

Natural Food Acquisition Policy in Washington, D.C.: A Regulatory Overview from the Late Nineteenth Century to the Present

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Introduction

In 1989, the D.C. Council passed the Tree Space Beautification Regulation Act, letting homeowners plant greenery in the public grass strip in front of their property (D.C. Council 1989). The regulations require leaving sidewalks clear and using only shallow-rooted plants, and they prohibit anything that could produce food, such as vegetables. Officials may have wanted to avoid cleaning fallen produce off public sidewalks, but the rule also fits a longer pattern. Over the past century, DC's "natural food acquisition policy," defined in this paper as having to do with fishing, hunting, and foraging for personal and communal consumption within the city boundary, has gotten steadily more restrictive, even in cases like this one where food access was never really the point.

This tendency toward restriction carries real costs. A 2012 survey of anglers along the Anacostia River found that nearly three-quarters ate or shared their catch despite decades-old consumption advisories, and researchers linked this pattern in part to limited access to affordable food in the surrounding community (Anacostia Watershed Society 2012). For these residents, fishing is not a hobby but a way to help make ends meet. Government agencies themselves recognize that these methods of acquiring food can be genuinely beneficial: through the Rock Creek Park White-Tailed Deer Management Plan, the National Park Service donated 1,100 pounds of deer meat to a Maryland food bank in 2022, and continues to donate similar amounts each year (National Park Service 2022). Agencies understand that residents both demand and benefit from hunting and fishing, yet recreational hunting in District parks remains banned outright.

As the nation's capital, the District answers to several overlapping authorities at once, including local government, Congress, and the National Park Service. Each of these bodies has shaped food acquisition policy differently, and at different times, in response to resident demand, public health concerns, and pressure to maintain the District's image as the seat of national government. This layered governance likely also helps explain why no single, easily accessible account of this regulatory history currently exists, since the relevant laws are scattered across federal statutes, DC Code, DCMR titles, NPS regulations, and agency orders that were never compiled with each other in mind. This paper aims to fill

that gap by tracing the regulatory history of hunting, fishing, and foraging policy in DC from the late nineteenth century to the present. It argues that these once loosely regulated subsistence practices were restricted gradually and largely independently, driven at different points by conservation concerns, public health crises, urban development, and public safety, rather than by any single overarching cause.

Given space constraints, this paper treats DC's broader development history and its tree and urban agriculture policy only where they help explain a specific shift in hunting, fishing, or foraging law, rather than as subjects in their own right. Hunting and fishing are addressed together, since they were often governed by the same statutes and share a regulatory history closely tied to DC's federal parkland. Foraging is treated separately, since it follows a markedly different path. Rather than being actively restricted, it was rarely addressed by name, leaving its regulation to fall under general property and park law instead. What emerges from this history is a century-long pattern of restriction that, while never explicitly about limiting food access, has steadily narrowed residents' ability to supplement their diets through hunting, fishing, and foraging. This trend is shaped less by any single cause than by the shifting priorities of conservation, public health, urban development, and civic image.

Methods

This study employed a historical-archival methodology to trace the regulation of food self-provisioning activities, foraging, hunting, and fishing, in Washington, DC, from the late nineteenth century to the present. Primary sources included federal and District statutes, DC Code provisions, congressional acts, agency regulations (e.g., National Park Service, DC Department of Energy and Environment), and case law (e.g., *District of Columbia v. Heller*, 2008). Secondary sources included existing academic literature on urban agriculture and food justice, along with prior policy compilations (e.g., the UA Policy Sheet maintained by the Office of Urban Agriculture). Sources were organized chronologically into thematic categories, hunting and fishing, foraging, and DC governance and codification, to identify how regulations emerged, were amended, or were superseded over time, and to trace their intersection with broader conservation, public health, development, and public safety concerns.

This paper's scope is relatively narrow in scope, even when only mentioning food acquisition policy. Although the research conducted for this paper included several more policies, guidelines, and historical events, only those deemed most important when considering only hunting, fishing, and foraging within the District of Columbia are mentioned in this paper.

D.C. Self-Governance and Regulation Codification

During the researched period (late nineteenth century to present), D.C. governance changed at least four times substantially. The Organic Act of 1871 replaced the individual charters of the communities inside what was then called Washington City, as well as the separate Georgetown community (U.S. Congress 1871). These communities' local governance was replaced by an 11-person legislative council led by a governor appointed by the President of the United States. There was also a lower house, elected by locals. However, this system was quickly changed when Governor "Boss" Shepherd led the District into considerable debt, in large part due to his incessant spending on city improvements, including a major tree-planting campaign (Board of Public Works of the District of Columbia 1874). Following this, Congress appointed three temporary commissioners in 1874, later officialized by legislation through the Organic Act of 1878 (U.S. Congress 1878a). These commissioners consisted of two civilian commissioners and one commissioner from the Army Corps of Engineers, all presidentially appointed. This system of governance persisted until 1967. Regulations under this system were established through Commissioner Orders, grouped chronologically and by subject matter.

Throughout its entire existence, Congress has maintained legislative control of the District. Any act passed by Congress can supersede local legislation, and these acts are organized in the "Statutes at Large." Along with Congress, the National Park Service (NPS) has maintained a strong presence in the District. Controlling 20% of the total land in D.C. and around 90% of the public park system, the NPS was established by the National Park Service Organic Act of 1916 (U.S. Congress 1916a). It was later expanded in 1933 by President Roosevelt's Executive Order 6166, taking control of parks and monuments previously managed by the War Department and the Forest Service (Roosevelt 1933). However, certain

areas within D.C. had functioned as national parks before the NPS, such as Rock Creek Park, which was granted national park status in 1890 (U.S. Congress 1890). NPS regulations are codified under the Code of Federal Regulations (CFR).

Through decades of advocacy, Reorganization Plan No. 3 in 1967 replaced the Board of Commissioners with a nine-member city council and a single mayor, though members continued to be presidentially appointed (U.S. Congress 1967). This was later officially replaced by the District of Columbia Home Rule Act of 1973, which allowed residents to elect their own 13-member council and mayor (U.S. Congress 1973a). This is how D.C. is governed today. Regulation codification changed drastically during these decades as well. Commissioner Orders were originally codified into the D.C. code of law, established in 1901 (U.S. Congress 1901a). This code of law underwent several changes throughout the following decades, though its next major shift was in 1951, through “District of Columbia Code; preparation and publication; cumulative supplements,” passed in 1947 (U.S. Congress 1947). This codification was replaced in 1967 by the District of Columbia Rules and Regulations (DCRR) shortly after Reorganization Plan No. 3. This system of codified rules was later replaced by the District of Columbia Municipal Regulations (DCMR) in 1978 (D.C. Council 1978), which still persists as the current system of codification.

Hunting and Fishing Policy

DC's regulatory history for hunting and fishing developed largely in parallel, often under the same statutes, and both were shaped early on by the District's federal park system. Heading into the twentieth century, the District operated under the 1878 "Act for the Preservation of Game and Protection of Birds in the District of Columbia," which restricted the hunting of quail, ruffed grouse, woodcock, pinnated grouse, snipe, plover, wildfowl, and reed birds during certain seasons (U.S. Congress 1878b).

In 1890, Congress established Rock Creek as a national park, mandating "the preservation from injury or spoliation of all timber, animals, or curiosities within said park, and their retention in their natural condition, as nearly as possible," effectively banning hunting, fishing, and foraging within park

boundaries from its birth (U.S. Congress 1890). That same decade, fishing regulation began developing independently: the Act for the Protection of Fish in the District of Columbia, approved May 17, 1898, established a protected spawning ground in the Potomac and set the river's first closed season, aimed at preserving fish stocks during the spring run (U.S. Congress 1898). The following year, the 1899 "Act for the Protection of Birds, Preservation of Game, and for Prevention of its Sale during Closed Seasons in the District of Columbia" expanded the 1878 act to additional species, banned the sale of protected species during closed seasons, and added imprisonment as a penalty for unpaid fines (U.S. Congress 1899).

The 1901 code of law relocated Potomac fishing rules to Sections 896 through 903 of the new Code, moving them out of standalone legislation and into the District's permanent legal framework (U.S. Congress 1901a). That same day, Congress also amended the 1898 Act (56th Cong., Sess. II, Chs. 844-846, 31 Stat. 1093), tightening the black bass and crappie closed season to April 1 through May 29 and adding confiscation of nets, boats, and gear as a penalty for violators (U.S. Congress 1901b).

In 1906, "An Act to Prohibit the Killing of Wild Birds and Wild Animals in the District of Columbia" replaced the 1899 act, prohibiting the killing of most native birds and animals in DC during any season (U.S. Congress 1906). Crows, Cooper's hawks, sharp-shinned hawks, and great horned owls could still be shot with landowner permission, while the English sparrow was explicitly excluded from protection due to its invasive status. Representative Campbell of Kansas, a chief supporter of the bill, stated that its object was "to prohibit hunting in the District of Columbia, in the interests of public safety and bird protection, and to make the suburbs of Washington practically a refuge for native birds and mammals" (U.S. Congress 1906).

Fishing regulation continued to tighten as well: the 1913 Act made it a misdemeanor to dump dead fish, fish offal, or other refuse into the Potomac River or its tributaries, punishable by a fine of up to \$100 or six months' imprisonment (U.S. Congress 1913). The Act for the Protection of Fish of 1927 went further, barring the taking, possession, or sale of largemouth and smallmouth bass anywhere in the District, with penalties of up to \$100 or three months' imprisonment (U.S. Congress 1927).

The National Park Service, established in 1916 with a mission to "conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations" (U.S. Congress 1916a), permitted recreational fishing on its District land as early as 1943, though it may have been allowed informally before that. This is codified under 36 CFR 2.3, though the exact date of historic codification remains unclear (National Park Service, n.d.-a). Fishing north of the Porter Street Bridge, the southern boundary of the original Rock Creek Park (Reservation 339), has remained prohibited throughout, intended to protect seasonal fish spawning.

Not all fishing-related policies came directly. The District of Columbia Redevelopment Act of 1945 initiated urban renewal projects that profoundly reshaped the city, disproportionately impacting African American communities (Swope 2024). The clearance of neighborhoods like Southwest, which was home to an estimated 23,000 residents, forced thousands of people away from the Potomac and Anacostia Rivers they had fished for generations. This displacement made it significantly more difficult for residents to use fishing as a supplement to their diet, since it was physically further away.

In 1958, Most prior fishing and hunting statutes, except NPS regulations, which exist as their own separate system, were replaced by Public Law 85-730, the "Fish and Game Laws of the District of Columbia Act," which authorized the DC Commissioners to regulate fishing and wildlife directly (U.S. Congress 1958). The Commissioners exercised this authority through Order 59-392, the "Fish and Wildlife Regulations for the District of Columbia," issued March 12, 1959, which permitted hook-and-line fishing in nearly all District waters, with exceptions such as public ornamental fountains and the stretch of Rock Creek Park above the National Zoo (District of Columbia Board of Commissioners 1959). Hunting, meanwhile, continued to be illegal in any form. These regulations were codified eight years later into the District of Columbia Rules and Regulations (DCRR), though the specific citation is not available online. The DCRR system remained in use from 1967 until the District of Columbia Documents Act of 1978 (D.C. Council 1978), after which recreational fishing law was

recodified into Title 19, Chapter 15 of the District of Columbia Municipal Regulations (District of Columbia Municipal Regulations, n.d.-a).

Hunting itself remained effectively frozen after the early twentieth century's cumulative bird-and game-protection acts, with no significant local statute reopening hunting access. Federal wildlife law reinforced this over time: the Migratory Bird Treaty Act of 1918 (U.S. Congress 1918), the Bald Eagle Protection Act of 1940 (U.S. Congress 1940a), and the Endangered Species Act of 1973 (U.S. Congress 1973b) all apply to DC even as the District's own hunting law changed little, since hunting had already been effectively prohibited District-wide by this point.

Though most fishing regulations remained rooted in the DCMR Title 19 framework after 1978, several later policies affected fishing in the District. The DC Water Pollution Control Act of 1984 established catch limits and license requirements, codified into DCMR Title 8, Chapter 10 (D.C. Council 1984; District of Columbia Municipal Regulations, n.d.-b), showing how closely the history of fishing regulation has tracked the history of water pollution control. This was again shown in 1994, when the District issued its first official fish consumption advisory, warning residents against eating certain catfish, carp, and eel. The precise date of the first such advisory is contested, however, with at least one source suggesting warnings were issued as early as five years prior (Cohn 1994). A 2007 tissue study of Potomac and Anacostia fish found PCB concentrations in American eel over 100 times the EPA's screening threshold, with carp and catfish also elevated well above safe levels (Pinkney 2009), underscoring the basis for these ongoing advisories. These advisories, now issued by the Department of Energy and Environment, have been continuously updated since. Regional management bodies also emerged during this period to oversee the Potomac's shared waters, including the Interstate Commission on the Potomac River Basin, established in 1940 (U.S. Congress 1940b), and the Potomac River Fisheries Commission, established in 1963 (U.S. Congress 1963).

The one notable exception to DC's blanket hunting prohibition emerged in 2013, when Rock Creek Park introduced a managed deer-thinning program, dispatching qualified federal workers and contractors to reduce deer populations: heavily for the first three years, then at a smaller scale annually.

Harvested meat was donated to local charitable organizations where possible (National Park Service 2022). Aside from this narrow, non-recreational exception, hunting remains banned outright in all areas within the District.

Foraging Policy

Foraging occupies a markedly different regulatory position than hunting and fishing: practically no DC-specific law has ever addressed human foraging directly. Instead, the District's relationship to foraging has been shaped indirectly, primarily through its public tree-planting history and through general property law.

In the 1870s, Alexander "Boss" Shepherd, head of the Board of Public Works and briefly governor of the District, oversaw the planting of roughly 60,000 trees throughout the city (Board of Public Works of the District of Columbia 1874). Most were not fruit-bearing species in any meaningful foraging sense, though a handful were, including the ginkgo trees still found in Georgetown today. This planting campaign remains one of the largest edible-fruit-bearing tree programs in DC's history; at the time, these trees were valued purely for shade and civic beauty rather than any food-provisioning function. This sentiment was continued into the early 20th century through the city's beautiful movement, a nationwide movement to improve the physical spaces of cities (Pizzol 2020). This culminated in D.C. through the 1901 McMillan Plan, a large-scale development plan for Washington “chiefly concerned with the beautification of the city, the development of the park system, and the adequate treatment and development of the Federal public buildings.”

In 1912, the District received 3,020 cherry trees as a gift from the government of Japan, following an earlier 1910 shipment that had to be burned after being found infested (National Park Service, n.d.-b). A range of other species, magnolias, elms, maples, and sycamores, were planted in the following decades, none bearing human-edible fruit. Dogwood trees, planted near the future site of the WWII Memorial in the 1930s, were among the few additional edible-fruit species introduced during this period.

Public policy shifted around 1949, when the USDA published its yearbook *Trees*, advising against planting fruit-bearing trees in urban areas due to the mess that they make (U.S. Department of Agriculture 1949). Whether as a direct result of this guidance or a broader shift in public sentiment, fruit-bearing tree planting in DC declined markedly in the following decades, including efforts to avoid such species altogether or to plant only male trees to prevent fruit production entirely.

This trend was formalized in 1989 with the Tree Space Beautification Regulation Act, which allowed homeowners to manage the strip of public land between the sidewalk and street (commonly known as "parking space" or tree planting space), while explicitly prohibiting the planting of fruit-bearing trees in that space, citing the cost of fruit cleanup and road safety concerns (D.C. Council 1989).

Beyond tree policy, the only laws bearing on foraging are general property statutes rather than foraging-specific regulation. Title 22, Chapters 32 and 33 of the DC Code prohibit theft and unlawful entry, respectively, and separately criminalize destroying or injuring vines, bushes, shrubs, or trees not owned by the individual, though what legally constitutes "injury" in this context remains ambiguous (District of Columbia Code, n.d.). Because no distinct body of foraging law exists locally, and because theft and trespass definitions have remained largely unchanged over time, this paper does not provide an extended regulatory history for foraging comparable to that given for hunting and fishing.

Urban renewal also played a role in foraging policy. When displaced, Families moved into areas specifically designed as low income communities (Swope 2024). These communities, such as Barry Farm, were lacking in any greenery, especially fruit-bearing trees. Comparing these conditions to the old communities these families lived in, southwest D.C. which still had some of the original fruit bearing trees Boss Shepherd planted decades before and most likely had fruit trees planted by homeowners throughout that time, the ability to forage anything was severely inhibited by this move.

National park land followed a similar pattern until 1960, when general prohibitions on injuring or removing plants gave way to discretionary authority: superintendents were empowered to permit visitors to pick and eat certain native fruits and berries (National Park Service 1960). Online versions of this codification are not available, though it is mentioned specifically in a recent regulation change (NPS

2016). Although no official statement was found as an explanation for this change, one possible explanation for this change in regulation was a long term overhaul program within the NPS titled “Mission 66”. This program intended to renew the NPS and its parks, since visit rates were dramatically increasing in the years following WWII. This program intended to capitalize on citizens' newfound interest in nature, with “promotional materials for Mission 66 [emphasizing] the romanticism of family road trip vacations”(NPS 2023). A ban on picking berries would be disruptive for this romanticized family road trip vacation, so regulation might have been relaxed in order to accommodate this larger objective. These provisions were later recodified as 36 CFR 2.1 (National Park Service, n.d.-c), where they remain today.

Conclusion

Taken together, the regulatory histories of hunting, fishing, and foraging in Washington, DC do not point to a single explanation. Instead, they show a pattern of restriction that arrived in waves, each shaped by whatever pressures were most immediate at the time: conservation concerns, public health, urban development, or environmental safety. Sometimes these pressures worked together, and sometimes one alone was enough to tip policy toward restriction, even when food access was never the stated concern, as with the Tree Space Beautification Regulation Act (D.C. Council 1989).

The Clean Water Act offers a clear example of how these factors can build on each other over decades before producing a single, decisive piece of legislation (U.S. Congress 1972). Concerns about the Potomac's water quality were not new in 1972. Public health warnings date back at least to the 1930s, when swimming was banned in parts of the river due to sewage contamination. For decades, though, these warnings produced only limited, local responses. It took a more visible moment, President Johnson's public remarks calling the Potomac "a national disgrace" (Johnson 1965), combined with mounting national attention to pollution more broadly, to generate the political momentum for sweeping federal legislation. The Clean Water Act that followed reshaped fishing regulation in DC for decades afterward, but the conditions that made it possible had been building for nearly forty years. This suggests that DC's

food acquisition policy did not simply respond to problems as they emerged. It also responded to when those problems became visible and politically urgent, which was not always the same moment.

This paper's scope also leaves several relevant factors unexamined that likely shaped this regulatory history in ways worth investigating further. DC's broader development history, including other major planning efforts like the McMillan Plan (Senate Park Improvement Commission for the District of Columbia 1902) and decades of urban redevelopment, likely affected where and how residents could access land for hunting, fishing, and foraging, even when development policy never mentioned food access directly. Racial bias shaped both the drafting and the enforcement of these regulations, with there being a documented history of racially unequal access to land and parks. Waterways in DC. Interstate cooperation, through bodies like the Interstate Commission on the Potomac River Basin and the Potomac River Fisheries Commission, likely influenced DC's regulatory choices in ways that a DC-focused study cannot fully capture on its own. Finally, environmental problems beyond water pollution, including air quality, soil contamination, and wildlife population changes, may have played a role in shaping these policies that this paper was not able to trace. Future research into any of these factors, and how they specifically affected natural food acquisition policy, would add meaningful depth to the history traced here.

What this paper does show is that access to hunting, fishing, and foraging in the nation's capital has narrowed steadily over more than a century, even as demand for these practices, and their potential benefits, have never fully disappeared. The District's food acquisition policy was shaped by many hands, working from different motivations, at different times, toward the same general outcome. Understanding that history matters not only for its own sake, but for anyone asking what role policies like these should play in a resident's ability to feed themselves today.

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