

# The Committee of 100 on the Federal City



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Ms. Sharon Schellin  
Secretary to the Zoning Commission  
Office of Zoning  
441 4<sup>th</sup> Street, N.W. Suite 200-S  
Washington, D.C. 20001

Re: Comments on Proposed Rulemaking, Z.C. Case No. 04-33G,  
Inclusionary Zoning

Dear Ms. Schellin:

Thank you for the opportunity to comment on the proposed rulemaking action on the Inclusionary Zoning (IZ) regulations found in Title 11, Subtitle C, Chapter 10. The following comments are submitted on behalf of the Committee of 100 on the Federal City.

**Targeted Median Family Income (MFI)**

The proposal shifts current targets to 60% MFI for rental IZ units and 80% MFI for ownership IZ units. We strongly support this proposed change. Under existing IZ regulations, the vast majority of IZ units were targeted to households at 80% MFI at rates very close to private market rates. Expanding the opportunity for IZ housing to provide deeper affordability means the IZ program will more greatly meet the need for affordable housing in the District of Columbia.

**Family-Sized Units**

We're disappointed that this rulemaking process did not give greater consideration to how best to incentivize the production of affordable larger family-sized units. We will continue working with the Zoning Commission, the Office of Planning, the Council, and other stakeholders to identify appropriate alternatives for accommodating low-income District families.

## Applicability

With affordable housing needs as severe as they are, we urge the Commission to reconsider IZ applicability in the Downtown Development zones. New zoning regulations increase the size of the Downtown area three-fold. The proposal would continue to exempt these Downtown zones from IZ.

## Set-Aside Requirements

The proposal requires a 10% set-aside for stick built construction while steel and concrete frame construction requires only 8%. This is premised on arguments that a smaller set-aside for steel and concrete frame construction is appropriate because the cost of such construction is greater. We would have preferred increasing the required percentages. Recently enacted legislation by the Council requires that developments on public land set aside 30% of new building for affordable units. And, a recent Urban Institute report shows that IZ programs in similar peer jurisdictions require set asides of between 15% and 20%.

In any case, confining the 10% set-aside to stick-built construction **located in zones with by-right height limits of fifty feet or less** is no longer supported by the facts underlying the proposed requirement. According to the Office of Planning, since IZ was first introduced, changes in stick built construction have enabled residential developments to go from four or five stories to six and above. According to OP: “This is enabling developments in zones that permit heights of 75 feet to use the less expensive stick construction to achieve the full height where previously they would have needed steel and concrete.”

If developers can use and are using stick built construction in higher and higher buildings (for example, buildings over 50 feet), there is no rationale for connecting the 10% set-aside for stick built construction to units located in fifty feet and below zones.

We suggest the following change to the proposal:

1003.1 An inclusionary development which does not employ Type I construction as defined by Chapter 6 of the International Building Code as incorporated into District of Columbia Construction Codes (Title 12 DCMR) to construct a majority of dwelling units ~~and which is located in a zone with a by-right height limit of fifty feet (50 ft.) or less~~ shall set aside the greater of ten percent (10%) of the gross floor area dedicated to residential use...”

## Bonus Density

The Committee of 100 strongly supports retaining the current percent of bonus density permitted (i.e., 20%). There is no evidence of any cost offset need to increase it; indeed, requests from developers to voluntarily opt-in to the IZ program suggest that the existing bonus density adequately compensates for the affordability requirements. Furthermore, increasing bonus density would almost certainly give rise to inconsistencies with the Comprehensive Plan.

### Height and Lot Occupancy Requirements

We support retaining current height and lot occupancy requirements established to protect aesthetics, green space, light and air, and other desirable features of residential neighborhoods . Relieving IZ developments of current lot occupancy restrictions would raise, or potentially raise, conflicts with the Comprehensive Plan.

### Voluntary Compliance

The proposal would permit residential developments of fewer than ten units (that do not otherwise trigger the IZ requirement) to participate in IZ voluntarily and have access to bonus density if one Inclusionary Unit is produced. The Committee of 100 continues to be concerned about the impacts of additional IZ bonus density (height and mass) in low-density areas.

### Mayor's Right-to-Purchase

We support expanding the Mayor and the District of Columbia Housing Authority's right to purchase and maintain inclusionary units in for-sale inclusionary developments. This allows the Mayor and Housing Authority to intervene when units experience marketing difficulties and provides greater flexibility toward reaching eligible low-income households.

### Off-Site Compliance with Inclusionary Zoning

The existing IZ regulations permit some or all IZ units to be provided off-site. We strongly oppose off-site compliance without a rigid evaluation of economic hardship and other pertinent issues. We are pleased that the proposal retains existing requirements that off-site compliance must go to the Board of Zoning Adjustment for review and approval.

What distinguishes IZ from other low-income housing programs is that part of its purpose is to mix income levels in development projects so that all buildings, blocks, and neighborhoods reflect the economic diversity of the city. In so doing, the IZ program provides an expanded opportunity for lower income residents to live near Metro, job centers, services, schools, and other desirable amenities.

### Technical Corrections/Clarifications

We offer the following technical corrections and clarifications for your consideration:

- The proposed revised definition of the word "bedroom" creates confusion about whether "sleeping rooms" could be substituted for "bedrooms" in IZ units in the application of proportionality required under Section 1005.1 of the proposal. Sleeping rooms are not required to have windows. This confusion could be eliminated with the following change to the proposed definition:

*Bedroom: A habitable room with ~~immediate access to~~ an exterior window and a closet that is designated as a “bedroom” or “sleeping room” on construction plans submitted in an application for a building permit.*

- The proposal seeks to eliminate references to the R-5-E (i.e., RA-5) zone district because IZ is not applicable to the R-5-E (i.e., RA-5) zone. A reference to the RA-5 zone still appears in Table C Section 1002.4 (first Base Zone listed) and should be removed.

### Effective Date

The Committee of 100 strongly supports adoption of the earliest possible effective date. We support the Office of Planning’s recommendation of an effective date six months from the date final amendments are adopted. The sooner the effective date for the revised IZ regulations, the sooner new inclusionary developments can provide badly-needed affordable units. This is especially important while DC’s housing market is stronger than ever.

Thank you for your consideration of these comments.

Sincerely,

Nancy MacWood, Chair  
Committee of 100

Caroline Petti, Chair  
Committee of 100 Affordable Housing Subcommittee