

Department of Consumer and Regulatory Affairs Instructions and General Information For Certificate of Inclusionary Zoning Compliance (CIZC) Application and Penthouse Affordable Housing Addendum

(last revised, 5.6.16)¹

1. GENERAL INFORMATION

Purpose: The Certificate of Inclusionary Zoning Compliance (CIZC) application aims to ensure that the Inclusionary Development (hereinafter, “Development”) meets the Inclusionary Zoning (IZ) program requirements. IZ rules are principally located in the Zoning Regulations, DCMR Title 11, Chapter 26, administered by the Department of Consumer and Regulatory Affairs (DCRA) and IZ Implementation Regulations, DCMR Title 14, Chapter 22, administered by the Department of Housing and Community Development [both may be accessed at <http://www.dcregs.dc.gov/Search/DCMRSearchByTitle.aspx>]. The Zoning and Implementation Regulations are the conclusive sources of the requirements should there be any discrepancy with this guide. The CIZC application must be submitted to the DCRA for review no later than the accompanying building permit application, and DCRA must approve a CIZC application prior to issuing a building permit for a Development. A fully completed CIZC application will allow for a timely DCRA review.

Additionally, all developments (residential and non-residential) providing penthouse habitable space must execute a Penthouse Affordable Housing Addendum.

Location: A blank CIZC application can be found on the DCRA website (<http://dcra.dc.gov>). It may be located by entering “CIZC” in the website’s search box. Check the DCRA website to ensure that the latest version of the application is obtained.

Fee: The application fee of \$250 must be paid at the time of the submission of the building permit application. Provide a copy of the receipt of payment with the building permit application.

Other sources of information:

- For information concerning the requirements of DHCD’s IZ unit management and program, visit the DHCD website (<http://dhcd.dc.gov>) or contact DHCD by phone at (202) 442-7221 or via email at iz.adu@dc.gov.
- For information concerning other permit and zoning requirements, contact the License Center, 1100 4th Street, S.W., Second Floor, by phone at (202) 442-4311 or via email at dcra@dc.gov.

2. APPLICATION INSTRUCTIONS

Overview: Sections A-G

¹ This goal of this guide is to provide guidance and information relating to DCRA steps and regulatory procedures, in order to assist the public in interpreting and complying with the relevant inclusionary zoning laws and regulations. This guide is intended to be a living document and to assist in complying with these inclusionary zoning laws and regulations. To this end, this guide will be updated as needed.

This guide is **not** a substitute or replacement for District laws and regulations, and those legal sources should be consulted for the specific legal requirements applicable to the construction process. Many of these laws and regulations cross over multiple District agencies sharing in their development and enforcement. This guide is intended to provide a central informational source to assist in complying with these inclusionary laws and regulations.

- These sections ask for information related to the proposed Development and how the IZ requirements are satisfied. In completing the application, you may type directly into the application or print out a copy and handwrite (legibly) the information. Attach supplemental information as necessary.

Section A: Building Permit and Project Information

- **Boxes 1-14:** These boxes require information about the applicant, Development, and property. The information provided must match information contained in the building permit application. Do not use abbreviations for street names, and be sure that you indicate the correct quadrant.
- **Box 15:** Projects that are part of an excluded category pursuant to §§ 2602.3(a)-(e) are not required to submit a CIZC application. Examples include:
 - Hotels, motels, inns, or dormitories (§ 2602.3(a))
 - Housing developed by or on behalf of a local college or university exclusively for its students, faculty, or staff (§ 2602.3(b))
 - Properties located in the Downtown Development District or Southeast Federal Center Overlay Districts (§ 2602.3(e)(1))

However, if a project is exempt from IZ pursuant to § 2602.3(f) due to federal or District government involvement, then a CIZC application must be submitted. Enter all information requested in Sections A, C, and F of the CIZC application, including information related to IZ that would otherwise be required (for comparison purposes). A DHCD written certification as required per § 2602.8 must be provided as well.

- **Box 16:** This box asks whether the Development is a conversion to an apartment house in an R-4 zone pursuant to rules implemented on June 26, 2015 (ZC Case No. 14-11). If “yes”, then proceed as follows:
 - For a BZA approved conversion of an existing pre-1958 one-family dwelling or flat to an apartment house in the R-4 zone for 4 or more dwelling units (including cellar units), then every even numbered unit beginning at the 4th unit shall be an IZ unit set-aside for moderate income households. In such cases, complete the CIZC application in its entirety except for Section A, Boxes 18-28 (which can remain blank).
 - For a conversion of an existing pre-1958 non-residential building to an apartment house of 10 or more units, or an expansion of an existing apartment building in this zone, the set-aside requirements and income limits are governed by otherwise applicable IZ rules. In such cases, complete the CIZC application in its entirety.
- **Box 17:** This box asks whether the Development provides new or expanded penthouse habitable space. If yes, execute a “Penthouse Affordable Housing Addendum”.
- **Box 18:** This box asks what material represents the primary method of frame construction. This calculation should exclude below grade construction.
- **Box 19:** This box asks for the “Total Land Area of the Lot(s) of the Inclusionary Development.”
- **Box 20:** This box asks for the “Total Gross Floor Area” for all uses in the Development. “Gross Floor Area” is a defined term in § 199 and is applied to determine floor area ratio (FAR). Please see <http://www.dcregs.dc.gov/Gateway/ChapterHome.aspx?ChapterNumber=11-1> to consult the definition.

- **Box 21:** This box asks for the “Total Residential Gross Floor Area” in the Development. For entirely residential projects, Boxes 20 and 21 would have identical calculations. For a mixed-use Development, residential gross floor area includes all space dedicated to the use of the residents.
- **Box 22:** This box asks for “Total Residential Gross Floor Area” including any residential “add-ons” that are otherwise not counted in Box 21. Such add-ons are “Gross Cellar Area” and “Gross Enclosed Public Space Projections.” Sum the calculations to determine the “Total Residential Gross Floor Area for IZ Analysis.” More specifically:
 - **Gross Cellar Area:** For multiple dwellings, only enter information for a Development when residential unit(s) are located in cellar space, as defined by § 199. For single household dwellings and flats, cellar space must be entered in all cases. Cellar space is measured as the sum of the gross horizontal areas of the cellar. In addition to the area of the dwelling units, include the area of elevator shafts, stairwells, and common areas, and exclude floor space used for mechanical equipment with structural headroom of six feet, five inches (6 ft., 5 in.) or less. Space dedicated for parking should also be excluded.
 - **Gross Enclosed Public Space Projections:** Enter information only where building projections in public space, such as bay windows that enclose residential floor area, are present. In such cases, include all residential projection space regardless of whether the space is contained within a residential unit or common space.
- **Box 23:** This box asks for “Total Net Residential Floor Area” including “add-ons” identified in Box 22. In general, the “Net Residential Floor Area” references occupiable residential space in a dwelling unit. The figure also should include occupiable space located in cellars and enclosed public space projections referenced in Box 22. For multiple dwellings, occupiable space is defined as the actual floor area inside a unit or dwelling, including the interior wall(s)’ thickness. Excluded from this calculation are common areas, such as elevators, stairways, lobbies, mechanical rooms, party rooms, vent shafts and pipe chaser shafts, and the thickness of exterior walls and the walls between dwelling units. For flats, all residential floor area should be included except for shared stairways, entries, or other common space, and the thickness of exterior walls and the walls between dwelling units. For single household dwellings, all residential floor area should be included, except for the thickness of exterior walls.
- **Box 24:** This box represents the ratio of “Total Net Residential Area for IZ Analysis” [Box 23] to “Total Residential Gross Floor Area for IZ Analysis” [Box 22]. This ratio should be applied when determining the bonus density IZ calculation in net terms.
- **Box 25:** Indicate the factor used in generating the “greater” IZ requirement pursuant to §§ 2603.1 and 2603.2.
- **Box 26:** This box asks for the resulting preliminary IZ requirement within the Development (not including penthouse) in both gross and net terms. The IZ requirement should be calculated as outlined in §§ 2603.1 and 2603.2, unless otherwise noted. In general, the IZ requirement is calculated as the greater of a percentage of the gross floor area being devoted to residential use (based on Boxes 22 and 23), or a percentage of the bonus density achieved in the Development (based on Box 20).
 - **Gross floor area** dedicated to IZ is calculated by multiplying the residential floor area devoted to residential use by 8% or 10% based on the zone and/or framing material. To determine the “Residential Gross Floor Area”, use the total identified in Box 22 in the calculation. To determine the “Net Residential Floor Area”, use the total identified in Box 23 in the calculation.

- **Bonus density** is calculated as the difference between the Total Gross Floor Area (all uses) (Box 20) and the matter of right FAR in the Development’s zone, although alternate methods may apply depending on overlay district and for non-matter of right Developments. For purposes of bonus density calculations, note that all bonus density – even in mixed-use buildings – is considered residential density for IZ calculation purposes. Multiply the bonus density square footage by either the 50% or 75% factor (Box 25), as determined in the chart below. Additionally, to determine the “net” bonus density, also multiply by the ratio (Box 24). Planned Unit Developments (PUDs) typically are not required to determine the bonus density for purposes of the IZ requirement.
- Below is a representation of the IZ set-aside requirements based on zone and primary method of construction (note that set-aside amounts also must ultimately be calculated in “net” terms).

Zone	Framing Material	IZ Set Aside
R-2, R-3, R-4, R-5-A, R-5-B, C-1, C-2-A, W-0, or W-1	Steel & Concrete	Greater of 8% of the gross floor area being devoted to residential use, or 50% of the bonus density
	Other, such as stick built	Greater of 10% of the gross floor area being devoted to residential use, or 75% of the bonus density
C-2-B, C-2-B-1, C-2-C, C-3, CR, R-5-C, R-5-D, R-5-E, SP-1, SP-2, USN, W-2, or W-3	All	Greater of 8% of the gross floor area being devoted to residential use, or 50% of the bonus density

- Enter the greater IZ calculation in both gross and net terms. Do not include any penthouse space in these calculations (Box 27), so long as the penthouse is not counting toward the building’s gross floor area. See § 411.13(b).
- **Box 27:** This box asks for any penthouse IZ Requirement based on penthouse habitable space provided. This number should match the number calculated in an associated “Penthouse Affordable Housing Addendum.”
- **Box 28:** This box asks for the amount of penthouse IZ Requirement fulfilled through a payment to a housing trust fund. This number should match the number provided in an associated “Penthouse Affordable Housing Addendum.”
- **Box 29:** This box asks for: (a) the Total Net Residential IZ Required Overall, including IZ generated from penthouse habitable space (Box 27), representing the sum of Box 26(b) + Box 27; and (b) Total Net Residential IZ satisfied within the building, subtracting the amount of Penthouse IZ Requirement square footage fulfilled by payment to a housing fund (Box 28, if applicable). If Boxes 29(a) and (b) are identical, only enter information in Box 29(a). If Box 29(b) does not match Box 29(a), Box 29(b) would represent the minimum IZ requirement that must be satisfied within the building.

Section B: IZ Unit Classification

- **Overall:** This section asks for a breakdown of market rate and IZ unit information. The information in Section B is intended to demonstrate whether §§ 2605.2 and 2603.3 have been satisfied. Leave blank any cells which are not applicable to the Development. For example, if the Development only is a multiple dwelling project, do not enter information for single household dwellings and flats.
 - *Section 2605.2* provides: “The proportion of studio, efficiency, and one-bedroom inclusionary units to all inclusionary units shall not exceed the proportion of market-rate studio, efficiency,

and one-bedroom units to all market-rate units.” Note that all units contained in the cellar or penthouse must be counted in this analysis.

- *Section 2603.3* specifies the income breakdown between 50% and 80% of AMI for IZ units. Below is a representation of the IZ set-aside requirements:

Zone	IZ Income Set Aside
R-3, R-4, R-5-A, R-5-B, R-5-C, R-5-D, R-5-E, C-1, C-2-A, StE, W-0, and W-1	Set-aside half of the IZ units for eligible low-income households and half of the IZ units for eligible moderate-income households. The first IZ unit and each additional odd number unit shall be set aside for low-income households.
CR, C-2-B, C-2-B-1, C-2-C, C-3-A, C-3-B, C-3-C, USN, W-2, W-3, SP-1, and SP-2	Set aside all of the IZ units for eligible moderate-income households.

The definitions of low-income and moderate income households are also reproduced below § 2601.1:

- **Low-income household** – “a household of one or more individuals with a total annual income adjusted for household size equal to less than fifty percent (50%) of the Metropolitan Statistical Area median as certified by the Mayor pursuant to the Act.”
- **Moderate-income household** – “a household of one or more individuals with a total annual income adjusted for household size equal to between fifty-one percent (51%) and eighty percent (80%) of the Metropolitan Statistical Area median as certified by the Mayor pursuant to the Act.”

Section C: IZ Unit Itemization

- **Overall:** This section asks only for IZ unit information, including the “Total Net Residential IZ Proposed.” If there are more than 10 IZ units, please enter additional information in an attached supplement.
- **Tenure (Sale/ Rental) Column:** Indicate whether the identified IZ units will be for sale, such as condominiums, or rental units.
- **Penthouse Generated IZ Column:** Where the penthouse generated IZ requirement is satisfied on-site (not through a payment to a housing trust fund), provide the amount of square footage that has been applied to IZ unit(s). The location and unit number(s) of the square footage required pursuant to the “Penthouse IZ Requirement”, as shown in Box 27, must be fully accounted for in the IZ Unit Itemization. Additionally, one hundred percent of inclusionary units resulting from the set-aside required for penthouse habitable space shall be set aside for eligible low-income households. Enter the total square feet added to unit from the Penthouse IZ Requirement at the bottom of the column. This amount must meet or exceed the total requirement identified in Box 27.

Section D: Other Requirements

- **Box 1:** Confirm that any bedroom identified in the Development or in building plans, whether IZ or market rate, meet the definition of “bedroom” provided in 14 DCMR Chapter 22, § 2299.1, which is as follows:

- **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 in an application for a building permit for an Inclusionary Development.”
- **Box 2:** Indicate whether the construction will be phased. If the answer is yes, attach a phasing plan.
- **Box 3:** Review Section G “Zoning Administrator Check List: Official Use Only” and confirm that sufficient information has been provided for the DCRA reviewer to conduct the review.
- **Boxes 4 and 5:** Indicate whether any of the IZ units are reserved for tenant right of return or are off-site units for another IZ development.

Section E: Project Architect’s Or Project Engineer’s Inclusionary Unit Certification

- Enter information, signature, and date. Consult 14 DCMR Chapter 22, § 2202.4(f) concerning requirements related to minimum IZ unit sizes, reproduced below:

“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 lesser”:

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

Section F: Applicant’s Signatures

- Enter signatures, addresses, and dates. Applications missing signatures will not be processed.

Section H: Zoning Administrator Check List

- **Overall:** Do not fill-in this checklist. However, please review the “Information” and “Analysis” check lists to ensure that the DCRA reviewer has all necessary information to review each item.
- **Information: Box 4:** Refer to the DHCD website to obtain a copy of the IZ Covenant template and for DHCD contact information. An applicant must receive DHCD preliminary approval of a draft IZ Covenant as part of the CIZC process. An IZ Covenant must be recorded in the land records prior to the final Certificate of Occupancy for multiple dwellings and flats and the final inspection for single family dwellings.
- As a final step, the Zoning Administrator must certify that the CIZC application meets the Zoning Regulation IZ requirements to complete the DCRA review.

PENTHOUSE AFFORDABLE HOUSING ADDENDUM

Overall: All developments – residential and non-residential – that provide any penthouse habitable space must execute a Penthouse Affordable Housing Addendum (“Addendum”) at the time of building permit review for the penthouse space. If a project does not include penthouse habitable space, then no Addendum is necessary. Additionally, a project must execute *both* a CIZC application and Addendum in the following scenarios:

- Where penthouse habitable space is constructed in association with: (1) a new Inclusionary Zoning (IZ) development, or (2) an addition to an existing development that itself would trigger new or expanded IZ requirements within the building, then execute both the Addendum and a CIZC application.
- Where penthouse habitable space is constructed in association with a new building or addition (residential or non-residential) which is: (1) not otherwise subject to IZ requirements, *and* (2) any penthouse generated IZ square footage would *not* be provided within the building, then execute an Addendum only and not a CIZC application.
- Note that penthouse habitable space typically must be included in calculations to determine the amount of off-street vehicle parking, bicycle parking, and loading (see § 411.15 for exceptions).

Section A: Project Information

- **Boxes 1-14:** These boxes require information about the applicant, development, and property. The information provided must match information contained in the building permit application. Do not use abbreviations for street names, and be sure that you indicate the correct quadrant.

Section B: Residential Buildings Constructing Penthouse Habitable Space

- **Box 1:** Indicate the scenario for which the penthouse habitable space is being provided and whether a CIZC application also is needed in addition to the Addendum.
- **Box 2:** Begin by identifying the Total Penthouse Habitable Space provided. The regulations define “penthouse habitable space” as “enclosed space within a penthouse devoted to any use permitted in the zone, unless otherwise restricted, other than penthouse mechanical space. The term penthouse habitable space shall include communal recreation space and associated facilities such as storage, kitchen space, change rooms, or lavatories.” Of the penthouse habitable space, only certain space is eligible to generate IZ square footage pursuant to § 411.6 as summarized below:

Type of Development	What Counts Toward IZ Generation
Residential	Penthouse habitable space excluding space devoted exclusively to communal rooftop recreation space or amenity space for the primary use of residents of the residential building

The penthouse habitable space subject to IZ should be calculated consistent with methods typically used to determine *gross* square footage. Indicate the amount of penthouse habitable space subject to IZ analysis.

Further, indicate which factor – 8% or 10% – is used to determine the amount of IZ generated. A bonus density calculation does not apply in this circumstance. See CIZC Section A, Box 26 explanation above for guidance concerning how to determine the applicable factor based on zone and construction type. Construction type should reflect the primary method of construction used in the building (total gross floor area) as a whole. Enter the resulting Penthouse IZ Requirement.

- **Box 3:** Indicate how the penthouse generated IZ requirement is being fulfilled. Note that there may be alternative compliance options available aside from providing additional IZ square footage within the Development (see §§ 2607.9(a)-(c) or 2602.3(f)).
- **Box 4:** If the penthouse generated IZ is being satisfied through a contribution to a housing trust fund (see §§ 414.13 – 414.16), enter information relevant to the contribution calculation, total amount owed, the amount paid at the time of permitting, and the amount remaining to be paid prior to the project’s certificate of occupancy. For purposes of calculating the contribution amount, note that hotels, motels, inns, among other eligible properties described in § 2602.3(e), would be calculated as akin to residential developments. Further note that “Penthouse Habitable Space Subject to IZ set-aside provisions per § 411.16” is the square footage amount used in the calculation of the housing trust fund contribution. Present proof of the payment at the time of the building permit review to substantiate the contribution. Finally, coordinate with DHCD concerning the selected housing trust fund (see § 2499.2) and to confirm DHCD’s acknowledgment of payments as necessary.

Section C: Non-Residential Buildings Constructing Habitable Penthouse Space

- **Box 1:** Indicate the amount of Penthouse Habitable Space Provided, which must include all forms of habitable space per § 411.17.
- **Box 2:** Indicate how the affordable housing requirement generated by the penthouse habitable space will be satisfied. Section 414.2 defines the threshold amount of penthouse habitable space which produces an affordable housing requirement:

Type of Development	What Counts Toward Affordable Housing Production
Non-residential	Penthouse habitable space exceeding 1,000 square feet

If the amount of penthouse habitable space does not exceed the threshold for generating affordable housing, do not complete Boxes 3 or 4 of Section C, but still execute Sections D and E.

- **Box 3:** If the penthouse generated affordable housing is being satisfied through the construction or rehabilitation of required housing (see §§ 414.5 – 414.11), provide descriptive information.
- **Box 4:** If the penthouse generated affordable housing is being satisfied through a contribution to a housing trust fund (see §§ 414.12 – 414.16), enter information relevant to the contribution calculation, total amount owed, the amount paid at the time of permitting, and the amount remaining to be paid prior to the project’s certificate of occupancy. Present proof of the payment at the time of the building permit review to substantiate the contribution. Finally, coordinate with DHCD concerning the selected housing trust fund (see § 2499.2) and to confirm DHCD’s acknowledgment of payments as necessary.

Section D: Project Architect’s Or Project Engineer’s Inclusionary Unit Certification

- Enter information, signature, and date.

Section E: Applicant’s Signatures

- Enter signatures, addresses, and dates. Applications missing signatures will not be processed.

Section F: Zoning Administrator Check List

- **Overall:** Do not fill-in this checklist. However, please review the “Information” and “Analysis” check lists to ensure that the DCRA reviewer has all necessary information to review each item.
- As a final step, the Zoning Administrator must certify that the Addendum meets the Zoning Regulations IZ requirements to complete the DCRA review.