star replacement of built-in appliances, including furnaces, water heaters, stoves, ranges, dishwashers, and microwave hoods; (v) replacement of window sashes; (vi) fireplace maintenance or in-kind replacement; (vii) heating system maintenance and repairs; and (viii) lighting system.

For Sale Inclusionary Development – the portion of an Inclusionary Development that includes or will include Inclusionary Units that will be sold to Households.

For Sale Inclusionary Unit – an Inclusionary Unit that will be or has been sold to a Household.

Full Time Student - a person who is enrolled in a class load that is considered full-time for day students under the standards and practices of the college or university attended by that person.

Guardian - a person who is appointed by court order and who is charged with the care, custody, and responsibility of a person under the age of 18 years.

Household – all persons who will occupy the Inclusionary Unit. A Household may be a single family, one (1) person living alone, two (2) or more families living together, or any other group of related or unrelated persons who share living arrangements.

Inclusionary Development – a development subject to the provisions of the Inclusionary Zoning Program.

Inclusionary Development Covenant – the Inclusionary Development Covenant described in § 2204.

Inclusionary Development Owner – a person, firm, partnership, association, joint venture, or corporation, or government with a property interest in land or improvements that is or will be occupied by an Inclusionary Development, but excluding Inclusionary Unit Owners.

Inclusionary Unit– a dwelling unit set aside for sale or rental to Low-Income or Moderate-Income Households as required by the Inclusionary Zoning Program.

Inclusionary Unit Owner – a Household member or members that own(s) a For Sale Inclusionary Unit.

Inclusionary Zoning Act – the Inclusionary Zoning Implementation Act of 2006, effective March 14, 2007 (D.C. Law 16-275; D.C. Official Code §§ 6-1041.01 *et seq.*).

Inclusionary Zoning Program – all of the provisions of the Zoning Commission's Inclusionary Zoning Regulations, the Inclusionary Zoning Act, and this Chapter.

Ineligible Costs – normal maintenance, general repair work, personal or decorative items or work, cosmetic enhancements, installations with limited useful life spans, and non-permanent fixtures not eligible for capital improvement credit as determined by DHCD. Such costs generally include: (i) cosmetic enhancements such as fireplace tiles and mantels, decorative wall coverings or hangings, window treatments (for example, blinds, shutters, and curtains), installed mirrors, shelving, and refinishing of existing surfaces; (ii) non-permanent fixtures, such as track lighting,

door knobs, handles and locks, and portable appliances; and (iii) installations with limited useful life spans, such as carpet, painting of existing surfaces, and light bulbs.

Insurance – hazard insurance for single family For Sale Inclusionary Unit and mortgage insurance for any For Sale Inclusionary Unit.

Lives in the District of Columbia - the situation where a person who maintains a place of abode in the District of Columbia as his or her actual, regular, and principal place of residence.

Low-Income Household – a Household with a total Annual Income equal to or less than fifty percent (50%) of the Area Median Income, adjusted for household size.

Market Rate Unit – a unit in an Inclusionary Development that is not an Inclusionary Unit.

Moderate-Income Household – a Household with a total Annual Income greater than fifty percent (50%) and less than or equal to eighty percent (80%) of the Area Median Income adjusted for household size.

Notice of Availability – the notice required to be provided to DHCD by an Owner in accordance with § 2206.

Owner – both an Inclusionary Development Owner and an Inclusionary Unit Owner.

Parent - the natural or adoptive mother or father of a person.

Rent and Price Schedule – the rent and price schedule published in the *D.C. Register* pursuant to § 103(b) of the Inclusionary Zoning Act (D.C. Official Code § 6-1041.03(b)).

Rental Inclusionary Development – the portion of an Inclusionary Development that includes, or will include, Inclusionary Units that will be leased to Households.

Rental Inclusionary Unit – an Inclusionary Unit that will be or has been leased to a Household.

Tenant – a Household member or members that occupy a Rental Inclusionary Unit.

Utilities – water, sewer, electricity, natural gas, trash, and any other fees required in order to occupy the Inclusionary Unit.

Works in District of Columbia - the situation where a person who reports to work in the District, irrespective of any travel for work or telecommuting.

All persons desiring to comment on the subject matter of this proposed rulemaking should submit comments in writing to Taura Smalls, Legislative Affairs Specialist, Department of Housing and Community Services, 1800 Martin Luther King, Jr, Ave, SE, Washington, D.C. 20020, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rules can be obtained from the Department at the address listed above. A copying fee of one dollar (\$1) will be charged for each requested copy of the proposed rulemaking requested.