

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING
AND

Z.C. ORDER NO. 08-06A

Z.C. Case Nos. 08-06A, 08-06B, and 08-06C

(Text and Map Amendment to Implement the Comprehensive Revisions
to the Zoning Regulations)

January 14, 2016

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2012 Repl.)), hereby gives notice of its adoption of a new Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR) and the adoption of amendments to the Zoning Map. Notices of Proposed Rulemaking were published in the *D.C. Register* on May 29, 2015, at 62 DCR 7046 and 62 DCR 8016. Changes made to the text as proposed are discussed in this Order and shown in Exhibits 1102A-1102K, 1102U, and 1102W-1102Z of the case record available on the Office of Zoning website, www.dcoz.dc.gov. This notice of final rulemaking shall become effective on September 6, 2016 and supersedes Z.C. Order Nos. 08-06-A through 08-06-E.

The text amendments create a new Title 11 (Zoning Regulations of 2016), which will be divided into subtitles as follows:

Subtitle	Subtitle Name
A	Authority and Applicability
B	Definitions, Rules of Measurement, and Use Categories
C	General Rules
D	Residential House (R) Zones
E	Residential Flat (RF) Zones
F	Residential Apartment (RA) Zones
G	Mixed-Use (MU) Zones
H	Neighborhood Mixed-Use (NC) Zones
I	Downtown (D) Zones
J	Production, Distribution, and Repair (PDR) Zones
K	Special Purpose Zones
U	Use Permissions
W	Specific Zone Boundaries
X	General Procedures
Y	Board of Zoning Adjustment Rules of Practice and Procedure
Z	Zoning Commission Rules of Practice and Procedure

Corner Stores:

The existing 1958 regulations do not allow small retail uses in the residential zones. Although existing corner stores are “grandfathered”, new ones are not permitted and changes to existing ones require Board of Zoning Adjustment approval.

The initial OP proposal was to permit corner stores as a matter of right use subject to recommended conditions that address concentration, operational activities, and location and size in both the rowhouse and flat zones (R-3, R-13, R-16, R-20 and RF). OP reports and public comment in favor of corner stores highlighted that corner stores support environmental efforts to reduce car trips and hence car emissions, they support walkable communities, provide an opportunity for small grocery stores in areas having limited access to supermarkets, and support the DC Healthy Corner Store Initiative, a program of DC Hunger Solutions and an item in the Sustainable DC Plan.

There were opposing concerns expressed from the public that corner stores would alter residential neighborhoods by bringing in a commercial use, that corner stores could encourage loitering, that they would draw retail off the commercial corridor, that a grocery did not guarantee the sale of fresh food and produce, and about the by-right permission for Corner Stores to sell beer and wine for off-site consumption. OP proposed amending the advertised text to allow sales of beer and wine only by special exception and to define the term “grocery”.

The Commission reviewed maps prepared by OP that showed the potential locations of corner stores in the rowhouse and flat zones based on the recommended conditions. The Commission also recognized that there already existed several corner stores in the Georgetown historic district and, due to the tight proximity of the commercial corridors and Georgetown University, accepted a larger spacing of corner stores in the R-20 zone from the commercial zones. The Commission also recognized that Foxhall Village historic district was uniquely and purposefully developed around an existing corner store concept, and to permit corner stores by right could be incompatible with the historic character that defines the Foxhall Village historic district; therefore, in the Foxhall Village historic district, corner stores would be permitted only as a special exception.

The Commission concluded that there was public value in permitting grocery corner stores in the rowhouse and flat zones (R-3, R-13, R-16, R-20, and RF) as a matter of right use subject to conditions, and permitting other corner stores in these zones as a special exception subject to additional conditions. The Commission established a definition for grocery store and concluded that the sale of beer and wine should only be permitted as a special exception. The special exception review allows for public input and a demonstration that the corner store will not adversely impact the residential character or compete with commercial corridors.

Penthouses (Roof Structures):

Although initially discussed as part of this case, the penthouse regulations were ultimately considered separately as Z.C. Case No. 14-13. Changes made to the 1910 Heights of Building

ANC	Exhibit #	Subtitle	Comment	Response
			<p>minimum total floor area to 1,200 sq. ft. ANC 2E believes 1,750 sq. ft. would be an appropriate minimum in Georgetown. Special exception review by the BZA would be appropriate for applications for any house less than 1,750 sq. ft. in Georgetown. ANC 2E objects to § 253.7 which expressly permits a new door to be created in the front of a house in the R-20 zone provided only that it is below the main level of the house. Any exceptions should be by a special exception following CFA review and approval of an additional door. In R-19 and R-20 an existing two story accessory structure should be permitted to be used for dwelling purposed on both the first and second floors. In R-20 a new accessory structure should be permitted to be used for dwelling purposes. Balconies and projecting windows should be prohibited if they face adjoining property but not if they face an alley or the principal residence to which they are secondary. Georgetown is well served by retail and other commercial stores on Wisconsin and M Street as well as numerous corner stores throughout the neighborhood. Accordingly, we support this section (Subtitle U § 254.6(e)) placing a 750 foot restriction on new corner stores but believe it should apply to R-19 Georgetown as well.</p>	<p>R-3, R-13, R-17, and R-20 zones. Additional doors are determined appropriate if the proposed accessory apartment is located in a historic district. That is because the addition of the door would need to be reviewed by the CFA for its compatibility with the historic district. Having a special exception review would therefore be redundant. An accessory apartment is allowed only on the second story of a detached accessory building. The regulations include restrictions on balconies facing adjoining properties. They do not permit corner stores in the R-1-B zones; therefore, the 750-foot restriction would not apply to the R-19 zone (R-1-B in Georgetown).</p>
3B	829	D	<p>ANC 3B recommends the following for improving the zoning code: 1. Use of a uniform set of definitions so that the Urban Forestry Administration's (UFA) guidelines and definitions apply to residential, institutional, commercial, and D.C. government new construction projects and throughout the entire permitting process. 2. Zoning regulations should require plans to depict accurately all trees at risk from construction activity prior to permit review and approval. Plans should show accurately each tree's size and Critical Root Zone according to the uniform set definitions. 3. Plans for new construction must show trees on all adjacent private and public land whose Critical Root Zones and/or crowns would be impacted by construction activity and the completed project. 4. The UFA should be required to review final plans</p>	<p>The Zoning Regulations cannot provide tree protection that is not zone specific. Rather, there are certain areas for which tree protection have been identified. These areas were formerly mapped in overlays but now are in standalone zones with the same specific tree protection rules. The Council has adopted legislation to protect trees on a District-wide basis, and that legislation is enforced by the Urban Forestry Administration. The UFA has permit requirements that can be found in "DDOT Trees Permits and Laws" on the DDOT website at http://ddot.dc.gov/sites/default/files/dc/sites/ddot/publication/attachments/ufa_laws_and_permits.pdf.</p> <p>There is no need to duplicate the UFA</p>