

## **MEMORANDUM**

**TO:** District of Columbia Zoning Commission

**FROM:** <sup>JLS</sup> Jennifer Steingasser, Deputy Director Development Review and Historic Preservation

**DATE:** September 10, 2018

**SUBJECT:** ZC 04-33I Inclusionary Zoning Corrections and Reorganization

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### **I. BACKGROUND**

At its' November 13, 2017 public meeting, the Zoning Commission set down for a public hearing a series of amendments to the zoning regulations pertaining to Inclusionary Zoning. The proposed amendments would correct errors and omissions, make technical changes, reorganize certain sections, and provide clarifications to language. They are the result of ongoing monitoring of the provisions and their ease of administration by the Department of Consumer and Regulatory Affairs' (DCRA) Zoning Administrator and the Department of Housing and Community Development (DHCD).

At setdown, the Office of Planning (OP) requested and the Commission granted flexibility for OP to continue working the Office of Attorney General (OAG), DCRA, and DHCD to refine language, the organization, and the interaction of the IZ regulations within the broader Title 11. The public hearing notice reflected these refinements.

This report presents the Office of Planning's final recommendations. The report focuses on the recommended amendments that changed between the time of OP's set down report dated November 3, 2017 and the public hearing notice published in the DC Register June 22, 2018.

### **II. RECOMMENDATION**

The Office of Planning recommends the Zoning Commission adopt several proposed amendments to Sub-Title C Chapter 10, Inclusionary Zoning (IZ), and multiple zone sub-titles for consistency. The recommended amendments include:

- Correct errors and omissions;
- Make technical corrections;
- Reorganize certain sections;
- Place zone specific regulations in the zone subtitles for ease of use;
- Provide clarifications to language; and
- Fill a gap in § 1005 Development Standards regarding the location of IZ units.

Since setdown of the case, OP has worked with DHCD, DCRA and OAG on the proposed text amendments and has modified a few of the recommendations. The recommended text amendments are organized in three categories:

- A. Proposed Amendments to Subtitle C Chapter 10 that Changed Between Set Down and Public Notice**
- B. Proposed Amendments to Other Subtitles that Changed between Set Down and Public Notice**
- C. Proposed Amendments Unchanged from Set Down**
- D. Proposed Amendments withdrawn from the Public Notice**

Analysis of the recommendations changed since set down is provided in this report for categories A. and B.; analysis for amendments unchanged since setdown (category C.) is provided in the OP setdown report (Exhibit 2). Within each division amendments are presented individually in numerical order. New text is formatted with **bold underline** and deletions are formatted with ~~strikethrough~~.

## **A. Proposed Amendments to Subtitle C Chapter 10 that Changed Between Set Down and Public Notice**

This section focuses on OP's recommended amendments that changed in consultation with OAG, DCRA, and DCHD after OP's set down report and prior to the public hearing notice. It provides justification of each amendment and analysis as necessary.

### **Amendment #1. Subtitle B § 100.2 Definitions**

Recommended amendments the text in Subtitle B § 100.2, Definitions, include the addition of the Zoning Commission, which can approve the provision of additional IZ units, or by the Board of Zoning Adjustment, which can permit opting into IZ as a special exception. Proposed amendments are as follows:

~~Development, Inclusionary: A residential development subject to the provisions of Subtitle C, Chapter 10, Inclusionary Zoning~~

**Inclusionary Development: A residential development subject to the provisions of Subtitle C, Chapter 10, Inclusionary Zoning, by an Order of the Zoning Commission or by the Board of Zoning Adjustment.**

**Inclusionary Unit: A dwelling unit set aside for sale or rental to a targeted household required by Subtitle C, Chapter 10, by an Order of the Zoning Commission, or by the Board of Zoning Adjustment.**

## **Amendment #2 Subtitle C § 1001.2**

Instead of listing in Subtitle C all the zones where IZ is applicable, the recommendation is to identify the applicability of IZ in the appropriate zone chapters and subtitles. The following recommended amendments to Subtitle C § 1001.2 will result in the deletion of § 1001.2 (a) and inclusion of a reference to the applicability of IZ within the individual zone subtitles and chapters. The amendment retains the non-zone related triggers of number of units, lots, penthouse and conditions of a voluntary opt-in. There are no substantive changes since the setdown.

1001.2 Except as provided in Subtitle C § 1001.5, the requirements and modifications of this chapter shall apply to developments ~~meeting~~ **in zones in which the requirements of this chapter are identified as applicable; provided the development meets one or more of** the following criteria:

- (a) ~~Are mapped in the R-2, R-3, R-10, R-13, R-17, R-20, RA-1 through RA-4, RA-6, RA-7, RA-8, or RA-9 zone; any RF, ARTS, CG, RC, USN, STE, SEFC, or HE zone; the NC-1 through NC-5 or NC-7 through NC-13 zone; the MU-1 through MU-10 or MU-12 through MU-26, MU-28, MU-29 or MU-30 zone; or the D-2 or D-4 zone.~~
- (b) Is proposing new gross floor area that would result in ten (10) or more dwelling units, **including dwelling units located in a cellar or penthouse;**
- (c) Will have ten (10) or more new dwelling units constructed concurrently or in phases, on **one (1) or more** contiguous lots or lots divided by an alley if such lots were under common ownership, control, or affiliation within one (1) year prior to the application for the first building permit;
- (d) Consists of a residential building, other than a single dwelling unit or flat, that has penthouse habitable space pursuant to Subtitle C § 1500.11.; or
- (e) **(d)** Any semi-detached, attached, flat or multiple dwellings development not described in Subtitle C § ~~1001.2(b) through 1001.2(d)~~ **§§ 1001.2(a) through 1001.2(c)** if the owner voluntary agrees to the requirements of Subtitle C § 1003 and meets all other requirements of this chapter, provided:
  - (1) The square footage set aside achieves a minimum of one (1) Inclusionary unit;
  - (2) ~~Residential developments located in the areas identified by Subtitle C § 1001.5(a) may not use the modifications to height and lot occupancy, or minimum lot area or width; and~~ **Modifications to height, lot occupancy, minimum lot area or minimum lot width shall not be applicable in the following areas:**

- (A) **The R-1-A and R-1-B zones;**
- (B) **The MU-13 zone in the Georgetown Historic District;**
- (C) **The R-3 zone in the Anacostia Historic District;**
- (D) **The MU-27 zone;**
- (E) **The D-1-R, D-3, D-4-R, and D-5 zones;**
- (F) **The SEFC zones of Subtitle K, Chapter 2 that are subject to a land disposition or other agreement with the District of Columbia that mandates the provision of affordable housing;**
- (G) **The WR zones of Subtitle K, Chapter 9; and**
- (H) **The NC-6 zone.**

- (3) Any use of the bonus density **and modifications** provided in Subtitle C § 1002 in the R-2, R-3, R-10, R-13, R-17, R-20, RF-1, RF-2, RF-3, RF-4, RF-5, or the RA-1 zones shall require special exception approval pursuant to Subtitle X, Chapter 9.

### **Amendment #3. Subtitle C § 1001.3**

The following recommended amendment to Subtitle C § 1001.3 simply rephrases the reference to § 1001.2(b) to eliminate the redundancy of one or more lots used on OP's set down report. There are no substantive changes since the setdown.

- 1001.3 If more than one (1) building permit is issued for a development **described in Subtitle C § 1001.2(b)**, the number of dwelling units and new gross floor area used to establish the applicability of the IZ requirements, and associated IZ modifications, shall be based on all the applications occurring within a three (3) year period, starting from the first building permit application.

### **Amendment #4. Subtitle C § 1001.4**

The recommended amendment to Subtitle C § 1001.4 clarifies how the percentage requirements of § 1003.1 and 1003.2 apply, when the new construction of ten (10) units trigger is an addition to an existing structure. This assists both the developer and DCRA in calculating the total IZ requirement. The matrix below provides examples of the possible permutations.

#### **Matrix of IZ Requirements upon 10 New Unit Trigger Applied to Existing Buildings**

		Expansion of 50% or more	
		No	Yes
Uses Bonus Density	No	Addition Only	Addition and Existing
	Yes	Addition and Existing	Addition and Existing

Recommended changes to § 1001.4 are as follows, and represent a re-wording and reorganization of what was presented at setdown, without substantive changes:

1001.4 ~~If the new gross floor area comprising ten (10) or more units would result in an increase of fifty percent (50%) or more in the floor area of an existing building, IZ requirements and modifications shall apply to both the existing and the increased gross floor area.~~ **For existing buildings that become subject to the requirements of this chapter pursuant to Subtitle C § 1001.2, the requirements of Subtitle C §§ 1003.1 and 1003.2 and the available modifications to applicable development standards shall apply:**

**(a) To both the existing and the new gross floor area if the new gross floor area:**

**(1) Utilizes bonus density provided by Subtitle C § 1002; or**

**(2) Results in an increase of fifty percent (50%) or more in the building's gross floor area; and**

**(b) To only the new gross floor if the new gross floor area:**

**(1) Does not utilize the bonus density provided by Subtitle C § 1002; and**

**(2) Does not result in an increase of fifty percent (50%) or more in the building's gross floor area.**

### **Amendment #5. Subtitle C § 1001.6**

The recommended amendment to Subtitle C § 1001.6 reorganizes, corrects and updates exemptions to IZ. In consultation with DHCD, § 1001.6 (a)(5) corrects and updates the application of IZ pricing requirements to exempted affordable projects when their subsidies controls expire. It updates DHCD's position from a project retaining the IZ units at the subsidy pricing, to converting them to IZ pricing. DHCD's change in position is a result of the 04-33G shift in rental

targets from 50 percent and 80 percent of the Median Family Income (MFI), to 60 percent of MFI. This eliminated many of the potential conflicts between different affordable housing programs.

Recommended changes to § 1001.6(b) update exemptions resulting from changes in definitions under ZR 2016, which would have resulted in applying IZ requirements to such uses as senior nursing facilities.

Finally, § 1001.6 (c) and (d) relocate dormitory and housing for foreign missions that were deleted from § 1001.5. Relocating them to §1001.6 exempts them from IZ penthouse requirements.

Recommended changes to § 1001.6 are as follows:

1001.6 **The** ~~IZ~~ requirements of this chapter shall not apply to:

- (a) Any development subject to a mandatory affordable housing requirement that exceeds the requirements of this chapter as a result of District law or financial subsidies funded in whole or in part by the Federal or District Government and administered and/or monitored by the Department of Housing and Community Development (DHCD), the District of Columbia Housing Finance Agency (DCHFA), or the District of Columbia Housing Authority (DCHA); provided:
  - (1) ...
  - (3) The requirements set forth in subparagraphs (1) and (2), of this paragraph, shall be stated as declarations within a covenant approved by the District of Columbia; ~~and~~
  - (4) The approved covenant shall be recorded in the land records of the District of Columbia prior to the date that the first application for a certificate of occupancy is filed for the project; except that for developments that include buildings with only one (1) dwelling unit, the covenant shall be recorded before the first purchase agreement or lease is executed; **and**
  - (5) **The Exempt Affordable Units shall be sold or rented in accordance with the Inclusionary Zoning Program upon the expiration of the affordable housing requirements of the District Law or financial subsidies as shall be described in the covenant.**
- (b) Boarding houses, **assisted living facilities, community residence facilities, youth residential care homes, substance abuser's homes,** community based institutional facilities; or single room occupancy projects within a single building;

(c) Housing developed by or on behalf of a local college or university exclusively for its students, faculty, or staff; and

(d) Housing that is owned or leased by foreign missions exclusively for diplomatic or official staff.

**Amendment #6. Subtitle C § 1001.8**

The addition of § 1001.8 fills a gap comparable to § 1001.3. Section 1001.3 requires IZ apply to a project if a tenth unit is applied for within three years of the first unit’s building permit application. The addition of §1001.8 ensures that if an exempted project converts to an IZ applicable project within five years of the building permit application, then IZ shall apply to the property upon the conversion to the IZ applicable use. Recommended changes to § 1001.8 are as follows:

**1001.8 Unless otherwise exempted, any conversion of a development identified in Subtitle C §§ 1001.5 and 1001.6(b)-(d) to a residential use not listed in Subtitle C §§ 1001.5 and 1001.6 within 5 years from the first building permit for the development shall be subject to the requirements of this chapter.**

**Amendment #7. Subtitle C § 1002**

Recommended amendments to Subtitle C § 1002 clarify the title of the section and relocates zone-specific changes in lot width and area, lot occupancy, and height to the zone subtitles and chapters. In the public hearing notice, the section was condensed to § 1002.2, which permitted § 1002.4 to be deleted entirely and reserved for future use. Recommended changes to § 1002 are as follows:

1002 BONUSES AND ADJUSTMENTS **MODIFICATIONS** TO INCENTIVIZE INCLUSIONARY UNITS

1002.1 ....

1002.2 ~~Inclusionary developments in the zones identified in the following table may use the minimum lot dimensions identified in the table in lieu of the otherwise required lot dimension required by Subtitles D and E:~~ **Modification to certain development standards are available to an Inclusionary Development as indicated in the applicable subtitle, as follows:**

~~TABLE C § 1002.2: IZ DIMENSIONAL MODIFICATIONS FOR LOWER DENSITY ZONES~~

Base Zone	IZ Dimensional Modifications for Lower Density Zones		
	Minimum Lot Area	Minimum Lot Width	Minimum Lot Width with Special Exception
R 2, R 10 Detached	3,200 sq. ft.	40	32
R 2, R 10 Semi Detached	2,600 sq. ft.	30	25
R 3, R 13, R 17, R 20	1,600 sq. ft.	20	16

RF 1, RF 2, RF 3, RF 4, RF 5	1,500 sq. ft.	18	16
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**TABLE C § 1002.2: MODIFICATIONS AVAILABLE TO INCLUSIONARY DEVELOPMENTS**

<u>Zone(s)</u>	<u>Modification</u>	<u>Subtitle(s)</u>
<b>R and RF</b>	<b>Minimum lot dimensions</b>	<b>D and E</b>
<b>RA</b>	<b>Floor Area Ratio</b>	<b>F</b>
<b>MU, NC, ARTS, RC, &amp; CG</b>	<b>Floor Area Ratio, Height and Lot Occupancy</b>	<b>F, G, H, I and K</b>

1002.4 Inclusionary developments in the zones below may use the following modifications to height and lot occupancy in order to achieve the bonus density: **(RESERVED)**

**TABLE C § 1002.4: MODIFICATIONS TO HEIGHT AND LOT OCCUPANCY FOR BONUS DENSITY**

Base Zone	Matter of Right Zoning Constraints			IZ Zoning Modifications	
	Lot Occupancy	Zoning Height	Zoning FAR	Lot Occupancy	Height (feet)
RA 5, RA 11, D 1	75%	90 ft.	6.00	90%	90
MU 10, MU 22, MU 29, ARTS 4	75%	90 ft.	6.00	80%	100
MU 4, MU 17, MU 24, MU 25, MU 26 through MU 29, MU 33, NC 2, NC 3, NC 4, NC 7, NC 9, NC 14, NC 16 ARTS 1, RC 2	60%	50 ft.	2.50	75%	50
MU 5, MU 18, ARTS 2, RC 3, NC 5, NC 10, NC 17	80%	65 ft.	3.50	80%	70
MU 6, MU 19, NC 11	80%	90 ft.	6.00	80%	100
MU 7, MU 28, ARTS 3, NC 8, NC 12, NC 15	75%	65 ft.	4.00	80%	65
MU 12	80%	40 ft.	2.50	80%	50
MU 13	75%	60 ft.	4.00	75%	80
MU 13	75%	90 ft.	6.00	80%	100
MU 1, MU 15	80%	65 ft.	4.00	80%	70
MU 2, MU 16, MU 23, D 2	80%	90 ft.	6.00	90%	90
MU 9, MU 21	100%	90 ft.	6.50	100%	100
CG 1	75%	90 ft.	6.00	90%	90

**Amendment #8. Subtitle C § 1003**

The set aside requirements of Subtitle C § 1003 remain largely unchanged from the set down report except for, at the suggestion of the Commission, the use of “**exclusive of any bonus height**” in distinguishing zones with building heights 50 feet or less and those permitted more. In addition, minor changes were made to clarify how net square feet is calculated for flats. Recommended amendments to Subtitle C § 1003 are as follows:



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 **exclusive of any bonus height** 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 including penthouse habitable space as described in Subtitle C § 1001.2(d), or seventy-five percent (75%) of its achievable ~~the~~ bonus density **utilized** to inclusionary units plus an area equal to ten percent (10%) of the penthouse habitable space as described in Subtitle C § 1001.2(d).

1003.2 An inclusionary development which employs Type I construction as defined by Chapter 6 of the International Building Code as incorporated into the District of Columbia Construction Codes (Title 12 DCMR) to construct the majority of dwelling units, **or which is located in a zone with a by-right height limit exclusive of any bonus height that is greater than fifty feet (50 ft.)** shall set aside the greater of eight percent (8%) of the gross floor area dedicated to residential use including penthouse habitable space as described in Subtitle C § 1001.2(d), or fifty percent (50%) of its achievable ~~the~~ bonus density **utilized** to inclusionary units plus an area equal to eight percent (8%) of the penthouse habitable space as described in Subtitle C § 1001.2(d).

...

1003.4 ~~{DELETED}~~ **The gross floor area required to be set-aside for Inclusionary Units pursuant to Subtitle C §§ 1003.1 and 1003.2 shall be converted to net square feet based on the ratio of net square footage of residential use to the gross floor area of residential use. For the purpose of this subsection, Net Square Footage means:**

**(a) For flats and multiple dwellings, the area of a unit that is bounded by the inside finished surface of the perimeter wall of each unit. Unit area includes all interior walls and column; and**

**(b) For single principal dwelling units, the area of a unit that includes the full thickness of exterior enclosing walls and the full thickness of walls between a unit and adjacent common areas.**

### **Amendment #9. Subtitle C § 1005**

The Office of Planning's proposed amendments have changed since set down and the public hearing notice due to work with DCRA and OAG. This work is ongoing and OP may file a supplemental report if necessary. OP's intent with the recommended amendments is to:

- State in the positive that two-bedroom units are required to ensure the proportions of IZ studios and one-bedrooms do not exceed the market rate proportions for those units; and
- Provide relief for small projects when providing a two-bedroom would require them to set aside more square feet than otherwise required by the IZ program.

OP recommends two amendments in § 1005, including:

1005.1     The **first inclusionary unit shall be a two-bedroom, unless the requirements of Subtitle C § 1003 (excluding any set aside requirement satisfied pursuant to Subtitle C § 1006.10(c)) is less than 850 net square feet, in which case any unit type may be provided. Subsequent inclusionary units after the first two-bedroom unit shall be allocated such that the** proportion of studio **inclusionary units to all inclusionary units, and the proportion of** ~~and~~ one-bedroom inclusionary units **to all inclusionary units,** shall not exceed the proportion of the comparable market rate units **to all market rate units** for each unit type.

...

**1005.7     Inclusionary Units in apartment houses shall not be located in cellar space.**

These amendments provide clarity regarding the need to provide a two-bedroom IZ units, with the exception for small projects, and also close a gap in development standards regarding the location of IZ units.

The proposed recommendation to amend § 1005.1 is based on the following:

- Clarity: Stating the requirement for a two-bedroom provides greater clarity.
- Support in the Comprehensive Plan: *Policy H-1.3.1 Housing for Families* states:  

“Provide a larger number of housing units for families with children by encouraging new and retaining existing single family homes, duplexes, row houses, and three- and four-bedroom apartments.”
- Evidence of demand. DHCD’s recent Annual IZ report for Fiscal Year 2017 published July 13, 2018 includes data on IZ households and units. The program’s administrative data shows that 57 percent of IZ households are of two or more people, but only 31 percent of IZ units are of two- or more bedrooms.
- Available Relief: The amendment provides for appropriate relief when providing a two-bedroom requires a development to exceed its IZ requirement. The ZR 16 regulations and the mathematical requirement for a two-bedroom have been in place for two years and no project has requested relief from the section.

The threshold for relief for small projects is proposed at 850 net square feet because the IZ administrative regulations of Title 14 Chapter 22 Inclusionary Zoning Implementation establish 850 square feet as the smallest permitted two-bedroom in § 2202.4 (f), which states:

- (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 the size indicated in the following table, whichever is lesser;

<b>Type of Dwelling</b>	<b>Type of Unit</b>	<b>Minimum Unit Size (net square feet)</b>
Multiple Family Dwelling	Studio	400
	One bedroom	550
	Two bedrooms	850
	Three bedrooms	1,000
	Four or more bedrooms	1,050
One or Two Household Dwelling	Two bedrooms	1,000
	Three bedrooms	1,200
	Four or more bedrooms	1,400

OP’s final recommendations for § 1005 vary from OP’s set down and the public hearing notice. OP’s set down report proposed an amendment to how IZ units are allocated by bedrooms in § 1005.1. The ZR 16’s language stated that:

“The proportion of studio and one-bedroom inclusionary units shall not exceed the proportion of the comparable market rate units for each unit type.”

This created the mathematical conclusion that the requirement could only be met by providing a two-bedroom unit first, and thereafter allocate studios and one-bedrooms in proportions that met this development standard. In 04-33G, the Zoning Commission heard testimony of IZ’s disproportionate impact on small projects (a full discussion is in OP’s set down report for 04-33I). In addition, DCRA has received questions from developers regarding the provision of a two-bedroom unit, especially in projects that are only providing studio and one-bedroom market rate units.

In response, OP’s set down proposed adding:

**“, except in cases where the inclusionary development requirement of Subtitle C §§ 1003.1 and 1003.2 is less than the smallest available two-bedroom unit.”**

The intent was to relieve small projects from providing a two-bedroom if the IZ requirement was smaller than the smallest two-bedroom available. The proposed amendment provided the relief to small projects but did not address the lack of clarity regarding the need to provide a two-bedroom. The public hearing notice published text (below) that distinguished between projects that were providing two-bedrooms and projects that were not, but did not address the impact of IZ on small projects that were building two-bedroom or larger units. Recent discussions with projects building fewer than 10 units and potentially opting in to IZ suggest advertised text would inhibit projects from choosing to do so.

The proposed amendment to Subtitle C § 1005.1 as advertised in the public hearing notice was as follows:

- 1005.1 ~~The proportion of studio and one-bedroom inclusionary units shall not exceed the proportion of the comparable market rate units for each unit type.~~ **Inclusionary Units shall be allocated as follows:**
- (a) **Where an inclusionary development provides two (2) or more units of at least two (2)-bedrooms, the proportion of studio and one (1)-bedroom inclusionary units shall not exceed the proportion of the comparable market rate units for each unit type.**
  - (b) **For all other inclusionary developments, the proportion of studio inclusionary units shall not exceed the proportion of the market-rate studio units.**

However, while this phrasing distinguishes between projects that were and were not providing two-bedroom units, it did not provide relief for a small project that would have to exceed its IZ requirement because it wanted to provide two-bedroom units. For these reasons, OP recommends the language provided at the beginning of Amendment #8.

OP makes the recommendation to add § 1005.7 to reinforce the intent of the regulations that within affordable units should not be readily identifiable by quality of materials or location. There is no requirement that IZ units be placed on the highest floors or in locations with valuable frontage or views, and conversely, IZ units should not be located in spaces that do not technically qualify as residential gross floor area.

### **Amendment #10. Subtitle C § 1006**

OP has two recommended amendments to § 1006. The first corrects the conflict between Office of Zoning version and that published by DC Register. The second updates §1006.10 (c) by

eliminating reference to “low-income households,” which is no longer used in the zoning regulations, and revising it to read “households earning equal to or less than fifty percent (50%) of the MFI”

Section 1006.10 was amended by 14-13A, but inadvertently dropped by 04-33G. The amendment proposed by 04-33I corrects this error. The proposed text amends the formula for a Housing Production Trust Fund contribution in residential buildings to be based on the maximum permitted residential FAR of the property. This distinguishes residential from non-residential buildings, which are required to use maximum permitted non-residential FAR in the calculation.

Amend the text in Subtitle C § 1006, Off-Site Compliance with Inclusionary Zoning, as follows:

1006.10 Inclusionary units resulting from the set-aside required for penthouse habitable space as described in Subtitle C § 1001.2(d) shall be provided within the building, except that the affordable housing requirement may be achieved by providing a contribution to a housing trust fund, consistent with the provisions of Subtitle C §§ 1505.13 through 1505.16, **except that the calculation of § 1505.15 shall be based on the maximum permitted residential FAR,** when:

(a) ...

(b) ...

(c) The building is not otherwise required to provide inclusionary units for ~~low income~~ **eligible** households **earning equal to or less than fifty percent (50%) of the MFI** and the amount of penthouse habitable space would result in a gross floor area set-aside less than the gross floor area of the smallest dwelling unit within the building.

## **B. Proposed Amendments to Other Subtitles that Changed between Set Down and Public Notice**

The remainder of OP’s recommended amendments achieves the following:

- Corrects and/or reorganizes zone specific IZ lot size, area, or occupancy, height and FAR permissions to the zone chapters found in Subtitles D, E, F, G, H, and K;
- Increases consistency and standardizes how IZ is articulated between subtitles;
- Removes references to “low-“ and “moderate-income” when describing households incomes targeted by the program in Subtitles K and X; and
- Gives additional guidance in Subtitle X to the administration of IZ units created by the Zoning Commission through Planned Unit Developments that target deeper affordability than required by the IZ program.

### **Amendment #1. Subtitle D Residential House Zones**

Amend the text in Subtitle D § 105, Inclusionary Zoning, as follows:

- 105.1 ~~Inclusionary zoning requirements for the R zones, except R-1-A and R-1-B, are as specified in Subtitle C, Chapter 10.~~ **Inclusionary zoning requirements for the R zones are as specified in Subtitle C, Chapter 10 and the zone-specific development standards of this Subtitle.**

Amend the text in Subtitle D § 302, Density – Lot Dimensions, as follows:

- 302.1 Except as prescribed in other provisions of this title, the minimum dimensions of lots in the R-1-A, R-1-B, R-2, and R-3 zones shall be as set forth in the following table:

**TABLE D § 302.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS**

<b>Zone</b>	<b>Minimum Lot Width (ft.) for building type; applicable to all zones in left column</b>	<b>Minimum Lot Area (sq. ft.)</b>
R-1-A	75	7,500
R-1-B	50	5,000
R-2	40 (detached) 32 (IZ detached) 30 (semi-detached) 25 (IZ semi-detached) 40 (all other structures)	4,000 (detached) 3,200 (IZ detached) 3,000 (semi-detached) 2,500 (IZ semi-detached) 4,000 (all other structures)
R-3	40 (detached) 30 (semi-detached) 20 (attached) 16 (IZ attached) 40 (all other structures)	4,000 (detached) 3,000 (semi-detached) 2,000 (attached) 1,600 (IZ attached) 4,000 (all other structures)

<b>Zone</b>	<b>Minimum Lot Area (sq. ft.)</b>	<b>Minimum Lot Width (ft.)</b>
<b><u>R-1-A</u></b>	<b><u>7,500</u></b>	<b><u>75</u></b>
<b><u>R-1-B</u></b>	<b><u>5,000</u></b>	<b><u>50</u></b>
<b><u>R-2</u></b>	<b><u>3,000 (semi-detached)</u></b>	<b><u>30 (semi-detached)</u></b>
	<b><u>4,000 (all other structures)</u></b>	<b><u>40 (all other structures)</u></b>
<b><u>R-3</u></b>	<b><u>2,000 (attached)</u></b>	<b><u>20 (attached)</u></b>
	<b><u>3,000 (semi-detached)</u></b>	<b><u>30 (semi-detached)</u></b>
	<b><u>4,000 (all other structures)</u></b>	<b><u>40 (all other structures)</u></b>

Add a new § 302.2 in Subtitle D § 302, Density – Lot Dimensions, as follows:

**302.2**     **The Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10 shall not apply to the R-1-A and R-1-B zones.**

**302.3**     **The Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10 shall not apply to that portion of the Anacostia Historic District within the R-3 zone.**

Add a new § 302.4 and Table D § 302.4 in Subtitle D § 302, Density – Lot Dimensions, as follows:

**302.4**     **The minimum dimensions of lots for Inclusionary Developments in the R-2 and R-3 zones shall be as set forth in the following table:**

**TABLE D § 302.4: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS FOR INCLUSIONARY DEVELOPMENTS**

<u>Zone</u>	<u>Minimum Lot Area (sq. ft.)</u>	<u>Minimum Lot Width (ft.)</u>	<u>Minimum Lot Width (ft.) by Special Exception for Inclusionary Developments</u>
<u>R-2</u>	<u>3,200 (detached)</u>	<u>40 (detached)</u>	<u>32 (detached)</u>
	<u>2,500 (semi-detached)</u>	<u>30 (semi-detached)</u>	<u>25 (semi-detached)</u>
<u>R-3</u>	<u>1,600</u>	<u>20</u>	<u>16</u>

Add a new § 402.2 in Subtitle D § 402, Density – Lot Dimensions, as follows:

**402.2**     **The Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10 shall not apply to the R-6 and R-7 zones.**

Amend the text in Subtitle D § 502, Density – Lot Dimensions, as follows:

502.1     Except as prescribed in other provisions of this title, the minimum dimensions of lots in the R-8, R-9, and R-10 zones shall be as set forth in the following table:

**TABLE D § 502.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS**

<u>Zone</u>	<u>Minimum Lot Width (ft.)</u>	<u>Minimum Lot Area (sq. ft.)</u>
<u>R-8</u>	<u>75</u>	<u>9,500 for lots in Squares 2042, 2043, 2046, 2049, 2231, 2232, 2238, 2239, 2244 through 2248, 2250, 2258, 2272, and 2282</u> <u>7,500 for all other lots</u>
<u>R-9</u>	<u>50</u>	<u>5,000</u>
<u>R-10</u>	<u>40 (detached)</u> <u>32 (IZ detached)</u> <u>30 (semi-detached)</u> <u>25 (IZ semi-detached)</u> <u>40 (all other structures)</u>	<u>4,000 (detached)</u> <u>3,200 (IZ detached)</u> <u>3,000 (semi-detached)</u> <u>2,500 (IZ semi-detached)</u> <u>4,000 (all other structures)</u>

Zone	Minimum Lot Area (sq. ft.)	Minimum Lot Width (ft.)
<u>R-8</u>	<u>9,500 for lots in Squares 2042, 2043, 2046, 2049, 2231, 2232, 2238, 2239, 2244 through 2248, 2250, 2258, 2272, and 2282</u>	<u>75</u>
	<u>7,500 for all other lots</u>	
<u>R-9</u>	<u>5,000</u>	<u>50</u>
<u>R-10</u>	<u>3,000 (residential)</u>	<u>30 (semi-detached)</u>
	<u>4,000 (all other structures)</u>	<u>40 (all other structures)</u>

Add a new § 502.2 in Subtitle D § 502, Density – Lot Dimensions, as follows:

**502.2** **The Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10 shall not apply to the R-8 and R-9 zones.**

Add a new § 502.3 and Table D § 502.3 in Subtitle D § 502, Density – Lot Dimensions, as follows:

**502.3** **The minimum dimensions of lots for Inclusionary Developments in the R-10 zone shall be as set forth in the following table:**

**TABLE D § 502.3: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS FOR INCLUSIONARY DEVELOPMENTS**

<u>Zone</u>	<u>Minimum Lot Area (sq. ft.)</u>	<u>Minimum Lot Width (ft.)</u>	<u>Minimum Lot Width (ft.) by Special Exception for Inclusionary Developments</u>
<u>R-10</u>	<u>3,200 (detached)</u>	<u>40 (detached)</u>	<u>32 (IZ detached)</u>
	<u>2,500 (semi-detached)</u>	<u>30 (semi-detached)</u>	<u>25 (semi-detached)</u>

Add a new § 602.2 in Subtitle D § 602, Density – Lot Dimensions, as follows:

**602.2** **The Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10 shall not apply to the R-11 zone.**

Amend the text in Subtitle D § 702, Density – Lot Dimensions, as follows:

702.2 Except as prescribed in other provisions of this title, the minimum dimensions of lots in the R-12 and R-13 zones shall be as set forth in the following table:

**TABLE D § 702.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS**

<u>Zone</u>	<u>Minimum Lot Width (ft.)</u>	<u>Minimum Lot Area (sq. ft.)</u>
<u>R-12</u>	<u>50</u>	<u>5,000</u>



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<b>Zone</b>	<b>Minimum Lot Width (ft.)</b>	<b>Minimum Lot Area (sq. ft.)</b>
R-13	40 (detached) 30 (semi-detached) 20 (attached) 16 (IZ attached) 40 (all other structures)	4,000 (detached) 3,000 (semi-detached) 2,000 (attached) 1,600 (IZ attached) 4,000 (all other structures)

<b>Zone</b>	<b>Minimum Lot Area (sq. ft.)</b>	<b>Minimum Lot Width (ft.)</b>
<b><u>R-12</u></b>	<b><u>5,000</u></b>	<b><u>50</u></b>
<b><u>R-13</u></b>	<b><u>2,000 (attached)</u></b>	<b><u>20 (attached)</u></b>
	<b><u>3,000 (semi-detached)</u></b>	<b><u>30 (semi-detached)</u></b>
	<b><u>4,000 (all other structures)</u></b>	<b><u>40 (all other structures)</u></b>

Add a new §702.2 in Subtitle D § 702, Density – Lot Dimensions, as follows:

**702.2**      **The Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10 shall not apply to the R-12 zone.**

Add a new §702.3 and Table D § 702.3 in Subtitle D § 702, Density – Lot Dimensions, as follows:

**702.3**      **The minimum dimensions of lots for Inclusionary Developments in the R-13 zone shall be as set forth in the following table:**

**TABLE D § 702.2: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS FOR INCLUSIONARY DEVELOPMENTS**

<b><u>Zone</u></b>	<b><u>Minimum Lot Area (sq. ft.)</u></b>	<b><u>Minimum Lot Width (ft.)</u></b>	<b><u>Minimum Lot Width (ft.) by Special Exception for Inclusionary Developments</u></b>
<b><u>R-13</u></b>	<b><u>1,600</u></b>	<b><u>20</u></b>	<b><u>16</u></b>

Add a new § 802.3 in Subtitle D § 802, Density – Lot Dimensions, as follows:

**802.3**      **The Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10 shall not apply to the R-14 and R-15 zones.**

Add a new § 902.2 in Subtitle D § 902, Density – Lot Dimensions, as follows:

**902.2**      **The Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10 shall not apply to the R-16 zone.**

Amend the text in Subtitle D § 1002, Density – Lot Dimensions, as follows:

1002.1 Except as prescribed in other provisions of this title, the minimum dimensions of a lot in the R-17 zone shall be as set forth in the following table:

**TABLE D § 1002.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS**

<b>Zone</b>	<b>Minimum Lot Width (ft.) for building type;</b>	<b>Minimum Lot Area (sq. ft.)</b>
<b>R-17</b>	<del>40 (detached)</del>	<del>4,000 (detached)</del>
	<del>30 (semi-detached)</del>	<del>3,000 (semi-detached)</del>
	<del>20 (attached)</del>	<del>2,000 (attached)</del>
	16 (IZ attached)	1,600 (IZ attached)
	40 (all other structures)	4,000 (all other structures)

<b>Zone</b>	<b>Minimum Lot Area (sq. ft.)</b>	<b>Minimum Lot Width (ft.)</b>
<b>R-17</b>	<u>2,000 (attached)</u>	<u>20 (attached)</u>
	<u>3,000 (semi-detached)</u>	<u>30 (semi-detached)</u>
	<u>4,000 (all other structures)</u>	<u>40 (all other structures)</u>

**1002.2** **The minimum dimensions of lots for Inclusionary Developments in the R-17 zone shall be as set forth in the following table:**

**TABLE D § 1002.2: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS FOR INCLUSIONARY DEVELOPMENTS**

<b>Zone</b>	<b>Minimum Lot Area (sq. ft.)</b>	<b>Minimum Lot Width (ft.)</b>	<b>Minimum Lot Width (ft.) by Special Exception for Inclusionary Developments</b>
<b>R-17</b>	<u>1,600</u>	<u>20</u>	<u>16</u>

Amend the text in Subtitle D § 1202, Density – Lot Dimensions, as follows:

1202.1 Except as prescribed in other provisions of this title, the minimum dimensions of a lot in the R-19 and R-20 zones shall be as set forth in the following table:

**TABLE D § 1202.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS**

<b>Zone</b>	<b>Minimum Lot Width (ft.) for building type;</b>	<b>Minimum Lot Area (sq. ft.)</b>
<b>R-19</b>	50	5,000
<b>R-20</b>	40 (detached)	4,000 (detached)
	30 (semi-detached)	3,000 (semi-detached)
	20 (attached)	2,000 (attached)
	16 (IZ attached)	1,600 (IZ attached)
	40 (all other structures)	4,000 (all other structures)

<u>Zone</u>	<u>Minimum Lot Area (sq. ft.)</u>	<u>Minimum Lot Width (ft.)</u>
<u>R-19</u>	<u>5,000</u>	<u>50</u>
<u>R-20</u>	<u>2,000 (attached)</u>	<u>20 (attached)</u>
	<u>3,000 (semi-detached)</u>	<u>30 (semi-detached)</u>
	<u>4,000 (all other structures)</u>	<u>40 (all other structures)</u>

Add a new § 1202.2 in Subtitle D § 1202, Density – Lot Dimensions, as follows:

**1202.2** **The Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10 shall not apply to the R-19 zone.**

Add a new § 1202.3 and Table D § 1202.3 in Subtitle D § 1202, Density – Lot Dimensions, as follows:

**1202.3** **The minimum dimensions of lots for Inclusionary Developments in the R-20 zones shall be as set forth in the following table:**

**TABLE D § 1202.3: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS FOR INCLUSIONARY DEVELOPMENTS**

<u>Zone</u>	<u>Minimum Lot Area (sq. ft.)</u>	<u>Minimum Lot Width (ft.)</u>	<u>Minimum Lot Width (ft.) by Special Exception for Inclusionary Developments</u>
<u>R-20</u>	<u>1,600</u>	<u>20</u>	<u>16</u>

Add a new § 1302.2 in Subtitle D § 1302, Density – Lot Dimensions, as follows:

**1302.2** **The Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10 shall not apply to the R-21 zone.**

## **Amendment #2. Subtitle E Residential Flat Zones**

Amend the text in Subtitle E § 105, Inclusionary Zoning, as follows:

~~105.1~~ ~~Inclusionary Zoning (IZ) requirements for the RF zones are as specified in Subtitle C, Chapter 10.~~ **Unless otherwise indicated, the requirements of Subtitle C, Chapter 10 Inclusionary Zoning, shall apply to all zones in this subtitle.**

**105.2** **Inclusionary zoning requirements for the RF zones are as specified in Subtitle C, Chapter 10 and the zone-specific development standards of this Subtitle.**

~~105.2~~**105.3**Development standards for projects subject to the requirements of Inclusionary Zoning are indicated by “(IZ).”

Amend the text in Subtitle E § 201, Density – Lot Dimensions, as follows:

201.1 The minimum lot width and minimum lot area requirements for the creation of a record lot in an RF zone shall be as set forth in the following table:

**TABLE E § 201.1: MINIMUM LOT AREA REQUIREMENTS**

	<b>Lot Width Minimum</b>	<b>Lot Area Minimum</b>
Row Dwelling or Flat	18 ft.	1,800 sq. ft.
Row Dwelling or Flat Inclusionary Zoning	16 ft. as a special exception (IZ)	1,500 sq. ft. (IZ)
Semi-Detached Dwelling	30 ft.	3,000 sq. ft.
All Other Structures	40 ft.	4,000 sq. ft.

**TABLE E § 201.1: MINIMUM LOT WIDTH AND AREA REQUIREMENTS**

<b>Zone</b>	<b>Minimum Lot Area (sq. ft.)</b>	<b>Minimum Lot Width (ft.)</b>
<b><u>RF</u></b>	<b><u>1,800 (Row Dwelling or flat)</u></b>	<b><u>18 (Row Dwelling or flat)</u></b>
	<b><u>3,000 (Semi-detached)</u></b>	<b><u>30 (semi-detached)</u></b>
	<b><u>4,000 (all other structures)</u></b>	<b><u>40 (all other structures)</u></b>

Add a new § 201.2 and Table E § 201.2 in Subtitle E § 201, Density – Lot Dimensions, as follows:

**201.2 The minimum dimensions of lots for Inclusionary Developments in the RF zones shall be as set forth in the following table:**

**TABLE E § 201.2: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS FOR INCLUSIONARY DEVELOPMENTS**

<b><u>Zone</u></b>	<b><u>Minimum Lot Area (sq. ft.)</u></b>	<b><u>Minimum Lot Width (ft.)</u></b>	<b><u>Minimum Lot Width (ft.) by Special Exception for Inclusionary Developments</u></b>
<b><u>RF</u></b>	<b><u>1,500</u></b>	<b><u>18</u></b>	<b><u>16</u></b>

### **Amendment #3. Subtitle F Residential Apartment Zones**

Amend the text in Subtitle F § 105, Inclusionary Zoning, as follows:

105.1 ~~Inclusionary zoning requirements for the RA zones are as specified in Subtitle C, Chapter 10.~~ **The requirements of Subtitle C, Chapter 10, Inclusionary Zoning, shall apply to all zones in this subtitle except the RA-5 or RA-10 zones.**

**105.2 Inclusionary zoning requirements for the RA zones are as specified in Subtitle C, Chapter 10 and the zone-specific development standards of this Subtitle.**

**105.3 Development standards for projects subject to the requirements of Inclusionary Zoning are indicated by “(IZ).”**

Amend the table in Subtitle F § 302, Density – Floor Area Ratio, as follows:

**TABLE F § 302.1: MAXIMUM PERMITTED FLOOR AREA RATIO**

<b>Zone</b>	<b>Maximum FAR</b>	<b><u>Maximum FAR with IZ</u></b>
RA-1	0.9	<b><u>1.08</u></b>
RA-2	1.8	<b><u>2.16</u></b>
RA-3	3.0	<b><u>3.6</u></b>
RA-4	3.5	<b><u>4.2</u></b>
RA-5	5.0 6.0 for an apartment house or hotel	<b><u>n/a</u></b>

Amend the text in Subtitle F § 402, Density – Floor Area Ratio, as follows:

402.1 The maximum permitted FAR in the RA-6 zone shall be 0.9 **(1.08 with IZ)**.

Amend the text in Subtitle F § 502, Density – Floor Area Ratio, as follows:

502.1 The maximum permitted FAR in the RA-7 zone shall be 1.8 FAR **(2.16 with IZ)**.

Amend the text in Subtitle F § 504, Lot Occupancy, as follows:

504.1 The maximum permitted lot occupancy in the RA-7 zone shall be sixty percent (60%), **or seventy-five percent (75%) with IZ.**

Amend the table in Subtitle F § 602, Density – Floor Area Ratio, as follows:

**TABLE F § 602.1: MAXIMUM PERMITTED FLOOR AREA RATIO**

<b>Zone</b>	<b>Maximum FAR</b>	<b><u>Maximum FAR with IZ</u></b>
RA-8	1.8	<b><u>2.16</u></b>
RA-9	3.5	<b><u>4.2</u></b>
RA-10	5.0 6.0 for an apartment house or hotel	N/A

**Amendment #4. Subtitle G Mixed Use Zones**

Amend the text in Subtitle G, § 104, Inclusionary Zoning, as follows:

104.1 ~~Inclusionary zoning requirements for the MU zones are as specified in Subtitle C, Chapter 10.~~ **The requirements of Subtitle C, Chapter 10 Inclusionary**

**Zoning, shall apply to all zones in this subtitle except the MU-13 or MU-27 zones.**

**104.2 Inclusionary zoning requirements for the MU zones are as specified in Subtitle C, Chapter 10 and the zone-specific development standards of this Subtitle.**

**104.3 Development standards for projects subject to the requirements of Inclusionary Zoning are indicated by “(IZ).”**

Amend the table in Subtitle G, § 304, Lot Occupancy, as follows:

**TABLE G § 304.1: MAXIMUM PERMITTED LOT OCCUPANCY FOR RESIDENTIAL USE**

Zone	Maximum Lot Occupancy
MU-1	80%
	80 % (IZ)
MU-2	80%
	90% (IZ)

The public hearing notice incorrectly omitted the IZ height of 100 feet from the table for the MU-9 zone, therefore OP recommends it be reinstated and that the table in Subtitle G, § 403, Height, be amended as follows:

**TABLE G § 403.1: MAXIMUM PERMITTED HEIGHT AND #STORIES**

Zone	Maximum Height (Feet)	Maximum Stories
MU-3	40	3
MU-4	50	N/A
MU-5-A	65	N/A
	70 (IZ)	
MU-5-B	75	N/A
MU-6	90	N/A
	<b>100 (IZ)</b>	
MU-7	65	N/A
MU-8	70	N/A
MU-9	90	N/A
	<b>100 (IZ)</b>	
MU-10	90	N/A
	100 (IZ)	
MU-30	110	N/A

Amend the table in Subtitle G, § 404, Lot Occupancy, as follows:

**TABLE G § 404.1: MAXIMUM PERMITTED LOT OCCUPANCY**

Zone	Maximum Lot Occupancy for Residential Use
MU-3	60%
	<del>60% (IZ)</del>
<b><u>MU-3</u></b>	<b><u>60 %</u></b>
MU-4	60%
	75% (IZ)
MU-5-A	80%
MU-5-B	80% (IZ)
<b><u>MU-5-A</u></b> <b><u>MU-5-B</u></b>	<b><u>80 %</u></b>
MU-6	80%
	90% (IZ)
MU-7	75%
	80% (IZ)
MU-8	N/A
MU-9	N/A
MU-10	75%
	<del>N/A</del> <b><u>80% (IZ)</u></b>
MU-30	N/A

Amend the table in Subtitle G, § 504, Lot Occupancy, as follows:

**TABLE G § 504.1: MAXIMUM PERMITTED LOT OCCUPANCY**

Zone	Maximum Lot Occupancy for Residential Use (Percentage)
MU-11	25 %
MU-12	<del>80 %</del>
	80 % (IZ)
<b><u>MU-12</u></b>	<b><u>80 %</u></b>
MU-13	<del>75 %</del>
	75% (IZ)
<b><u>MU-13</u></b>	<b><u>75 %</u></b>
MU-14	75 %
	80 % (IZ)

Amend the table in Subtitle G, § 604, Lot Occupancy, as follows:

**TABLE G § 604.1: MAXIMUM PERMITTED LOT OCCUPANCY**

Zone	Maximum Lot Occupancy for Residential Use
MU-15	80%
MU-16	80%
	90% (IZ)
MU-17	60%
	75% (IZ)

Zone	Maximum Lot Occupancy for Residential Use
MU-18	80%
MU-19	80%
	90% (IZ)
MU-20	<del>100%</del> N/A
MU-21	<del>100%</del> N/A
MU-22	75%
	80% (IZ)

Amend the text in Subtitle G, § 704, Lot Occupancy, as follows:

- 704.1 The maximum permitted lot occupancy for residential use in the MU-23 through MU-26 zones shall be as set forth in the following table: ~~shall be eighty percent (80%) in the MU-23 zone and seventy-five percent (75%) in the MU-24, MU-25, and MU-26 zones.~~

### **Amendment #5. Subtitle H Neighborhood Mixed Use**

Amend the text in Subtitle H, § 103, Inclusionary Zoning, as follows:

- 103.1 ~~Inclusionary zoning requirements for the NC zones are as specified in Subtitle C, Chapter 10.~~ **Unless otherwise indicated, the requirements of Subtitle C, Chapter 10 Inclusionary Zoning, shall apply to all zones in this subtitle except the NC-6 zone.**
- 103.2 Inclusionary zoning requirements for the NC zones are as specified in Subtitle C, Chapter 10 and the zone-specific development standards of this Subtitle.**
- 103.3 Development standards for projects subject to the requirements of Inclusionary Zoning are indicated by “(IZ).”**

Add a new § 702.2 in Subtitle H § 702, Density – Lot Dimensions, as follows:

- 702.2 The Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10 shall not apply to the NC-6 zone.**

### **Amendment #6. Subtitle K Special Purpose Zones**



Amend the text in Subtitle K Chapter 5, CG, Capitol Gateway Zones, § 500 General Provisions, as follows:

**500.6      The Inclusionary Zoning requirements and bonuses of Subtitle C, Chapter 10 shall not apply to the CG-1 zone.**

Amend the text in Subtitle K Chapter 5, CG, Capitol Gateway Zones, § 501, Development Standards, as follows:

501.3      The maximum permitted floor area ratio (FAR) in the CG-1 zone shall be 6.0, ~~or 7.2 with IZ, with a maximum residential FAR of 6.0 or 7.2 FAR with IZ.~~

Amend the text in Subtitle K Chapter 5, CG, Capitol Gateway Zones, § 502 Lot Occupancy, as follows:

502.6      The maximum permitted lot occupancy for residential use in the CG-2 zone shall be eighty percent (80%), ~~or ninety percent (90%) with Inclusionary Zoning.~~

Amend the text in Subtitle K, Chapter 7, Reed-Cooke Zones, § 702, Height and Penthouse Regulations, as follows:

702.2      In the RC-3 Zone, a building shall be permitted a maximum height of fifty feet (50ft.), not including the penthouse, provided fifty percent (50%) of the additional gross floor area made possible by the height bonus is devoted to ~~low and moderate-income household~~ **inclusionary** units, as defined in Subtitle ~~B, C~~, Chapter ~~2~~ **10**.

**Amendment #7      Subtitle X General Procedures**

Amend the text in Subtitle X, § 305.5 (g), Planned Unit Development Public Benefits, as follows:

305.5      Public benefits of the proposed PUD may be exhibited and documented in any of the following or additional categories:

...

(g)      Affordable housing; except that:

**(1)**      Affordable housing provided in compliance with the Inclusionary Zoning requirements of Subtitle C, Chapter ~~22~~ **10**, shall not be considered a public benefit except to the extent it exceeds what would have been required through matter-of-right development under existing zoning. In determining whether this standard has been met, the Zoning Commission shall balance

any net gain in gross floor area against any loss of gross floor area that would have been set-aside for “~~low-income households~~” **households earning equal to or less than the required MFI** as defined in the Inclusionary Zoning requirements of Subtitle C, Chapter 10; and

- (2) **An Application proposing Inclusionary Units with deeper affordability than what would be required by IZ for the existing zone or for the proposed zone if a map amendment is sought, shall propose only a household income level published in the Rent and Price Schedule per the IZ Act and that is in effect as of the date the Application was filed.**

...

### **C. Proposed Amendments Unchanged from Set Down**

This section provides the list of recommended amendments that have remained unchanged since OP’s set down report. For analysis of the recommended amendments please refer to OP’s set down report dated November 3, 2017. These amendments include:

- Subtitle C § 1001.1
- Subtitle C § 1001.5

### **D. Proposed Amendments withdrawn from the Public Notice**

OP withdraws the proposed amendments to the following sections that were advertised in the public notice. In both occurrences, the proposed amendments were making corrections that had already been addressed through other cases.

- Subtitle G, § 603, Height
- Subtitle G, § 702, Density – Floor Area Ratio

## **III. CONCLUSION**

OP requests the ability to work with the Office of Attorney General to correct minor errors in preparation for the Notice of Proposed Rulemaking upon the Commission’s approval of the recommendations proposed by this report.