



FRESH Food Stores - **Approved!**

Overview

Updates

Update December 9, 2009:

On December 9, 2009 the City Council adopted the FRESH Food Stores text amendment with [modifications](#). The zoning text amendment is now in effect.

[View the text amendment adopted on December 9, 2009.](#)

Download the FRESH Food Store symbol: in [pdf format](#).



[Read Mayor Bloomberg's FRESH Announcement.](#)

Program Description

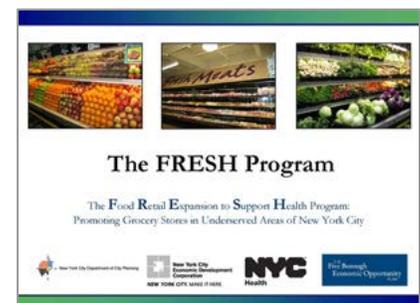
A 2008 [study](#) by the New York City Departments of Health and Mental Hygiene (DOHMH), City Planning (DCP) and the New York City Economic Development Corporation (NYCEDC) found that many low- and moderate-income neighborhoods across the City are underserved by grocery stores offering a full line of grocery products, including fresh fruits and vegetables, fresh meats, dairy and other food and nonfood products.

The Food Retail Expansion to Support Health, or FRESH, program will facilitate the development of stores selling a full range of food products with an emphasis on fresh fruits and vegetables, meats and other perishable goods. The proposed action will provide zoning incentives for neighborhood grocery stores to locate in some of the most underserved neighborhoods in the City with primarily pedestrian-oriented, local shopping districts. These areas encompass portions of Community Districts 9-12 in the Borough of Manhattan, portions of Community Districts 1-7 in the Borough of the Bronx, portions of Community Districts 3, 4, 5, 8, 9, 16 and 17 in the Borough of Brooklyn and the Special Downtown Jamaica District in Queens.

In addition, financial incentives through the EDC will be targeted toward the development of grocery stores and supermarkets in the FRESH program areas and other underserved areas in all five boroughs. The addition of more grocery stores will enhance local retail amenities, offer better access to fresh, nutritious foods, and provide local jobs, improving the quality of New York City's neighborhoods.

2008 Study Findings

The 2008 study, [Going to Market](#), used an index to identify need for additional grocery stores and supermarkets for all New York City neighborhoods. The index indicates a widespread shortage of grocery stores and supermarkets but a concentration of high need areas in Northern Manhattan, the South Bronx, Central Brooklyn, and small portions of Queens and Staten Island. High need areas generally fall within dense residential neighborhoods where the retail environment offers limited opportunities to purchase fresh foods and DOHMH data show consumption of produce is low and the rates of the twin epidemics diabetes and obesity are high among area residents. Low income households may be adversely affected if affordable fresh food is not widely available in their neighborhoods. The consequences include more time and money being



[View the slide show presentation](#)

budgeted for grocery shopping.

Existing Constraints

Existing and potential developers and operators of grocery stores face significant barriers that hamper viability and profitability. Grocers must earn a reasonable return on their investment. Many retailers decide not to sell fresh produce, meat and fish because there are higher business costs associated with selling these products. A produce manager, butcher or fish monger's skill set usually commands higher salaries and the food must be refrigerated in equipment that is costly to purchase and operate. Even if successful in operating a store, grocers face outside pressures for large format retail space that is in short supply. Grocery store operators are often unable to compete for the limited number of large, ground floor storefronts against more profitable businesses, such as retail bank branches, drug stores and discount variety stores.

Other regulations can drive up the cost of developing grocery stores. The Zoning Resolution currently applies a higher parking requirement for food stores over other types of neighborhood retail and service uses. The current regulations also restrict grocery stores to 10,000 square feet in M1 Districts. These regulations have cost implications and reflect outdated assumptions about the impacts of new food stores. New grocery stores may be required to purchase more land to accommodate parking than would be justified by the demand, in commercial districts where prevailing market rents are high and larger tracts of land are scarce. In M1 Districts where development costs are lower than commercial districts and larger tracts of land are more available, full-line grocery stores are subject to a time-consuming and costly public review process at a very low size threshold. These M1 Districts encompass light manufacturing areas in Mixed Use Districts where residential uses are permitted and light manufacturing areas directly adjacent to underserved residential districts.

The FRESH Program – Purposes and Benefits

FRESH seeks to incentivize the establishment of neighborhood full-line grocery stores in low-income and underserved communities. When a full-line grocery store is included in a new building or expansion or conversion of an existing building, the program offers additional floor area in mixed use buildings, reduces parking requirements and allows larger stores to locate as-of-right in light manufacturing areas.

The financial and zoning incentives offered through FRESH aim to address some of the disincentives facing food store development and operation, and promote the positive influences that these stores have on the neighborhoods in which they operate.

Influence of Neighborhood Supermarkets and Grocery Stores on Quality of Life

- Grocery stores are a fundamental resource for neighborhoods. Grocery shopping consumes a large portion of most household budgets. In addition, shopping for food is an activity that is performed frequently. It is important that New Yorkers in pedestrian-oriented neighborhoods live within a comfortable walking distance of a grocery store. It is also important that an adequate selection of fresh food exists at competitive and affordable prices.
- DOHMH research shows that, in the areas identified as being in high need of more full-line grocery stores, 16 to 26 percent of residents reported they did not eat a single serving of fresh fruits or vegetables the day prior to being surveyed. These areas also suffer from high rates of obesity and diabetes. Increasing the availability of fresh foods in these neighborhoods is one means to reverse these health trends.
- Rates of obesity and diabetes have dramatically increased in New York City. A recent [study](#) by DOHMH determined that nearly 1 in 4 adult New Yorkers is obese, an increase of 17 percent in a two year period. Diabetes now affects over 700,000 people in New York City, and over 3 million New Yorkers have body mass indexes classifying them as either overweight or obese.
- More studies are demonstrating that access to food retail has a direct bearing on health. In 2006, a study published in the American Journal of Preventive Medicine found the presence of a supermarket within a Census Tract alone or in combination with a grocery store was associated with lower prevalence ratios of obesity and overweight residents¹. More recently, a study of New York City's food environment found that a higher density of retailers offering opportunities for healthier food purchases is associated with a lower prevalence of obesity in area residents².
- In areas with a shortage of grocery stores and supermarkets, an increasingly large share of establishments that do not sell fresh foods are selling other food products, such as discount stores, drug stores and convenience stores. More neighborhood grocery stores would increase convenience and the availability of fresh foods, and ensure competitive pricing for those foods, empowering consumers to make healthier decisions about what to buy and eat.

Influence of Neighborhood Supermarkets and Grocery Stores on Economic Development

- Nationally, grocery shopping represents the largest segment of retail activity after automobile and automobile part

sales, accounting for more than 16 % of retail sales³.

- There is enormous financial capacity for new supermarkets throughout the city. The city has the potential to capture approximately \$1 billion in lost grocery sales to suburbs. The loss in sales alone is enough to support more than 100 new neighborhood grocery stores and supermarkets.
- The importance of having nearby food retail is often used as selling point in real estate listings. New Yorkers without access to an automobile rely on neighborhood stores that are close to their homes for everyday shopping needs.
- Grocery stores provide a wide range of economic development benefits for neighborhoods. Grocery stores require a broad range of workers, from those new to the workforce to skilled department managers. The number of jobs a new grocery store may add depends on its size and sales volumes; however, a grocery store typically employs dozens of people. More grocery stores may increase property values and expand the City's tax base. Full-line grocery stores are high-value magnets that attract complementary stores and services, creating opportunities for additional private sector investment. New stores also contribute to the physical revitalization of communities.

The FRESH program, a joint effort sponsored by the Department of City Planning and the Economic Development Corporation offers an array of incentives for potential and existing food store developers and operators. The program will include:

1. Zoning Incentives

- Additional Floor Area in Mixed Residential and Commercial Buildings
- Reduction in Required Parking
- Larger As-of-right Stores in Light Manufacturing Districts

2. NYCIDA Financial Incentives

- Real Estate Tax Reductions
- Sales Tax Exemption
- Mortgage Recording Tax Deferral

The financial benefits of the FRESH program would be available to any store that meets the FRESH food store definition within FRESH Food Store Areas or other underserved areas eligible for Industrial Development Agency benefits. For more information on the financial incentives available for FRESH food stores [click here](#).

¹Kimberly Morland, Ana V. Diez Roux, Steve Wing, [Supermarkets, Other Food Stores, and Obesity: The Atherosclerosis Risk in Communities Study](#), American Journal of Preventive Medicine, Volume 30, Issue 4, April 2006, pages 333-339.

²Andrew Rundle, Kathryn M. Neckerman, Lance Freeman, Gina S. Lovasi, Marnie Purciel, James Quinn, Catherine Richards, Neelanjan Sircar, and Christopher Weiss, [Neighborhood Food Environment and Walkability Predict Obesity in New York City, Environmental Health Perspectives](#), Volume 117, Number 3, March 2009, Pages 442-447.

³U.S. Census Bureau, [Estimated Annual Sales of U.S. Retail and Food Services Firms by Kind of Business: 1992 Through 2007](#), accessed at <http://www.census.gov/svsd/www/artstbl.html>.

FRESH Food Stores - **Approved!** Proposed Text Amendment

The FRESH program targets the creation and retention of full-line grocery stores in underserved neighborhoods where rates of diet-related diseases are high among area residents. These FRESH Food Store Areas were also carefully tailored to neighborhoods that are eligible for complimentary financial incentives package and have similar built environments. Any store seeking to utilize the zoning incentives of the FRESH program must demonstrate it meets the following definition and be certified as a FRESH food store.

Definition of a FRESH Food Store

The proposed text amendment defines a FRESH food store as a store whose primary business is the sale of grocery products and provides:

- (a) at least 6,000 square feet of selling area is used for a general line of food and nonfood grocery products such as dairy, canned and frozen foods, fresh fruits and vegetables, and fresh and prepared meats, fish, and poultry, intended for home preparation, consumption and utilization;
- (b) at least 50 percent of such selling area is used for the sale of a general line of food products intended for home preparation, consumption and utilization;
- (c) at least 30 percent of such selling area is used for the sale of perishable goods that shall include dairy, fresh produce, and frozen foods and may include fresh meats, poultry, and fish; and
- (d) least 500 square feet of such selling area is used for the sale of fresh produce.

Certification of a FRESH Food Store

The proposal requires that all stores utilizing the zoning incentives of the program must be certified as a FRESH food store by the Chairperson of the City Planning Commission (CPC). The applicant for the zoning certification must submit site plans demonstrating that the store meets the floor area requirements established in the proposed zoning definition of a FRESH food store. In addition, the applicant must provide a signed lease by a participating grocer, or some other form of a written commitment acceptable by the Chairperson of the CPC, to occupy space developed for the FRESH food store. Additionally, the proposed text would require all certified FRESH food stores to display the FRESH sign at the entrance to the store that indicates that the store is a participant in the FRESH program and that fresh foods are sold inside.



FRESH Sign - Download the proposed FRESH Food Store symbol: in [pdf format](#)

To facilitate and encourage FRESH Food Stores in the designated underserved neighborhoods, the proposed text also includes the following zoning incentives:

Additional Floor Area

The proposed text would allow one additional square foot of residential floor area in a mixed building for every square foot provided for a FRESH food store up to a maximum of 20,000 square feet.

For such buildings, the City Planning Commission may, by [authorization](#), allow the maximum building height to be increased by up to 15 feet to enable the additional floor area to be accommodated. The story occupied by a FRESH food store would be required to have a minimum finished floor to finished ceiling height of 14 feet above the adjacent public sidewalk, and residential stories would be required to have a minimum finished floor to finished ceiling height of eight feet six inches.

Reduction in Required Parking

The proposed text would ease parking requirements for FRESH stores:

- In Commercial districts that permit residential buildings with ground floor retail, only FRESH food stores over 40,000 square feet would be required to provide parking.
- In Light Manufacturing and general service (M1 and C8) districts, the first 15,000 square feet of floor area in a FRESH food store would be exempted from providing any parking.

Easing of M1 (Light Manufacturing) Districts Use Restrictions

The proposed text amendment would permit FRESH food stores as-of-right up to 30,000 square feet in M1 districts, eliminating the need for a special permit and its costly and lengthy land use and environmental review.

Urban Design Requirements

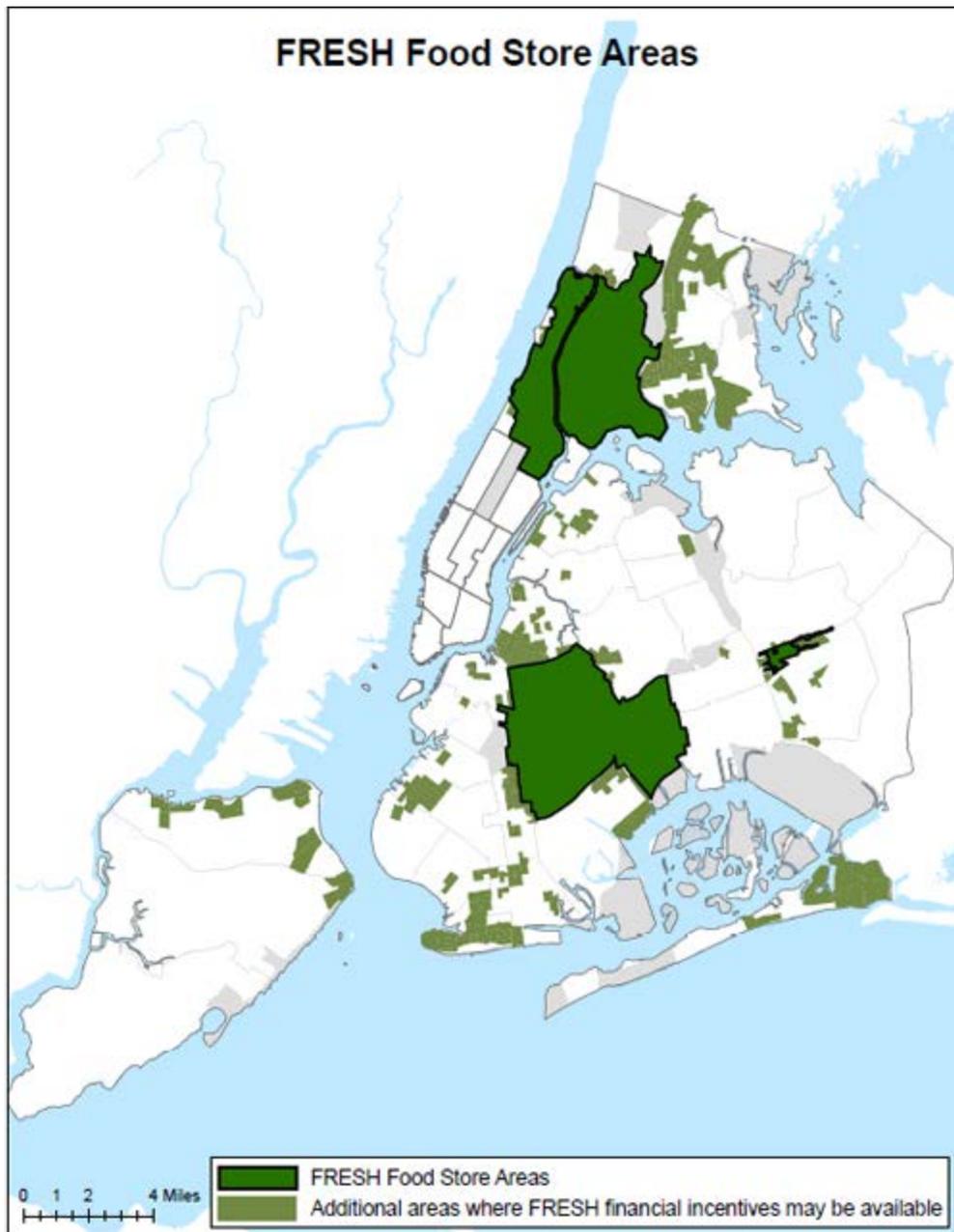
A minimum percentage of a FRESH food store's ground floor level street wall would need to be glazed and transparent, contributing to a more interactive streetscape. All new security gates on the storefront would be required to be at least 75 percent transparent.

Conversion Options for FRESH Food Stores

The program requires a continuing commitment to operate a FRESH food store. However, in the unlikely event a FRESH food store is not economically viable on a particular site, the space may be converted to another use under two options.

- A substitute use that meets all zoning regulations for the zoning lot may be permitted by CPC Chair [Certification](#).
- A substitute use permitted by the underlying zoning district that does not meet bulk and parking regulations for the zoning lot may be permitted by CPC Authorization if the Commission finds that market conditions are unable to support a FRESH food store and such conditions were not created by the applicant or a prior tenant.

Stores already operating or planning to open in the FRESH Food Stores program areas shown below may be eligible for zoning and financial benefits. Click on the map below to see the program area boundaries for both the zoning and financial incentives.



To view changes to the FRESH Food Store Areas adopted on May 11, 2011, please view an [updated map](#).

FRESH Food Stores - **Approved!** Public Review

On May 18, 2009, the City Planning Commission referred the proposed FRESH Food Store text amendment (N 090412 ZRY) to all affected community boards, borough boards, and borough presidents for review and comment. The City Planning Commission held a public hearing on the proposal on August 5, 2009 and on September 23, 2009, the City Planning Commission voted to approve the text amendment with modifications*. ([Read the CPC Report](#)). The City Council approved the text amendment on December 9, 2009 with modifications**.

*CPC Modifications

In response to issues raised during public review, the Commission approved the zoning text amendment with the following modifications:

1. Eliminate the requirement to provide residential stories with a minimum floor-to-ceiling height of 8 feet, 6 inches in mixed and mixed-use buildings that include a FRESH food store and are seeking a City Planning Commission authorization to modify the maximum building height pursuant to Section 63-22.
2. Permit modification to the special transparency requirements by Chair certification: The Chair may, by certification, allow buildings with frontage along more than one street, to be subject to the glazing requirement only on the street wall facing the principal street. Also by Chair certification, the 70% glazing requirement may be reduced to 50% in a mixed building that receives public funding, as defined in Section 23-911.
3. Provide for Community Board notification for applications seeking certification as a FRESH food store: All applicants seeking certification as a FRESH food store are required to submit a copy of the application drawings to the affected Community Board for 45-day review. The Chairperson shall not issue a certification for the application until the 45-day review period ends, unless the Community Board submits comments before that time.
4. Provide for ongoing monitoring through periodic compliance reporting: The compliance provision requires submission to the Chairperson every three years by the property owner of an affidavit attesting that the certified FRESH food store continues to operate in accordance with the restrictive declaration. The affidavit must include accompanying photos documenting the condition of the store as further evidence.

In addition to the modifications made in response to comments received during the public review, the Commission approved the zoning text amendment with other modifications that are technical in nature and intended to improve clarity and provide more consistency with language in the Zoning Resolution.

**CC Approval with Modifications

On December 9, 2009 the City Council approved with modifications the FRESH food store text amendment. The approved Zoning Text amendment was modified by the CC in response to concerns raised during the public review process. The modifications are as follows (Matters in ~~strike through~~ were deleted by the City Council):

63-01

Definitions

FRESH food store

A "FRESH food store" is a food store #Use# as listed in Section 32-15 (Use Group 6), where at least 6,000 square feet of #floor area#, or #Cellar# space utilized for retailing, is utilized for the sale of a general line of food and non-food grocery products, such as dairy, canned and frozen foods, fresh fruits and vegetables, fresh and prepared meats, fish and poultry, intended for home preparation, consumption and utilization. Such retail space utilized for the sale of a general line of food and non-food grocery products shall be distributed as follows:

(a) at least 3,000 square feet or 50 percent of such retail space, whichever is greater, shall be utilized for the sale of a general line of food products intended for home preparation, consumption and utilization; and

(b) at least 2,000 square feet or 30 percent of such retail space, whichever is greater, shall be utilized for the sale of perishable goods that shall include dairy, fresh produce, ~~and~~ frozen foods and ~~may include~~ fresh meats, ~~poultry and fish~~, of which at least 500 square feet of such retail space shall be designated for the sale of fresh produce.

 [View the text Amendment adopted by CC on 12/9/2009.](#)

For more information on the proposal, contact the Housing, Economic & Infrastructure Planning Division of the Department of City Planning at Fresh@planning.nyc.gov.

Related Notes

-  Items accompanied by this symbol require the [free Adobe Acrobat Reader](#).
- Brief explanations of terms in *green italics* can be viewed by [visiting glossary page](#). Words and phrases followed by an asterisk (*) are defined terms in the Zoning Resolution, primarily in Section 12-10. Consult the Zoning Resolution for the official and legally binding definitions of these words and phrases.