

November 11, 2012

Mr. Helder Gil  
Department of Consumer and Regulatory Affairs  
1100 4<sup>th</sup> Street SW  
Washington, DC 20024

**Re: Comments on Third Proposed Rulemaking for Vending Regulation**

Dear Mr. Gil:

We have seen an odd thing during this election season. Laws are sometimes NOT what they appear. For example, during the past two years, we have seen several laws passed in a number of states controlled by Republicans to prevent “voter fraud”. These laws set seemingly reasonable requirements—that voters show acceptable ID prior to voting. What could be wrong with honest elections?

But upon further review, these laws were not what they seemed. While claiming to be “neutral”, they actually were drafted to disenfranchise only certain groups of voters—as it happens, Democrats. Fortunately, these laws were challenged and reversed, either at the state or federal level. And a fair election occurred.

In the same way, this third draft of the vending regulation which DCRA has promulgated is also NOT what it appears. In fact, the most recent draft based on the DCRA outline is the worst draft ever! Let’s be honest:

- The “temporary moratorium” established in 1998 to prevent the licensure of street vendors is now well into its 14<sup>th</sup> year. The powers-that-be wanted to get rid of sidewalk vending—and mostly, they have done that. This draft continues that.
- Entrenched interests (National Mall Roadway Vendors) get a complete pass under these regulations—only because they have no opposition because of their geography. You and I know their “lottery system” is a fiasco—but that it the model you want to take city-wide. That is another under-handed way for DCRA to take control, because “lotteries” are to be “privatized” which means “Immune from FOIA”.
- The hot dog vendors—formerly an entrenched, protected industry in prior drafts of this regulation now are less protected in this draft.
- RFK vendors—which Councilmember Barry intended to protect—have now been thrown under the bus.
- Food truck vendors—the most exciting and innovative entrepreneurial thing we’ve seen in DC in a long time—are hamstrung under the regulatory proposal.

This regulation is not what it seems. It cements DCRA’s arbitrary authority—which is what DCRA wants. It places DDOT in a no-win situation—which is what DCRA wants. It continues to kill sidewalk vending—which is what DCRA wants. It gives BIDs a free pass to privatize public space—which is what DCRA wants. It protects the National Mall vendors—which is what DCRA wants, after all the National

Mall Vendors have done for DCRA. Finally it sends a signal to food trucks—you work for us, people, at our pleasure—and that, too, is what DCRA wants.

When it comes to vending, DCRA has been successful in two things: It stridently retains its authority over vending issues, while hiding problems from decision-makers. It ducks responsibility by throwing problems at other DC Departments. Most recently we've had the pain of seeing honest DDOT representatives have to explain in the Washington Post that they would indeed make waivers for food trucks working by McPherson Square. The food truck operators ask, why should we need a "waiver" to operate? Why can't we make a regulation that allows us just to do business? Answer: That's the way DCRA likes it. The DDOT bureaucrats are DCRA's pawns.

New food trucks don't understand how DCRA operates. If everybody is potentially eligible to be cited, (i.e. put out of business) then WE (DCRA) control the scene. That's the underlying DCRA theory, when it comes to vending. We have argued against it for years and continue to think it's wrong.

We see this pattern again and again in this proposed regulation—and that's why this draft needs to be tossed into the trash like the prior drafts. We can't let thugs win.

We want to close with an important point. It was only by Mayor's Order that DCRA got overall control of street vending in the first place—back in 1986. Before that, vending was in the Department of Business and Economic Development.

It is time for Mayor Gray to pick up his pen and make a new executive order. DCRA has failed to manage or regulate vending—it's self-evident. Nothing can be done to recapture the lost opportunities that DCRA has forgone through its mis-management. But Mayor Gray can make a bad situation better.

DCRA has failed. Period. As an intermediate step, we would suggest that the Mayor assign all authority over vending-related matters to the Department of Transportation, under the Public Space Committee, with a requirement that a report be delivered in 90 days explaining how best the District can dig out of the hole that DCRA has dug.

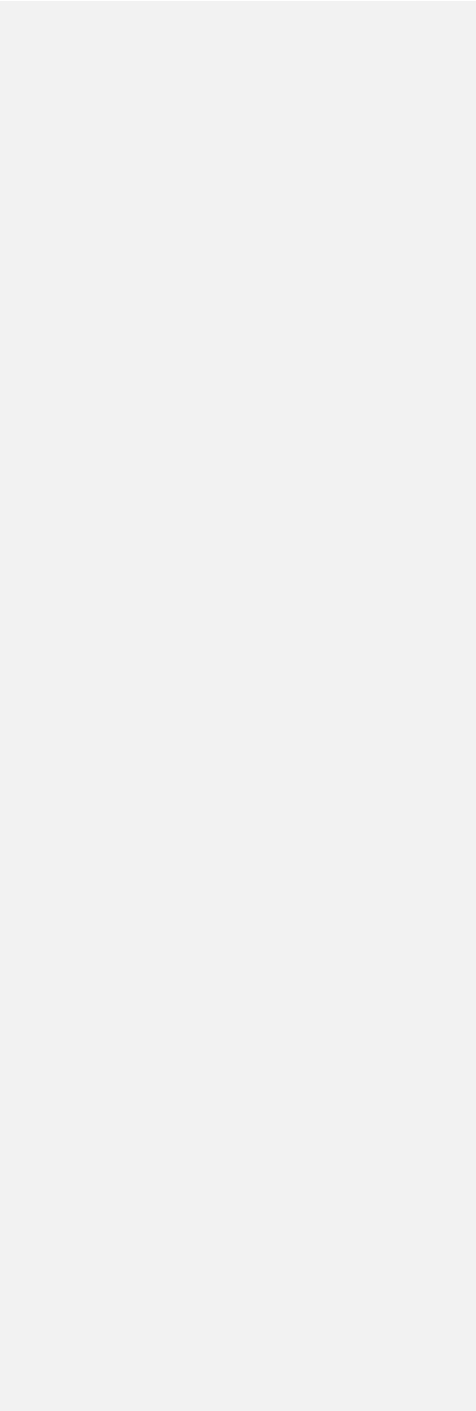
Mr. Gil, and Mayor Gray, please remember that the arc of history bends toward justice. Sometimes people can see past slogans and are capable of understanding the truth.

Sincerely yours,

Theodore Walker  
DC Vending Caucus

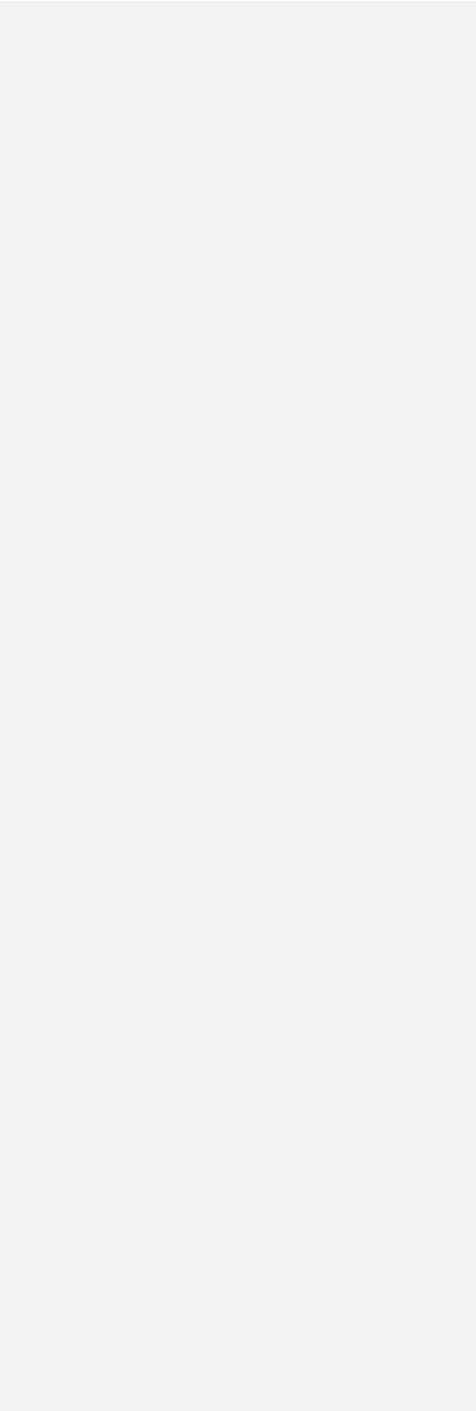
	CHAPTER 5 VENDORS (Current Proposal)	2010 Comments	2012 Comments	2012 Comments Updated
	<b>SUBCHAPTER A: GENERAL PROVISIONS</b>		.	
	500 PURPOSE		This draft retains almost all of the defects of the prior versions, except that any entity with any power has been able to do special pleading to DCRA.	This draft is even worse. The food truck special pleading has been recognized in Part 4, but badly. <a href="#">See the Washington Post</a>
	501 AGENCY RESPONSIBILITIES			
	<b>SUBCHAPTER B: VENDING LICENSES, PERMITS, AND AUTHORIZATIONS</b>			
	502 GENERAL LICENSURE REQUIREMENTS		The 2012 version grandfathers in all of the worst features of the current program, makes dubious allowances for recent vending initiatives (i.e. food trucks) and gives the BIDs the opportunity they have long sought, which is privatized management of public space.	This draft continues to retain the worst features of the current regulation—and adds far more complexity and uncertainty that is necessary or appropriate. Built on a bad outline and bad premises, this regulation is doomed to fail.
	503 VENDING BUSINESS LICENSE: CLASSES OF LICENSES			
	504 VENDING BUSINESS LICENSE: APPLICATION AND FEES			
	505 VENDING BUSINESS LICENSE: ISSUANCE			
	506 VENDING BUSINESS LICENSE: EXPIRATION AND RENEWAL			
	507 VENDING BUSINESS LICENSE: DENIAL, SUSPENSION, REVOCATION, AND SEIZURE		Note too that the fundamental problem that these regulations are proposed to solve is still in place: It is still impossible for a new sidewalk vendor to begin operations.	→This comment remains correct. These regulations retain that defect.
	508 VENDING SITE PERMIT: GENERAL REQUIREMENTS AND FEES			
	509 VENDING SITE PERMIT: APPLICATION		The vending moratorium lives on, 14 years after it was implemented.	→Looks like 15 years is going to be the current number for a “temporary moratorium.
	510 VENDING SITE PERMIT: ISSUANCE			
	511 VENDING SITE PERMIT: EXPIRATION AND RENEWAL			

512	VENDING SITE PERMIT: DENIAL, SUSPENSION, REVOCATION, AND SEIZURE		
513	HEALTH INSPECTION CERTIFICATE: GENERAL		
514	HEALTH INSPECTION CERTIFICATE: APPLICATION		
515	HEALTH INSPECTION CERTIFICATE: ISSUANCE		
516	HEALTH INSPECTION CERTIFICATE: SUSPENSION		
517	FOOD PROTECTION MANAGER CERTIFICATE		
518	PROPANE AND OPEN FLAME PERMIT		
519	HOOD SUPPRESSION SYSTEM APPROVAL		
<b>SUBCHAPTER C: VENDING LOCATIONS PART</b>			
<b>1: GENERAL</b>			
520	VENDING LOCATIONS: GENERAL		
<b>PART 2: SIDEWALK VENDING LOCATIONS</b>			
521	VENDING LOCATIONS: SIDEWALK VENDING		
522	VENDING LOCATIONS: CENTRAL VENDING ZONE		
523	VENDING LOCATIONS: OLD GEORGETOWN VENDING ZONE		
524	VENDING LOCATIONS: NEIGHBORHOOD VENDING ZONES		

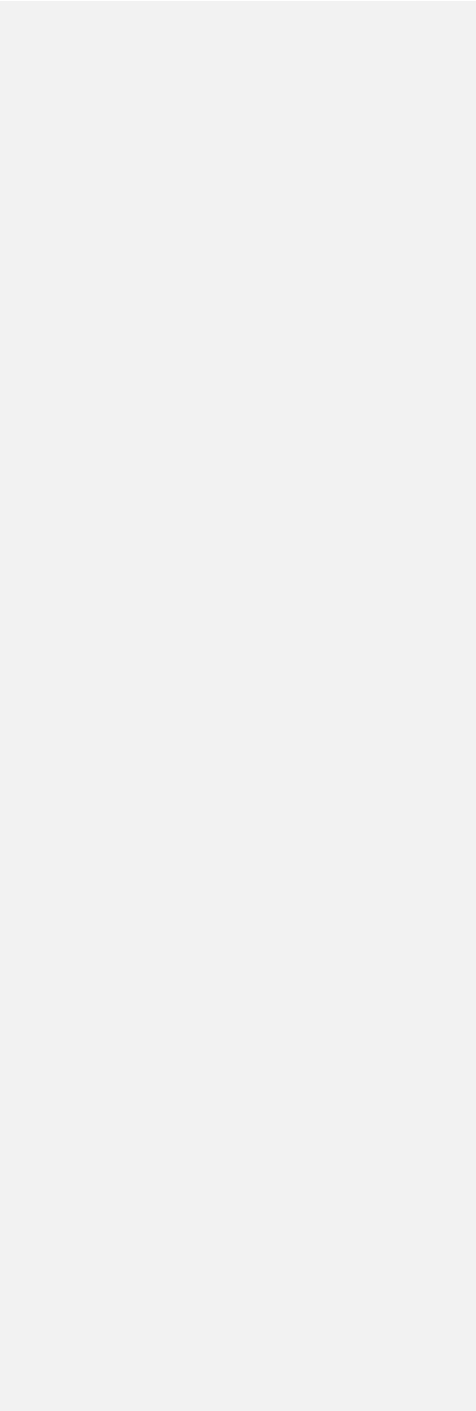




525	VENDING LOCATIONS: NATIONALS PARK VENDING ZONE		
	<b>PART 3: <u>STATIONARY</u> ROADWAY VENDING LOCATIONS</b>		
526	VENDING LOCATIONS: <u>STATIONARY</u> ROADWAY VENDING LOCATIONS: GENERAL		
527	VENDING LOCATIONS: <u>STATIONARY</u> ROADWAY VENDING LOCATIONS: AUTHORIZED LOCATIONS		
528	VENDING LOCATIONS: <u>STATIONARY</u> ROADWAY VENDING LOCATIONS: ADDITIONAL LOCATIONS		
	<b><u>PART 4: MOBILE ROADWAY VENDING</u></b>		
529	<u>VENDING LOCATIONS: MOBILE ROADWAY VENDING LOCATIONS: GENERAL</u>		
530	<u>VENDING LOCATIONS: MOBILE ROADWAY VENDING LOCATIONS: AUTHORIZED</u>		
531	<u>VENDING LOCATIONS: MOBILE ROADWAY VENDING LOCATIONS: ADDITIONAL LOCATIONS</u> ASSIGNMENT OF SIDEWALK VENDING LOCATIONS		
532	<u>VENDING LOCATIONS: MOBILE ROADWAY VENDING LOCATIONS: ADDITIONAL LOCATIONS</u>		
533	<u>DIRECTOR’S DISCRETION</u>		
	<b>PART <u>45</u>: ASSIGNMENT OF VENDING LOCATIONS</b>		



	<div>5340</div> <div>ASSIGNMENT OF SIDEWALK VENDING LOCATIONS</div>			
	<div>535</div> <div>ASSIGNMENT OF <u>STATIONARY</u> ROADWAY VENDING LOCATIONS</div>			
	<div>PART 56</div> <div>MISCELLANEOUS</div>			
	<div>5361</div> <div><del>PUBLIC FARMERS</del> MARKETS</div>			
	<div>5372</div> <div>TEMPORARY RELOCATION OF VENDORS</div>			
	<div>SUBCHAPTER D: DESIGN STANDARDS, OPERATIONAL STANDARDS, AND</div>			
	<div>INSPECTIONS PART 1: DESIGN STANDARDS</div>			
	<div>533538</div> <div>DESIGN STANDARDS: GENERAL</div>			
	<div>534539</div> <div>DESIGN STANDARDS: VENDING CARTS</div>			
	<div>535540</div> <div>DESIGN STANDARDS: VENDING VEHICLES</div>			
	<div>536541</div> <div>DESIGN STANDARDS: VENDING STANDS</div>			
	<div>537542</div> <div>DESIGN STANDARDS: FOOD VENDING CARTS AND VEHICLES</div>			
	<div>538543</div> <div>DESIGN STANDARDS: ADVERTISING</div>			
	<div>539544</div> <div>DESIGN STANDARDS: PHASE-IN PERIOD</div>			
	<div>PART 2: OPERATIONAL STANDARDS</div>			
	<div>540545</div> <div>OPERATIONAL STANDARDS: GENERAL</div>			



<p><del>541</del><u>546</u> OPERATIONAL STANDARDS: AUTHORIZED HOURS OF OPERATIONS</p> <p><del>542</del><u>547</u> OPERATIONAL STANDARDS: PLACEMENT OF VENDING VEHICLES, VENDING CARTS, AND VENDING STANDS</p> <p><del>543</del><u>548</u> OPERATIONAL STANDARDS: PLACEMENT OF EQUIPMENT AND RELATED ITEMS</p> <p><del>544</del><u>549</u> OPERATIONAL STANDARDS: FOOD PREPARATION AND HANDLING</p> <p><del>545</del><u>550</u> OPERATIONAL STANDARDS: FIRE SAFETY</p> <p><del>546</del><u>551</u> OPERATIONAL STANDARDS: USE OF AMPLIFICATION SYSTEMS</p> <p><b>PART 3: INSPECTIONS</b></p> <p><del>547</del><u>552</u> INSPECTIONS: FOOD PREPARATION AND HANDLING</p> <p><del>548</del><u>553</u> INSPECTIONS: DESIGN STANDARDS</p> <p><del>549</del><u>554</u> INSPECTIONS: FIRE SAFETY</p> <p><b>PART 4: OTHER STANDARDS OF OPERATION</b></p> <p><del>550</del><u>555</u> MAINTENANCE STANDARDS</p> <p><del>551</del><u>556</u> DISPLAY OF LICENSES, PERMITS, AND CERTIFICATES</p> <p><del>552</del><u>557</u> MOTOR VEHICLE REGISTRATION AND INSPECTION OF VENDING VEHICLES AND</p>		
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	CARTS			
	<del>553</del> <u>558</u>	EMPLOYEES OF LICENSED VENDORS		
	<del>554</del> <u>559</u>	LITTERING AND CUSTOMER LINES		
	<del>555</del> <u>560</u>	DISPLAY OF SAMPLE ITEMS		
	<del>556</del>	<del>MOBILE ROADWAY VENDING</del>		
	<del>557</del> <u>561</u>	PURCHASE OR RECEIPT OF STOCK		
	<del>558</del> <u>562</u>	PLACING VENDING BUSINESS LICENSES ON HOLD		
	<del>559</del> <u>563</u>	REQUIREMENT TO UPDATE INFORMATION		
	<b>SUBCHAPTER E: VENDING DEVELOPMENT ZONES AND SPECIAL EVENTS</b>			
	<del>560</del> <u>564</u>	VENDING DEVELOPMENT ZONES		
	<del>561</del> <u>565</u>	SPECIAL EVENTS		
	<b>SUBCHAPTER F: STREET PHOTOGRAPHY</b>			
	<del>562</del>	<del>566</del>	STREET PHOTOGRAPHY: REQUIREMENTS AND RESTRICTIONS	
	<b>SUBCHAPTER G: SOLICITING</b>			
	<del>562</del> <u>567</u>	SOLICITING: GENERAL PROVISIONS		
	<b>SUBCHAPTER H: MISCELLANEOUS PROVISIONS</b>			
	<del>563</del> <u>568</u>	VENDING DEPOTS	<u>REQUIREMENTS</u>	
	<del>564</del> <u>569</u>	PENALTIES		
	<del>565</del> <u>570</u>	SEVERABILITY		
	<b>599</b>	<b>DEFINITIONS</b>		

500	<b><u>SUBCHAPTER A: GENERAL PROVISIONS</u></b>			
	<b>PURPOSE</b>			
500.1	The provisions of this chapter are issued pursuant to the authority under section 18(e) of Mayor-Commissioner Regulation No. 74-39, enacted December 13, 1974, (21 DCR 1285) as amended by the Vendors Regulation Amendments Act of 1978, effective June 30, 1978 (D.C. Law 2-82; 24 DCR 9293), Reorganization Plan <u>No.</u> 1 of 1986, effective August 21, 1986, the Vending Regulation Act of 2009, effective October 22, 2009 (D.C. Law 18-71; 56 DCR 6619) and Mayor’s Order 2010-91, dated May 27, 2010.			
500.2	This chapter shall provide <b>guidelines</b> for the implementation and execution of the vending and soliciting laws and related health, traffic, and safety concerns of the District and its citizens.	Are these “Guidelines” or “regulations”?	Same comment as before	Same comment as before. Actually, these are not really “regulations” at all. The slop in the system is a feature, not a bug!  The insertion of “DCRA” Director in the new draft is intended to consolidate power at the Vending Coordinator level. Who is acting on DCRA’s behalf in all this? The Vending Coordinator. DC has lived under the ‘King of Vending’ system far too long already, and the inability of DCRA to draft even a grammatically correct—let alone, coherent regulation—shows the ‘King’ system is flawed.
500.3	Nothing in this chapter is intended to interfere with the exercise of activities pursuant to the First Amendment	Good.	Same comment as before	Good.

	Assemblies Act of 2004, effective April 13, 2005 (D.C. Law 15-352; D.C. Official Code §§ 5-331.01. <i>et seq</i> (2008 Repl.)).			
501	<b>AGENCY RESPONSIBILITIES</b>			
501.1	<p>The Director of the Department of Consumer and Regulatory Affairs (<del>hereinafter</del> <u>DCRA</u> Director) shall be responsible for:</p> <p>a) <b>Coordinating</b> all vending activities in the District of Columbia;</p> <p>(b) Reviewing applications for, and issuing, Vending Business Licenses to vendors in the District;</p> <p>(c) Distributing Vending Site Permits for Vending Locations approved by the District Department of Transportation (DDOT) Director as meeting the standards established by the DDOT Director, pursuant to §§ 521 and §528 ;</p>	<p>Is “coordinating” business activity a legitimate function for the Director of DCRA? Or is DCRA's mandate to license and regulate? Obviously it is the latter, but to read these regulations (or “<i>guidelines</i>”) it looks like the former....</p> <p>If DDOT is responsible for approving sites, why isn't DDOT (in collaboration with OP) identifying them? What give DCRA this special expertise?</p>	<p>Same comment as before</p> <p>There is NO mechanism here to identify or designate sites. And without a universe of sites in place, how is it remotely possible to conduct a lottery for the sites?</p>	<p>Same comment.</p> <p>DCRA <b>is</b> the licensing and enforcement agency, so ok.</p> <p>This is disingenuous at best. DCRA drafted this regulation, and puts the onus onto DDOT to take the heat for its defects. The standards aren’t established by DDOT. They are established by DCRA, and they are indefensible from a planning or operational point</p>

			of view.
<p>(d) Enforcing this chapter’s provisions, including the requirement that vendors vend only from their assigned Vending <b>Locations</b>; provided, that the <u>Department of Health (DOH)</u> Director shall <del>not</del> be responsible <u>only</u> for <u>the application and enforcement of subtitle A (Food and Food Operations of Title 25 of the District of Columbia Municipal Regulations (DCMR) to food vendors holding Class A and Class C Vending Business Licenses; enforcing the application of the Food Code to vendors;</u></p>			<p>The enforcement challenge DCRA has set for itself is impossible to meet, and the penalties set here are indefensible. As well, this is a start for a drafting error that permeates this new version. There is a “Definitions” section for a reason.</p>
<p>(e) Creating and maintaining a database of all vendors issued Vending Business Licenses, including any specific Vending Location assigned to each vendor;</p>		<p>Based on all the various certificates and authorizations required here, and DCRA’s track record with databases, this is worrisome</p>	<p>Somebody will get paid behind this, as they have been going back to the “wands” that DCRA bought to monitor vending back in the early 00’s.</p>
<p>(f) Designating the categories of merchandise or services that may be vended under a specific class of Vending Business License and, where authorized under this chapter, designating specific categories of merchandise or services that may be vended at a specific Vending Location;</p>	<p>Wouldn't “the market” be a better arbiter of this than DCRA?</p>	<p>Same comment as before</p>	<p>Same comment as before</p>
<p>(g) Establishing the authorized hours of operation for vendors and, where authorized under this chapter, establishing specific hours of operation at a specific Vending Location; and</p>	<p>Again, wouldn't “the market” tend to lead vendors to make rational decisions?</p>	<p>Same comment as before. There are a number of vending locations (e.g. outside nightclubs) where extended hours are</p>	<p>Same comment</p>

	<p>(h) Establishing standards regarding the design, maintenance, and operations of vendors and vending equipment.</p>	<p>Later, we note that the “standards” proposed are almost the same as those presently in place. Most observers would agree that these “standards” have not resulted in a high-quality outcome which should be the clear goal of these regulations.</p>	<p>appropriate.</p> <p>We see that the standards have been modified to allow all the current vending operations, <i>except sidewalk merchandise vendors</i>, to operate <u>exactly</u> as they do today. (Until the BIDs kick them off the street via VDZs).</p>	<p>Same comments</p>
501.2	<p>The DDOT Director shall be responsible for:</p> <p>(a) Designating, modifying, and waiving, as appropriate, the <b>standards</b> for Vending Locations, pursuant to § 520 <del>and</del> § 528, <u>and §§529 through 533</u>;</p> <p>(b) Approving locations on public space where public markets may be located and issuing public space permits for public markets on public space;</p>	<p>As we read these regulations, there are no “standards” whatsoever for vending locations, merely locations where vending is prohibited. DDOT may not be the right agency to figure this out, either, although their Public Space Management role gives them some expertise. We have long thought that OP should be involved in this process.</p>	<p>Same comment as before.</p> <p>DDOT Public Space Permits for public markets makes sense. There should be one process for markets, not the multiple processes that different markets have used to get “authorization”</p> <p>Which is it? Does DDOT set standards for vending locations, or is it responsible for identifying</p>	<p>Same comment as before. This is DCRA’s regulation, we doubt whether DDOT or OP was consulted about the “standards” for vending locations, because the current standards are basically identical to the current “standards” which dates to the 1980s</p> <p>Although it says Public Markets here, throughout the rest of the regulation the wording has been changed only to discuss farmers markets. Why? We bet it has something to do with the BIDs wanting to run Vending Development Zones.</p>



	<p>(c)<del>Creating and maintaining a database and map of all approved Issuing Mobile Roadway Vending Locations parking permits pursuant to §530;</del> and</p> <p>(d)Assisting, as appropriate, with the enforcement of the provisions of this chapter.</p>		<p>sites, and “approving” them? This is the BIG problem! The OMNIBUS Regulatory bill in 1998 made it DCRA’s responsibility to designate the vending sites and judge their appropriateness. DCRA never did it; a moratorium on licensure has essentially been in place ever since. And NOW DCRA wants to kick that responsibility—which is an UGLY responsibility that NO AGENCY wants—to DDOT.</p>	<p>Once again, DCRA is claiming ALL authority and NO responsibility! The problem du jur is food trucks. DCRA sets incomprehensible limits on DDOT in these regulations, and then asks DDOT to apply them. Will not work in practice, and it is unfair to DDOT.</p> <p>This CAN be made to work: the DC Vendors Caucus outlined a workable solution to DDOT Director Bellamy earlier this year. However, these rules make our workable approach impossible to implement.</p>
501.3	<p>The Metropolitan Police Department (MPD) shall be responsible for:</p> <p>(a)Enforcing District laws and regulations prohibiting unlicensed vending activities;</p>	<p>By diminishing MPD's role in vending enforcement, DCRA sets the stage to expand its own internal enforcement staff. A classic bureaucratic move...</p>	<p>Same comment as before.</p>	<p>Same comment as before.</p>

	<p>(b)Enforcing any criminal laws, including laws regarding assault, harassment, and intimidation, in connection with vending; and</p> <p>(c) Assisting, <u>as appropriate</u>, with the enforcement of the provisions of this chapter.</p>		<p><i>We'd also like to point out that there is no process or procedure here to coordinate with federal officials to strip licenses of vendors who have been found guilty of selling counterfeit goods. We have numerous court records of licensed vendors repeatedly convicted of this crime, and yet they still have DC vending licenses! This is a long-standing failure by DCRA, and these regulations should correct it.</i></p>	<p>Well, we are still on point with our January comment, vendors convicted under federal law for selling counterfeit merchandise are still fully licensed and operating in DC, because DCRA lets them operate. To quote Peggy Noonan, “It would be irresponsible not to speculate!”</p> <p>Why the addition of the phrase “as appropriate”? Is MPD supposed to take direction from DCRA?</p>
501.4	<p>The <del>Department of Health</del> (DOH) Director shall be responsible for:</p> <p>(a)Designating the categories of food that may be vended <del>under a specific class in accordance with subtitle A (Food and Food Operations) of Title 25 of Vending Business License and, where authorized under this chapter, designating specific categories of food that may be vended at a specific Vending Location; of the District of Columbia Municipal Regulations (DCMR);</del></p> <p>(b)Reviewing and either approving or denying applications for <del>licenses</del> <u>food vendors holding Class A and Class C Vending Business Licenses</u> or other certificates of authority required <del>under the Food Code in accordance with chapter 37, subtitle A (Food and Food</del></p>	<p>Looking at 503.1, there is only one class of licensure that allows food vending. And we see nothing in these regs that links categories of food to locations.</p>	<p>Same comment as before. We don't see any provision in this draft that limits types of food to types of locations—But we can see it coming, when RAMW seeks to add provisions limiting direct competition between food trucks and in-line restaurants. While we are actually sympathetic to the restaurants argument, we see that once again DCRA wants another agency—in this case, DOH, to be responsible</p>	<p>It appears that this draft has corrected the defects we identified.</p> <p>Presumably, the ONLY potential reason for a denial of licensure would be the depot setup, the HACCP plan, or equipment defects.</p>

	<p><u>Operations) of Title 25 of the DCMR</u> for the vending of food from public <del>space</del><u>or private spaces</u>;</p>		for preventing certain types of food from being vended at certain locations.	Licensure would be forthcoming after curing the defects.
	<p>(c)<del>Regularly inspecting</del><u>Inspecting</u> food vending operations <u>and vending depots in accordance with subtitle A (Food and Food Operations) of Title 25 of the DCMR</u>; and</p>			Good additions, except...(see next comment)
	<p>(d)Enforcing the application of <del>the Food Code subtitle A (Food and Food Operations of Title 25 of the DCMR</del> to <u>food</u> vendors.</p>			Here is where DCRA’s proposed vending business licensure is so out of whack with general DC practice. In practice, when a restaurant is inspected, it can be fined, and even closed, if necessary, for infractions. The restaurant can reopen when the defects are cured. Under DCRA’s system, the mere issuance of a notice of infraction can trigger a one-year revocation of licensure. There is no proportionality. And the weasel word “may” throughout this regulation gives the Vending Coordinator too much latitude for arbitrary behavior. The other option, a hearing at OAH, requires the vendor a) not to work

				until the hearing is held, with no certainty of the outcome.
501.5	<p>The Fire and Emergency Medical Services Department (FEMS) shall be responsible for:</p> <p>(a)Reviewing and issuing permits for the use of open flame and propane gas in food vending operations and conducting fire safety-related inspections of vending businesses; and</p> <p>(b)Enforcing District laws and regulations pertaining to any operational permits required under subtitle H of title 12 of the District of Columbia Municipal Regulations.</p>	Who oversees the use of electrical generators? There is nothing here about them.	Whether it is FEMS or DOH, we think that there needs to be some regulatory clarity and inspections for the use of electrical generators.	Same comment. Essentially, we think the consensus is that quiet generators are ok at any site—because that’s what’s going on. So let’s allow it explicitly in these regs!
	<b><u>SUBCHAPTER B: VENDING LICENSES, PERMITS, AND OTHER AUTHORIZATIONS</u></b>			
<b>502</b>	<b>GENERAL LICENSURE REQUIREMENTS</b>			
502.1	<p>No person shall vend any product, service, <u>or</u> merchandise, <del>or food</del> from public space in the District of Columbia without obtaining and maintaining a valid:</p> <p>(a)Basic business license for vending (Vending Business License) issued by the <u>DCRA</u> Director, except as provided by § 502.3;</p> <p>(b)Vending Site Permit assigned pursuant to § 508, <del>unless pursuant to §§526 if</del> the vendor is a Roadway Vendor <del>pursuant to § 556</del>;</p>	In theory, this is the right approach. But the way this is organized in these regulations is completely unworkable.	Same comment as before. We think that the DC government has a legitimate right to ask for a business license, to know WHO is vending on public space and to ensure that taxes are being paid; to know WHERE they are working, so inspections can occur, to ensure that food vendors are complying with food safety practices, and that the equipment is clean and safe.	<p>It would be good if Vending business licenses were equivalent with other business licences in DC. Under these regulations, vendors face a higher bar, and that is not reasonable.</p> <p>It is reasonable for the DC government to know where their Permittees are working. These regulations don’t manage that process, at all.</p>
502.2	<u>In addition to the requirements specified in §501, no person shall vend from public or private space in the District of Columbia without obtaining and maintaining a</u>			This provision can be made more clear by using definitions and writing in

<p><u>valid</u></p> <p>(<del>ea</del>)Health inspection certificate issued by the DOH Director, <del>if the person vends food;</del></p> <p><del>(db)DOH-issued food protection manager certificate and a DOH issued certified food protection manager identification card, if the person vends food; provided, that a vendor may employ a person who holds a valid DOH-issued food protection manager certificate and DOH issued certified food protection manager identification card; and Food Protection Manager Certificate issued by the Conference of Food Protection Standards for Accrediation of Food Protection Manager Certification Program in accordance with§203.1 of subtitle A (Food and Food Operations) of Title 25 of the District of Columbia Municipal Regulations (DCMR);</del></p> <p><del>(c) Certified Food Protection Manager Identification Card issued by DOH in accordance with§203.1 of subtitle A (Food and Food Operations) of Title 25 of the District of Columbia Municipal Regulations (DCMR);, provided, that a vendor without such certification may employ a person who holds a valid;</del></p> <p><del>(1) Food Protection Manager Certificate issued by the Conference of Food Protection Standards for Accrediation of Food Protection Manager Certification Program in accordance with§203.1 of subtitle A (Food and Food Operations) of Title 25 of the District of Columbia Municipal Regulations (DCMR) and</del></p> <p><del>(2) Certified Food Protection Manager Identification Card issued by DOH in accordance with§203.1 of subtitle A (Food and Food Operations) of Title 25 of the District of Columbia Municipal Regulations (DCMR);</del></p> <p><del>(d) Required food safety analysis and plans in accordance with §3701 of subtitle A (Food and Food Operations) of Title 25 of the DCMR; and</del></p> <p>(e)Permit from FEMS, if the vendor uses propane gas or</p>			plain English
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	solid fuels, such as wood pellets or charcoal.			
502. <del>32</del>	The licenses and permits required under §§ 502.1 <del>and 502.2</del> shall be subject to any conditions imposed by the District agency issuing or assigning the license, permit, or certificate.	The conditions ought to be spelled out in regulation.	Same comment as before	Same comment as before. There needs to be authority in the regulations for DC to impose additional conditions on some vendors and not others.
502. <del>43</del>	<p>A Vending Business License shall not be required for:</p> <p>(a)Employees of licensed vendors;</p> <p>(b)Persons selling agricultural goods, farm products or other related products of their own raising or production, or that are locally raised or produced at a <del>public-farmer's</del> market licensed under § <del>531536</del>;</p> <p>(c)A person under eighteen (18) years of age, if the person holds a valid permit or other form of authorization issued by the District of Columbia Public Schools and is accompanied by a licensed vendor;</p> <p>(d)Certain vending activities authorized by the First Amendment Assemblies Act of 2004, effective April 13, 2005 (D.C. Law 15-352; D.C. Official Code §§ 5-331.01 <i>et seq.</i> (2008 Repl.)); or</p> <p>(e)Persons authorized to sell products, merchandise, food, or services at a licensed or permitted Special Event.</p>	<p>Ok</p> <p>ok</p> <p>ok</p> <p>Good</p> <p>ok</p>		<p>What does this mean for the exhibitors who sell at the Georgetown Flea Market or at Eastern Market? Are they now to be required to get vendors licenses? Under this draft, it appear so, (the Class C license is only for Farmers Market operators).</p> <p>This could be an effort to push vendors out of the Hines School site to facilitate the redevelopment of that site.</p>
<del>502.450</del> <u>2.5</u>	A Vending Business License is issued only to the licensee and may not be sold, transferred, conveyed, or otherwise assigned to any other person.		We agree that the license should be linked to the owner and the tax obligation. We'll have more to say about this later.	We also note the past abuse of the "sole-proprietor" requirement that DCRA (illegally) required in the

				past. Business licensure is (and always has been) available to individuals, partnerships, & corporations under the DC Code.
503	<b>VENDING BUSINESS LICENSE: CLASSES OF LICENSES</b>			
503.1	<p>The <u>DCRA</u> Director shall issue the following classes of Vending Business Licenses:</p> <p>(a)Class A Licenses – A Class A Vending Business License shall authorize a person to vend food, other than food prohibited from public <u>or private</u> space under §503.3(a) or (m); provided, that the vendor holds any food licenses and certificates required under title 25 of the District of Columbia Municipal Regulations;</p> <p>(b)Class B Licenses – A Class B Vending Business License shall authorize a person to vend merchandise, other than food and <del>other than</del> merchandise prohibited from public space under §503.3. For the purposes of this subsection, the term “merchandise” shall include non-hazardous and non-controlled cut flowers, dried flowers, and potted plants;</p> <p>(c) Class C Licenses – A Class C Vending Business License shall authorize a person to manage farmers markets <del>and other open markets</del> on public or private space for the sale of agricultural goods and other farm products, or other food, <u>as designated by the DOH Director, and other non-food</u> merchandise, or services <del>that as designated by the DCRA Director designates</del>;</p>	<p>The basic structure of this licensing scheme makes sense.</p> <p>Merchandise ought to include non-potentially-hazardous packaged food &amp; beverage items.</p>	<p>Same comment as before</p> <p>We take this to mean a public market manager, such as a farmers market or a flea market, has to have a Class C vending license, but that the vendors at the market do NOT have to have a vending license. That’s fine.</p>	<p>It should be possible to get a food vending license without owning a food truck. Some hot dog vendors lease equipment from depots. Obviously the equipment should be inspected, but the connection between the two procedures needs to be clarified.</p> <p>Same comment as before</p> <p>By eliminating public markets here, what IS the licensure requirement for vendors at flea markets? Presumably they now have to pay the license fee, and (until the tax law is changed)</p>

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	<p>and</p> <p>(d)Class D Licenses – A Class D Vending Business License shall authorize a person to vend services from public space, including photography, shoe shining, and other such services that the <a href="#">DCRA</a> Director designates.</p>		<p>Those vendors are obligated to pay their taxes through a separate mechanism—often to a separate state, but if that’s how you want it, that’s fine. Our question is, what taxes does the Class C license-holder pay? He or she is not selling food, or merchandise. He or she is selling space, so what taxes do market operators pay under this regulation?</p>	<p>the \$1500 Payment in Lieu of Taxes that other vendors pay. To our knowledge, this provision has not received any attention, and it is important.</p> <p>Again, why is DCRA designating which services may be vended from public space? Isn’t this something that the market ought to decide?</p>
503.2	No person shall vend any items other than those allowed under the particular class of Vending Business License issued to the person.			
503.3	<p>No vendor shall sell the following categories of merchandise or food:</p> <p>(a)Live animals;</p> <p>(b)Power tools;</p> <p>(c)Luggage exceeding six inches by eighteen inches by twenty inches (6 in. x18 in. X 20 in.);</p> <p>(d)Rugs and carpets exceeding the surface area of the</p>		<p>Evidently the idea is that vendors at public markets are not “vendors” because they are not licensed, so they can sell this stuff?</p> <p>This is arbitrary</p> <p>As is this</p> <p>And this</p>	<p>With the new regime, all of these products can no longer be sold at flea markets. Some restrictions make sense, but many do not.</p>



<p>vendor’s vending cart or stand;</p> <p>(e)Household appliances, including refrigerators, microwave ovens, dishwashers, stoves, and televisions with screen sizes greater than seven inches (7 in.);</p> <p>(f)Alcoholic beverages or other alcoholic items for consumption;</p> <p>(g)Any drug, medicine, chemical, or compound or combination thereof restricted by the District of Columbia Pharmacist and Pharmacy Regulation Act of 1980, effective September 16, 1980 (D.C. Law 3-98; D.C. Official Code §§ 47-2885.01. <i>et seq.</i> (2005 Repl. &amp; 2011 Supp.));</p> <p>(h)A controlled substance as defined in section 102(4) of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code §§ 48-901.02(4 (2009 Repl.));</p> <p>(i)Drug paraphernalia, as the term is defined in section 2(3) of the Drug Paraphernalia Act of 1982, effective September 17, 1982 (D.C. Law 4- 149; D.C. Official Code § 48- 101(3) (2011 Supp.));</p> <p>(j) Any offensive merchandise, including pornographic or obscene materials;</p> <p>(k) Any counterfeit merchandise;</p> <p>(l)Any adulterated food, as the term is defined in section</p>				<p>See our prior comment. DCRA just let’s the sale of counterfeit merchandise go under the current enforcement regime...</p>
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	<p>9901 of subtitle <u>A (Food and Food Operations) of Title 25</u> of the <del>District of Columbia Municipal Regulations</del>DCMR; and</p> <p><u>(m) Categories of foods that are determined by DOH to be not “generally recognized as safe” (gras) as interpreted by the United States Food and Drug Administration (FDA); and</u></p> <p><del>(nm)</del> Any plants, other than non-controlled and non-hazardous cut flowers, dried flowers, and potted plants.</p>			
504	<b>VENDING BUSINESS LICENSE: APPLICATION AND FEES</b>			
504.1	An applicant for a Vending Business License shall meet all applicable business licensing criteria, shall file an application with DCRA, and shall pay all applicable fees.			
504.2	<p>Application for a Vending Business License shall be made on a form prescribed by DCRA and shall include the following information:</p> <p>(a)The name and address of the owner of the vending business;</p> <p>(b)The class of Vending Business License being sought;</p> <p>(c)A description of the type of merchandise, <del>food</del>, or service to be offered for sale;</p>	<p>“or classes” - Let's avoid duplication of effort....</p> <p>If vending were ever to be properly planned in Washington, this becomes a very important provision.</p>	<p>Presumably a vending business can hold more than one class of license.</p>	<p>Same comments as before.</p>

	<p>(d)A description of the vending vehicle, vending cart, or vending stand to be used (not applicable to Class C license applicants);</p> <p>(e)An indication of the Vending Locations the applicant wishes to occupy, in their order of preference (not applicable to Class Ce license applicants);</p> <p>(f)A Clean Hands Certification;</p> <p>(g)A copy of the applicant’s certificate of registration, issued by the Office of Tax and Revenue, designating the applicant’s sales and use tax number;</p> <p>(h)If the applicant is not a resident of the District of Columbia:</p> <p>(1)The name and address of a registered agent upon whom service of process and other legal notices may be delivered; or</p> <p>(2)A designation of the Mayor as the person who may accept service of process as well as other legal notices directed to the applicant;</p>	<p>As does this.</p> <p>We cannot understand how this will work in practice, given DCRA's determination to assign sites by lottery, plus the provision that a licensed vendor can operate five distinct sites under one license...</p> <p>Good</p> <p>We presume the “registered agent” must have a DC address. Otherwise, why this provision?</p>	<p>Same comment as before.</p> <p>Without a universe of designated/ “approved” vending sites, how does a vendor know which sites are available?</p> <p>We have always said that this whole “lottery” scheme is unworkable.</p> <p>We have never understood how a vendor can designate the Mayor to accept legal notices and services of process on behalf of the vendor.</p>	<p>Same comment as before.</p>
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	<p>(i) If the applicant is applying for a Class A <u>or Class C</u> license, <u>the applicant shall complete all forms required by</u></p> <p><del>(1) A health inspection certificate issued by the DOH Director (application for which shall be made on a form prescribed by the DOH Director); and</del></p> <p><del>(2)(1) DCRA, as specified in §§ 504.1 and 504.2; and</del></p> <p><del>(3) If the applicant will be using propane or open flame, a propane or open flame permit issued by FEMS; and</del></p> <p><u>(2) DOH, as specified in §502.2; and</u></p> <p>j) Any additional information required by the Director or, for Class A licenses, by the DOH Director.</p>	<p>This is unfair, and contrary to current practice. What this says is no man or woman can apply for a food vending business license without equipment. Many vendors rent food equipment. We say that the licensing of the individual vendor, and the approval of his or her equipment are two separate issues. DCRA approves the license. DOH approves the equipment. They are separate processes.</p> <p>The licensure requirements are actually spelled out in the DC Code. These regulations should be aligned with the Code regarding business licensure, and they are not. Vending business license applicants should only have to follow the current law.</p>	<p>See our prior comment. To make an analogy, anybody can get a driver’s license even if they don’t own a car.</p> <p>See prior comment.</p>	
504.3	<p>The <u>DCRA</u> Director shall not issue a Vending Business License if:</p> <p>(a) The applicant’s Vending Business License has been revoked previously;</p> <p>(b) The application for renewal of a Vending Business License has been denied under § 507; or</p>	<p>This provision is both vague and overly restrictive.</p> <p>There is no indication about how far</p>	<p>See prior comment.</p> <p>Later, this section is qualified to say that the restriction is for one year, which is also problematic.</p> <p>For example, a restaurant may fail an inspection, but it is only</p>	<p>Same comments. Note here the use of “shall”—elsewhere in this draft it becomes “may”.</p> <p>These kinds of inconsistencies are all over this draft.</p>

	<p>(c)The <del>person either</del><u>applicant</u> has been:</p> <p>(1)Arrested, cited, or ticketed by MPD for vending without a license;</p> <p>(2)Issued a notice of infraction by DCRA for vending without a license; <del>or</del></p> <p>(3) Arrested and convicted for a criminal offense while vending with a license.</p> <p><u>(4) Issued a notice of infraction by DOH for vending without a food vending license; or</u></p> <p><u>(5) Failed to pay fines for violations of subtitle A (Food and Food Operations) of Title 25 of the DCMR issued by DOH.</u></p>	<p>backward this goes...And we are well aware about the accuracy of DCRA's vending-related record-keeping through the years.</p> <p>The standard here, by the way, should be “convicted”...</p>	<p>closed until the defects are cured. Vendors are put out of business for a year.</p> <p>Not to mention the due-process problem here; a ticket or a citation is not the same as a conviction.</p>	<p>Our prior comments have not been addressed.</p>
504.4	<p>An applicant whose license application is rejected pursuant to § 504.3 <u>(a), (b) or (c1) through (c)(3)</u>shall not be eligible to receive a Vending Business License until one (1) year after the date of the revocation, denial, arrest, ticket, or notice of infraction.</p>	<p>We are confused about the terminology. We assume that a “revocation” is permanant, and a “suspension” is temporary. Aside from that, we object to the lack of proportionality in this provision. A “revocation” is the same as a “denial” which is the same as an “arrest” which is the same as a “ticket” which is the same as a “notice of infraction”? In each case, the vendor must go for a full year without a license?</p>	<p>See prior comment. We cannot believe there are actually attorneys who have reviewed these regulations. The standard, at a minimum, needs to be a “conviction” and even then, a one-year penalty, no matter the violation, is disproportional, and actually not in keeping with DCRA’s general fine structure, which generally sets four classes of violations, from major to minor.</p>	<p>Same comments</p>
504.5	<p><del>No person shall</del><u>An applicant must</u> be <u>at least eighteen (18) years of age to be</u> eligible to be issued a Vending Business License<del>unless the person is at least eighteen</del></p>			

	(18) years of age.			
504.6	In addition to the application and endorsement fees for a basic business license, the fees charged for Vending Business Licenses shall be in the amounts listed in chapter 5 ( <del>Basic Business License Schedule of title Fees</del> ) of Title 17 of the <del>District of Columbia Municipal Regulations-DCMR</del> .		How were these fees established? Under DC law, these fees should be reasonably associated with the enforcement costs.	Same comment
<b>505</b>	<b>VENDING BUSINESS LICENSE: ISSUANCE</b>			
505.1	Within forty-five (45) days of filing a complete application for a Vending Business License, the applicant shall be notified by the <u>DCRA</u> Director of the issuance or denial of the license.	There is NO reason why there needs to be a 45 day waiting period to get a vending business license.	See prior comment	Same comment
505.2	If the application is approved, the <u>DCRA</u> Director shall issue a Vending Business License to the applicant; provided, that if the applicant has applied for a Class A or Class C Vending Business License, no license shall be issued by the <u>DCRA</u> Director until the applicant has received all necessary licenses, permits, and authorizations from DOH and any other District agency.	To repeat our earlier criticism, the Vending Business License is a separate matter from getting the appropriate permits and approvals from DOH or FEMS.	See our prior comments on this.	Why this cannot be a concurrent process, as opposed to a sequential process is beyond us.
505.3	The Vending Business License shall include the vendor's name, the class of license, and the date of expiration.	No photo? No Date of Birth? This seems like it makes it impossible for an enforcement official to determine if the person holding the license is in-fact the licensed individual.	See prior comment. One would actually think the application should ask for both the business information, and for the applicant's personal information. DCRA has finally come to the realization that not every vendor will or should do business as a sole proprietorship.	Same comments
505.4	<del>All-Except for Class A and Class C Food Vending Licenses, all</del> Vending Business Licenses shall be valid for two (2) years from the date of issuance, unless the <u>DCRA</u> Director designates a shorter time period <u>in writing</u> .	Are the fees pro-rated if the designated period is less than two years?		Same comment. Also, does the director have discretion to give some people a 3 month license and others a 2 year license, or is it the same

				for everybody?
505.5	If the application is denied, the <u>DCRA</u> Director shall follow the procedures set forth in § 507.			
505.6	The <u>DCRA</u> Director <u>and DOH Director</u> shall return an incomplete application to the applicant without either approving or denying the application.			
505.7	A Vending Business License will not be issued until a specific Vending Location <u>or Mobile Roadway Vending Parking Permit</u> has been designated for that license.	Except, we presume, for vendors who won't have locations, including roving food trucks, ice cream vendors, “roach coach” drivers, etc.	<p>This provision is also inconsistent with the fact that there ARE no Specific Vending Locations to designate, and it also sounds like a vendor is going to have to participate in some kind of lottery to find out where his or her “designated” space will be.</p> <p>Even after four years of effort on this version of the regulation, the process has still not been thought through at all.</p>	<p>This is the Catch-22 which has prevented any new sidewalk vendors from being licensed. In short, the temporary vending moratorium is well into it’s 14<sup>th</sup> year.</p> <p>We have been saying for years this system of sites and lotteries conducted by the government will never, ever work.</p>
<b>506</b>	<b>VENDING BUSINESS LICENSE: EXPIRATION AND RENEWAL</b>			
506.1	Each Vending Business License shall be valid for the period designated on the license, unless the license is earlier revoked, suspended, or seized.	We believe DCRA's practice of “seizing” licenses before a conviction is almost certainly unconstitutional.	Or put on hold, right?	Same comments
506.2	Not less than forty-five (45) days before the expiration of the Vending Business License, <del>a-the</del> licensee shall submit a renewal application to DCRA on a form prescribed by the <u>DCRA</u> Director, <u>and the DOH Director if vending food, as specified in §504.2(i).</u>	Will a notice be sent to vendors as they are to other business license holders?	Same comment	Same comments
506.3	No application to renew a Vending Business License shall be approved if the applicant does not hold the valid			

	licenses, permits, and registrations required for an initial applicant for a Vending Business License under § 504.			
506.4	If the license renewal application is not approved, the <u>DCRA</u> Director shall follow the procedures set forth in § 507.	Are there other grounds upon which the Director might refuse to renew a license other than those stated in Section 507?	Same comment. To be concrete, suppose a BID wants to set up a VDZ. Is that grounds for a vendor's license not to be renewed?	Same comments
506.5	Upon the expiration of a person's Vending Business License, the <u>DCRA</u> Director may seize that person's Vending Business License, Vending Site Permit, health inspection certificate, and FEMS propane and open flame permit.	Does the Director really have the authority to seize a health inspection certificate issued by a separate agency?	Same comment	Same comment
<b>507</b>	<b>VENDING BUSINESS LICENSE: DENIAL, SUSPENSION, REVOCATION, AND SEIZURE</b>			
507.1	<p>The Director may revoke or suspend a Vending Business License, or deny an application for the issuance or renewal of a Vending Business License, for any of the following:</p> <p>(a)Fraud, misrepresentation, or false statements contained in the license application;</p> <p>(b)Fraud, misrepresentation, or false statements made in connection with the selling of any product, service, <del>merchandise, or food</del> <u>or merchandise, as determined by the DCRA Director, or the misrepresentation or adulteration of food, as determined by the DOH Director</u>;</p> <p>(c)Violation of any District law or regulation governing the operation of the vending business, including, but not limited to:</p> <p>(1)The possession or sale of counterfeit merchandise; or</p>	<p>This is completely arbitrary, and unconstitutionally vague. This provision says that the Director may randomly choose to revoke some licenses, and suspend others, for the exact same violation.</p> <p>It also says that every possible violation may result in a permanent revocation of the business license. There is no proportionality.</p> <p>No other business in Washington faces such regulatory uncertainty.</p>	Same basic comments. Now the suspension or revocation appears to be for one year.	A quick comparison of the list of licensed vendors and the US District Court docket will show that convicted sellers of counterfeit merchandise don't have to worry about losing their license.



	<p>(2)The offering for sale of illegal goods, substances, or services;</p> <p>(d)The vendor is vending at a location other than the vendor’s assigned Vending Location;</p> <p>(e)Violations of the Clean Hands Certification requirements;</p> <p>(f)Fraud committed against the District government, such as failure to pay required sales and use taxes, or attempting to transfer a Vending Business License or Vending Site Permit to another person <del>pursuant to</del> <u>violation of</u> §502.4<del>5</del> and 510.4, respectively;</p> <p>(g)The vendor is found to have <del>violated-committed</del> the same violation of the following sections of this chapter six (6) or more times in a continuous twelve (12) month period:</p> <p>(1)<del>Sections §§ 533-538</del> through <del>543</del><u>548</u>;</p> <p>(2)<del>Sections §§ 545-550</del> through <del>559</del><u>562</u>; or</p> <p>(3)<del>Section § 562</del><u>565</u>; or</p> <p>(h)The vendor is found to have violated § <del>544-549</del> of this chapter.</p>		<p>And how is “attempting to transfer” going to be determined?</p> <p>For some offenses, a vending license is revoked immediately, but for other offenses, you get up to 5 “do-overs” with no punishment?</p>	<p>Typically, DCRA groups violations into 4 classes, with the penalties generally related to the seriousness of the violation. We do not understand why that approach was not used in these regulations.</p>
507.2	<p>The Director may summarily suspend <u>and seize</u> a Vending Business License, without prior notice to the vendor or an opportunity to be heard, for:</p> <p>a)The possession, sale, or offering for sale of counterfeit merchandise;</p>	<p>DCRA should have to pass a burden of proof to show merchandise is counterfeit before seizing a vendor's license.</p>	<p>We agree that selling counterfeit merchandise should be grounds for a license revocation. It’s too bad that DCRA doesn’t enforce this provision.</p>	<p>Same comments.</p>

	<p>(b)The sale of adulterated food, as the term is defined in section 9901 of subtitle A of <del>title Title</del> 25 of the <del>District of Columbia Municipal Regulations</del>DCMR, when a determination is made by the DOH Director that the food is adulterated;</p> <p>(c)Failure to provide all required certificates of authority upon demand by an authorized District government official; <del>or</del></p> <p>(d)Any activity or condition that constitutes a threat to the public health or safety, including the health or safety of the vendor; <u>or:</u></p> <p><u>(e) Failure to pay fines assessed by the Office of Administrative Hearings for violations of subtitle A of Title 25 of the DCMR issued by DOH.</u></p>	<p>b) A food vendor selling hazardous food should be shut down, under a temporary suspension, and if additional charges are to be brought, then DOH should bring them. As in a restaurant, the suspension should be until the vendor brings his food or equipment into compliance</p> <p>c) Given the paperwork that DCRA requires vendors to carry, it is unwieldy for vendors to keep more than their license and health certificates on their stand.</p> <p>Vendors should be given a grace period to provide documentation beyond those mentioned above.</p> <p>d) This is far too vague to be fairly enforced.</p>	<p>We have the records from federal court that proves that DCRA does not take counterfeiting seriously.</p> <p>Shouldn't this type of judgement be assigned solely to MPD?</p>	
507.3	Except for a summary suspension or seizure pursuant to § 507.2, any person whose Vending Business License is revoked or suspended under this section shall be provided notice of the <u>DCRA</u> Director's intent to revoke		We don't understand this language. First it says that the licenes is revoked or suspended. Then the vendor gets a notice	Same comment

	or suspend the license and stating that they are entitled to appeal the revocation or suspension to the Office of Administrative Hearings.		saying the Director intends to revoke or suspend the license, and here is your hearing date. This section needs to be rewritten	
507.4	If a person’s Vending Business License is summarily suspended pursuant to § 507.2, <u>or pursuant to section 4409 by the DOH Director for Food Code violations of subtitle A of Title 25 of the DCMR,</u> or if a person’s application for initial issuance or renewal of a license is denied, the person may appeal the summary suspension or denial to the Office of Administrative Hearings.	Meanwhile, they are out of work for a period of weeks or months, and they have no control over the timing of the hearings, which DCRA itself can (and does) delay endlessly. That is why there needs to be a time-certain for a “temporary suspension”. (e.g. until the defect is cured) That way a vendor can fix the problem, continue to work until his guilt or innocence can be proven at the hearing.		Same comment.
507.5	A notice issued by the <u>DCRA</u> Director under this section shall be mailed by first-class U.S. mail. If the notice establishes a specific date for a hearing, the notice shall be mailed at least ten (10) business days prior to the date of the hearing.			
507.6	Upon revocation or suspension, including summary suspension, of a person’s Vending Business License, the <u>DCRA</u> Director may immediately seize the person’s Vending Business License and Vending Site Permit.	See above. This provision is completely one-sided in DCRA's favor. The choice offered a vendor is essentially this: we'll put you out of business for months on end, or you can just pay your \$2000 ticket. That is unjust.		Same comment
507.7	A vendor shall surrender his or her Vending Business License and Vending Site Permit promptly to the <u>DCRA</u> Director upon revocation or suspension, including summary suspension, of the person’s Vending Business License.	In 506.5 it says that DCRA takes the Health Inspection Certificate as well.		
507.8	If a person’s Vending Business License is revoked or suspended (including summarily suspended) under this section, the <u>DCRA</u> Director shall provide notice of the			

	revocation or suspension to the Office of Tax and Revenue, DDOT, MPD, and, if the business holds a Class A License, to DOH.			
507.9	If a person’s Class A or Class C Vending Business License is summarily suspended or seized pursuant to §507.2€ and in accordance with § 4714 of subtitle A of Title 25 of the DCMR, the DOH Director shall provide notice of the summary suspension or seizure ot DCRA, the Office of Tax and Revenue, DDOT, and MPD.			
508	<b>VENDING SITE PERMIT: GENERAL REQUIREMENTS AND FEES</b>			
508.1	No person may vend from the public space in the District of Columbia without a Vending Site Permit issued by the <u>DCRA</u> Director pursuant to this chapter; except that <del>that a holder of a</del> Class C <del>Public Farmers’ Market managers’</del> <u>Vending License</u> may manage vendors from public space upon the issuance of a Public Space Permit issued <u>to the holder</u> by DDOT and <u>Mobile R</u> oadway vending vehicles may operate pursuant to §§ <del>529-533556</del> .	Who licenses or manages or regulates vending-related activities that occur strictly on private space? Under what provisions of this Title? And why does DCRA, not DDOT, issue the permits for the use of public space authorized by the DDOT Director?	Actually the requirements for Site Permits are clear, but the authority doesn’t come from this regulation—Rather, it is a requirement in law.  In §37-131.01, we see that ““Vending locations” means the specific locations designated by the Mayor on sidewalks, roadways, and other public space at a which a person may vend”; that a ““Vending site permit” means a permit or other authorization issued by the Mayor for a vending location”; and in §37-131.02 we see that “(a) Except as set forth in subsection (b) of this section, a person shall not vend from a sidewalk, roadway, or other public space unless the person holds: (1) a basic business license	There isn’t a problem with “site permits” per se. The problem is that there is not a list of designated sites, which DCRA was required to do when the vending moratorium went into effect, and in 14 years, DCRA still hasn’t designated sites.  Instead, they made the rules, then put it on DDOT to make it work.  The language about “lotteries” makes this much, much worse. The one place where lotteries have been used over time is the roadway vending (now, “stationary roadway vending”) by the National Mall. Anybody who knows

			<p>properly endorsed...;(2) a vending site permit, or other authorization issued by the Mayor, setting forth the specific location on public space from which the person may vend; and (3) Such other licenses, permits and authorizations that the Mayor may require by rule.”</p> <p>Later we’ll discuss how the terms of this regulation are inconsistent with the standing law.</p>	<p>that system knows that it has been rife with corruption, side deals, and payola. Why this system is being attempted city-wide is beyond us.</p>
508.2	<p>A Vending Site Permit shall not be required for:</p> <p>(a)Persons selling agricultural goods, farm products, or other related products of their own raising or production, or that are locally raised or produced, at a public market licensed and, if required, permitted <del>under § 531</del><u>pursuant to this chapter</u>; or</p> <p>(b)Persons authorized to sell products, merchandise, food, or services at a licensed or permitted Special Event.</p>			<p>Now we are back to “public” market—but only farmers are exempt from the site permit requirement. We are confused by this.</p>
508.3	<p>The Vending Site Permit shall authorize the permittee to occupy a specific Vending Location for the purpose of vending.</p>	<p>“Vending Location” needs to be clearly defined in the regulations, and on the individual site permits. We have seen vendors being ticketed for being only inches too close or too far from the curb.</p>		
508.4	<p>A vendor may vend only at the assigned Vending Location <del>as</del>-stated on his or her Vending Site Permit.</p>		<p>Except when the Vending Site Permit doesn’t state a location, even though the law says it must.</p>	
508.5	<p>In addition to the <del>authority</del><u>authorities cited</u> in § 520-2, the <u>DCRA</u> Director, the DDOT Director, or MPD may</p>	<p>With notice?</p>	<p>Asked and answered in this draft</p>	

	eliminate a Vending Location without prior notice for public safety or transportation reasons, construction requirements, or Special Event operations.			
508.6	The <u>DCRA</u> Director may revoke a Vending Site Permit and require the previously permitted vendor to vacate his or her Vending Location or relocate to another Vending Location pursuant to § 512.	Under what conditions is this power to be exercised?	Same comment. When a VDZ asks them to do it?	Same comment
508.7	The annual fee for a Vending Site Permit shall be five hundred eighty-seven dollars (\$587).	This fee is too high for some sites, and not high enough for others. There needs to be some proportionality in the site fee structure.	Same comment. BTW, how on earth did DCRA come up with this number? Shouldn't the license fees be reasonably associated with the true costs of enforcement and administration?	Same comment
508.8	The <del>monthly</del> fee for a monthly Vending Site Permit for <u>stationary</u> roadway vending at locations designated by § 526 shall be one hundred and twenty-three dollars ( <del>\$123</del> <u>320</u> ) per monthly lottery.	What is the permit fee for food vendors who tweet their locations, then move on?	Same question. And why don't the National Mall Roadway vendors have to pay for their parking?	Same comment. \$2/hour = \$16/day * 30 days = \$480
508.9	The <del>monthly</del> fee for a monthly Vending Site Permit in the Nationals Park Vending Zone shall be one hundred twenty-three dollars (\$123) per <u>monthly</u> lottery.	Shouldn't the fee be based on the number of home games?	See prior comment	Same comment
<b>509</b>	<b>VENDING SITE PERMIT: APPLICATION</b>			
509.1	A person shall submit an application for a Vending Site Permit to the <u>DCRA</u> Director with the person's application for an initial Vending Business License.			
509.2	A licensed vendor may submit an application for a Vending Site Permit to the <u>DCRA</u> Director separately from an application for a Vending Business License if:  (a)The vendor is seeking to change his or her Vending Location; or  (b)The vendor is seeking to add an additional Vending Location.			



Permit for a Vending Location	assign vending sites.	This whole lottery idea is intended to punish long-time vendors working at well-established sites away from their sites.	
(1)The vendor received a site permit for the same location pursuant to the District of Columbia Department of Transportation and Department of Consumer and Regulatory Affairs Vending Consolidation of Public Space and Licensing Authorities Temporary Act of 2006, effective March 8, 2007 (D.C. Law 16-252; 54 DCR 3037)	This process, by the way, missed a number of long-time vendors, and mysteriously opened up new sites for new vendors, even as a vending license moratorium was in place.		
(2)The vendor has vended in the location continuously and exclusively without sale, assignment, transfer, or other conveyance of the location to another vendor, whether sold, assigned, transferred, or conveyed for money or anything <u>else</u> of value; and	DCRA has no way to know whether any transfers occurred, because they most certainly occurred privately. And what duration of time constitutes “continuously”?	Same basic comment. Vendors “pinch-hit” for each other at vending sites all the time, as when vendors return to their home country for an extended visit.	More importantly, this NEEDS to occur! It is a throwback to DCRA’s ill-informed “sole proprietor” model, which was always in error.
(3)The vendor is vending in a location that is in compliance with this chapter;			
(d)The merchandise, food, or services is authorized to be vended at the available Vending Location;	We find nothing in these regulations to specify the basis by which certain goods or services are “authorized” to be sold at certain locations. Who is this “central planner” that can maximize the utility for vending and for all other uses of public space? DCRA? And they do this by lottery?		



	(e)The applicant provides a Clean Hands Certification; and  (f)The applicant has paid all the required fees.			
510.2	No more than one (1) vendor may occupy an assigned Vending Location, unless the <u>DCRA</u> Director specifies on the Vending Site Permit that the Vending Location is subject to a shared site agreement between several licensed vendors.	As a matter of equity and fairness, a system to allow high value sites to be shared should be developed. Such a system has worked well at Fords Theater on 10 <sup>th</sup> Street.	This should be an option on the application.	Again, this is something the market, not DCRA, should lead
510.3	The Vending Site Permit shall delineate the specific site, zone, dates and times of validity.			
510.4	A Vending Site Permit is issued only to the permittee and may not be sold, transferred, conveyed, or otherwise assigned to any other person.		See our prior comment about vendors who work for other vendors when the “permittee” is ill or away. We think the permittee should have the right to temporarily transfer the site permit to another licensed vendor in such cases. It is going to happen in real life—wouldn’t it be better if DCRA had an accurate record of WHO is working at WHICH sites? .	We think there does need to be a process to do this, whether by designating another licensed vendor to work at a permitted site, or though some other mechanism. It is better to build a system that will work in the real world than to penalize a vendor who needs to take a few days off, but can’t afford all the lost income.
<b>511</b>	<b>VENDING SITE PERMIT: EXPIRATION AND RENEWAL</b>			
511.1	A Vending Site Permit, other than for <u>stationary</u> roadway vending or Nationals Park Vending Zone vending sites, shall be issued for a term of one (1) year unless a shorter time period is designated in writing by the <u>DCRA</u> Director.	Will the permit fee be adjusted if the term is reduced?	Same comment	Same comment
511.2	A vendor shall apply for renewal of the vendor’s annual	Same as before...Will DCRA mail a	Same comment	Same comment

	Vending Site Permit, other than for <u>stationary</u> roadway vending or Nationals Park Vending Zone vending sites, at least forty- five (45) days prior to the expiration date on the permit.	notice of renewal just as they do for other licensees?		
511.3	Upon expiration of a vendor’s Vending Site Permit and in the absence of an application to renew the permit, the Vending Site Permit <del>is</del> <u>shall</u> no longer <u>be</u> valid and the vendor shall immediately surrender the Vending Site Permit to the <u>DCRA</u> Director. If the Vending Site Permit is not immediately surrendered, the <u>DCRA</u> Director may seize the expired Vending Site Permit. If the surrendered or seized Vending Site Permit is the only permit associated with the Vending Business License, the vendor’s Vending Business License shall be put on hold pursuant to § <del>558</del> <u>561</u> .	Does the Director have authority to seize DOH issued permits, as well, under 506.5?		Are site permits to expire concurrently with the license, or will the terms be different? They need to align.
<b>512</b>	<b>VENDING SITE PERMIT: DENIAL, SUSPENSION, REVOCATION, AND SEIZURE</b>			
512.1	<p>The <u>DCRA</u> Director may summarily revoke or suspend a Vending Site Permit at any time, without prior notice to the vendor or an opportunity to be heard, if:</p> <p>(a)The Vending Location associated with the Vending Site Permit is <del>not a location that is</del> eligible for authorization as a Vending Location under this chapter or any other applicable law or regulation;</p> <p>(b)The DDOT Director <u>has</u> eliminated the Vending Location associated with the Vending Site Permit;</p>	This is a tautology. By definition, a vendor cannot GET a site permit that is not eligible. Can they?	<p>Same comment</p> <p>What does “eligible for authorization” mean? Earlier, DDOT was given authority to “set standards” for vending sites, but evidently not required or authorized to actually “designate” sites.</p> <p>Is there notice? Since there are no standards here for the designation of sites (only prohibitions where sites may NOT be located) how or why does this occur?</p>	<p>Fixed!</p> <p>This presumes there is a list or a register of sites, but alas, there is none.</p>

	<p>(c )The Vending Location, or the vending-related activities at the Vending Location, constitute a threat to public safety;</p> <p>(d)The vendor is operating in a manner that is in violation of the terms or conditions of the Vending Site Permit or in violation of this chapter, including an attempt to transfer, convey, or sell the Vending Site Permit to another person.</p>	<p>As defined how, and by whom? Do federal officials have standing to make such a determination? Under what regulations?</p> <p>There <i>are</i> no “terms or conditions” relating to performance at a Vending Site Permit in these regulations that we can find.</p>	<p>Same comment. We think that ONLY MPD should have the authority to make this kind of determination.</p> <p>Same comment</p>	<p>Obviously, Homeland Security will claim ground around their installations, and that’s just how it will be.</p> <p>Same comment</p>
512.2	<p>In situations other than those enumerated in § 512.1, upon the suspension or revocation of a vendor’s Vending Site Permit, the <u>DCRA</u> Director shall provide the vendor with written notice of the vendor’s right to appeal to the Office of Administrative Hearings and may immediately seize the Vending Site Permit and Vending Business License, pursuant to § 511.3.</p>	<p>Again, the vendor is out of business until the matter is resolved. The burden of proof ought to be on the government. Vendors are reasonable people, and safety is safety. Vendors recognize that during Presidential inaugurations or World Bank meetings, the rules need to change for security reasons. These regulations should be more clearly drafted.</p>	<p>Same comment, and the same due-process concerns as before. The hearing should come <i>before</i> the action.</p>	<p>Upon re-reading this, it appears that there are enumerated grounds for immediate seizure. Presumably, the seizure of a Site Permit is subordinate to a Notice of Infraction for violating the rules. But that is not clear. Once could read these rules to say that the DCRA Director can seize a license after a hearing, and the grounds for the hearing are a Notice of Infraction. But it ALSO appears, in this provision, that the DCRA Director can just suspend or revoke a Site permit for any reason, or no reason at all, and then there will be a hearing. With nothing in the regs to stop the Director, and nothing in the Regs for the</p>

				Administrative Hearing Officer to find that the Director acted contrary to the regulation, the vendor is guaranteed to lose! It's the King of Vending model that DCRA loves.
512.3	<del>A vendor shall promptly surrender his or her Vending Business License, pursuant to § 511.3, and Vending Site Permit to the Director upon revocation or suspension of the person's Vending Site Permit.</del> If the surrendered or seized Vending Site Permit is the only permit associated with the Vending Business License, the vendor's Vending Business License shall be put on hold pursuant § <del>558</del> <u>561</u> .			
512.4	If a vendor's Vending Site Permit is summarily suspended or revoked by the <u>DCRA</u> Director under this section, the vendor may appeal the summary suspension or revocation to the Office of Administrative Hearings.	See comments above.	Same comment	See above. This process is just wrong
512.5	A notice issued by the <u>DCRA</u> Director under this section shall be mailed by first-class U.S. mail. If the notice establishes a specific date for a hearing, the notice shall be mailed at least ten (10) days prior to the date of the hearing.			See above
512.6	A vendor's Vending Site Permit may be suspended or revoked if the vendor has not conducted any vending for six (6) months at the Vending Location associated with the Vending Site Permit; provided, that this provision shall not apply to a vendor who has placed his or her Vending Business License on hold pursuant to § <del>558</del> <u>562</u> .	A Vending site that hasn't been worked for six months is not really an appropriate vending site. Or maybe the vending business assigned to the site is completely inappropriate at that location..See our comments on the "vending lottery" above....	As we've said before, a lottery pretty much guarantees that the wrong vendor will be at the wrong site. Who would spend \$587 on a site permit and then not go to work? Somebody cutting their losses, and working at a site (authorized or not) where there is money to be made.	The section does nothing to resolve our earlier comment

512.7	If a vendor’s Vending Business License is suspended or revoked, any Vending Site Permit associated with that Vending Business License shall also be suspended or revoked.	And thrown immediately back into the hopper? Or do we wait until the Office of Administrative Hearings has made their determination?	Same comment	Same comment. Does getting a ticket = losing a good site forever?
512.8	If a person’s Vending Site Permit is revoked or suspended (including summarily suspended) under this section, the Director shall provide notice of the revocation or suspension to DDOT, MPD and, if the business holds a Class A License, to DOH.			
<b>513</b>	<b>HEALTH INSPECTION CERTIFICATE: GENERAL</b>			
513.1	No person shall vend food in the District DOH issued unless a valid health inspection certificate for the vending vehicle, cart, or stand, <u>or farmer’s market</u> -from which the food is vended.			
513.2	A health inspection certificate shall be valid for six (6) months or until the time of the next inspection, whichever is earlier.			
513.3	A person shall not be issued a Class A <u>or Class C</u> Vending Business License or a Vending Site Permit for a Class A <u>or Class C</u> Vending Business License until the person receives a health inspection certificate from DOH.	This is backwards-- in the normal sequence of business, a business owner would a) identify his or her business; b) find a location where it might be successful; c) secure a lease on the space; d) secure equipment and permits (simultaneously). But under these regulations, that's impossible, because locations are determined “by lottery”.	Same comment	We do not like the sequential procedures here. Again, if a food vendor wanted to rent equipment, they would have to pay rent for weeks or months from the DOH inspection to DCRA licensure
<b>514</b>	<b>HEALTH INSPECTION CERTIFICATE: APPLICATION</b>			
514.1	A person shall apply for a health inspection certificate with the information and documents required by, and pursuant to the procedures of, the DOH Director. The	This should be a separate process from Vending licensure.	Same comment	Same comment

	DOH Director may require that a vendor submit to DOH the business address of the supplier of all prepared foods that the person intends to vend <u>as required in chapter 37, subtitle A(Food and Food Operations) of Title 25 of the DCMR.</u>			
515	<b>HEALTH INSPECTION CERTIFICATE: ISSUANCE</b>			
515.1	The DOH Director shall review and either approve or disapprove an application for the issuance of a health inspection certificate.			
515.2	<p>A health inspection certificate shall not be granted until after:</p> <p>(a)An inspection of the vending vehicle, cart, or stand, <u>or farmer’s market</u>, and all equipment and utensils used in the food vending operation;</p> <p>(b)An inspection of the storage facilities for the vehicle, cart, or stand <u>or farmer’s market</u>, all equipment and utensils, and the food supplies;</p> <p>(c)A review <u>and approval</u> of the preparation and holding procedures for the food; including overnight refrigeration and overall compliance with <del>the Food Code</del><u>chapter 37, subtitle A of Title 25 of the DCMR</u>; and</p> <p>(d)DOH has issued its approval of any plans for <del>health-related</del><u>food safety code</u> compliance <u>in accordance with subtitle A of Title 25 of the DCMR.</u></p>	This portion of the regulations needs to be cross-referenced with the requirements in Title 25 of the DCMR. And, by the way, those regulations need to be re-written to accommodate recent developments in food vending, as well.	Same comment	Same comment. However, we didn’t mean the answer is simply to cite Title 25 every time one of its requirements comes into play
515.3	The DOH Director shall include the vehicle tag number of the vending vehicle or cart on the health inspection certificate.			
516	<b>HEALTH INSPECTION CERTIFICATE: SUSPENSION</b>			

516.1	A health inspection certificate, and the associated Class A <u>and Class C</u> Vending Business License, may be summarily suspended by the DOH Director for Food Code violations pursuant to Section A4409 of <u>subtitle A of Title 25 of the <del>District of Columbia Municipal Regulations</del>DCMR.</u>	Different food vending operations have different requirements. Vendors who do not need to wash, rinse and sanitize equipment should not be held to the same standards as those who do.	Same comment.	Same comment
516.2	If a person’s health inspection certificate is revoked or suspended (including summarily suspended) under this section, the DOH Director shall provide notice of the revocation or suspension to DCRA, DDOT, and MPD.			
<b>517</b>	<b>FOOD PROTECTION MANAGER CERTIFICATE</b>			
517.1	No person shall operate a Class A vending business unless that person, or an individual employed by that person, holds a valid <del>food protection manager certificate and a DOH issued certified food protection manager identification card.</del> <u>(a) Food Protection Manager Certificate issued by the Conference of Food Protection Standards for Accreditation of Food Protection Manager Certificate Programs, in accordance with § 203.1, subtitle A of Title 25 of the DCMR, and</u>  <u>(b) DOH issued a Certified Food Protection Manager Identification Card, in accordance with §203.3, subtitle A of Title 25 of the DCMR.</u>	As we understand the Health regulations, a certified food protection manager needs to be <u>on-site</u> during each hour of operation.	Same comment. Of course, the standard should only apply to vendors selling potentially hazardous food.	Same comment.
517.2	Application for a food protection manager certificate and certified food manager identification <u>card</u> shall be made to DOH on forms and in the manner prescribed by the DOH Director.			
<b>518</b>	<b>PROPANE AND OPEN FLAME PERMIT</b>			
518.1	No person shall operate a vending vehicle, cart, or stand that uses propane, <del>or</del> open flames, <u>or solid fuels such as wood pellets or charcoal</u> without meeting the following			

	<p>standards:</p> <p>(a)The person shall hold a valid propane or open flame permit from FEMS; and</p> <p>(b)A vending vehicle, cart, or stand that uses propane cylinders in excess of sixty pounds (60 pounds) shall have received the approval of the Fire Marshal.</p>			
518.2	Application for a propane or open flame permit shall be made to FEMS on a form or in a manner prescribed by FEMS or the Fire Marshal.			
<b>519</b>	<b>HOOD SUPPRESSION SYSTEM APPROVAL</b>			
519.1	No person shall operate a vending vehicle, cart, or stand that includes a deep fryer (or other cooking equipment that would require a hood suppression system) unless the vehicle, cart, or stand is protected with a hood suppression system, that has been inspected and approved by FEMS.			
	<b><u>SUBCHAPTER C: VENDING LOCATIONS</u></b>  <b><u>PART 1: GENERAL</u></b>			
<b>520</b>	<b>VENDING LOCATIONS: GENERAL</b>			
520.1	The DDOT Director shall approve Vending Locations that meet the standards for locations on streets, sidewalks, and other public spaces where vending may be permitted pursuant to §§ 521, <u>528, 529</u> and § <del>528</del> <u>531</u> .	Good. Seeing as how the current Director of DDOT used to be in the vending business, and still has a stake in “On-the Fly”, (just as he does in “Zip Car”) we think it is a good news/bad news story. While others may complain about possible “conflicts of interest”on the part of the DDOT Director--we won't. Instead, we would argue for greater autonomy for the DDOT Director in designating vending sites. His	It is nice that the Director approves the sites. The question is, who compiles that list in the first place? Under these regulations, NO ONE is responsible for that little job, and until that job is done, Site Permits cannot be issued, (except, inexplicably, for food trucks, even though the law requires they have Site Permits,	<p>The other point is that the standards that have been set, including the restricted streets, was codified in the current regs in the 1980s. DC has changed. Should the map change as well?</p> <p>Under this draft, the answer is no. In fact, this new draft is even more restrictive than</p>



		experience should be valued in the determination of vending sites.	too). So the result is that the moratorium for sidewalk vending sites lives on, and on, and on.	before. It makes no sense.
520.2	<p>The DDOT Director may eliminate a previously designated Vending Location if:</p> <p>(a)The DDOT Director determines that the designated Vending Location is no longer in compliance with District law or regulations;</p> <p>(b)The DDOT Director determines that the operation of a vending business at the location constitutes a threat to the public safety; or</p> <p>(c)The DDOT Director determines that the interests of the District or the public would be better served if the public space occupied by the Vending Location is designated for another use or for open space.</p>	<p>If a vending business is operated in an unsafe manner, that means that the <i>vending site</i> needs to be eliminated?</p> <p>“Better served?” How is this determination reached? Is there to be an appeals process?</p>	<p>Same comment</p> <p>Same comment. We see this as another way to kick vendors off the street at the request of a BID via the so-called VDZ.</p>	<p>Same comments. Shouldn’t the Office of Planning as well as DDOT work together to determine which uses of public space “best serve” the public.</p> <p>Even more, shouldn’t the photos of lines of people on public space waiting for food trucks show that the market—not bureaucrats—are the best judges about the best use of public space?</p>
520.3	<p>The DDOT Director shall <del>create and maintain an accurate and updated map of approved</del>re-evaluate a Vending Location <del>when a vendor issued a Vending Site Permit under § 510.1© ceases to vend at that Vending Locations. In its re-evaluation, the DDOT Director shall utilize the provisions of §520.2 This information shall be published on the websites of DDOT (ddot.de.gov) and DCRA (dera.de.gov).</del></p>	Good	<p>It would be better if somebody were actually responsible for designating sites in the first place. Oh, wait. That responsibility was assigned to DCRA (or its contractor) in 1998. Too bad that work has never been done.</p>	<p>A good provision (that somebody <i>finally</i> make a map, so that permits might finally be issued) is gutted. Why should DDOT “re-evaluate” a site when a vendor leaves it? What’s the point? A site that is lousy for souvenirs might be great for food. Let the market sort it out.</p>
	<b><u>PART 2: SIDEWALK VENDING LOCATIONS</u></b>			
<b>521</b>	<b>VENDING LOCATIONS: SIDEWALK VENDING</b>			
521.1	All sidewalk Vending Locations shall be in accordance with the following standards:	Did the DDOT Director actually sign off	Same comment. Earlier, we see	Same comments. The zone

	<p>on these provisions? a) they don't allow the DDOT Director proper discretion. Our view is that the DDOT Director, given his history would quite likely do an excellent job of identifying “appropriate” vending sites.</p>	<p>that the DDOT Director, not DCRA has the authority to set the standards for vending locations. These standards come straight out of the current regulations, which we don’t believe were set by DDOT.</p>	<p>system is archaic.</p>
<p>(a)Sidewalk Vending Locations shall only be located along streets within:</p> <p>(1)The Central Vending Zone;</p> <p>(2)Neighborhood Vending Zones;</p> <p>(3)The Old Georgetown Vending Zone; and</p> <p>(4)The Nationals Park Vending Zone;</p>	<p>The separate licensing scheme for Central Vending Zone, versus the Neighborhood Vending Zones, including the Old Georgetown Zone, and the new National's Park Vending Zone, are basically archaic throwbacks to a former licensing scheme and which are no longer reflected in these regulations. There is no reason under these proposed regulation for those Zone distinctions to be maintained.</p> <p>Except, presumably, in so-called Vending Development Zones</p>	<p>Same comment. Given that vendors must have site permits, we can see no logical reason to keep the Neighborhood Zone versus the Central Zone vending concept. Under the old rules, if a vendor wanted to work downtown, he or she had to get a Central Zone license; if he or she wanted to work in the Neighborhood Zone, he or she had to get a Neighborhood Zone permit. In other words, DCRA charged two permit fees to one vendor, based on location. Now, with the Site permits, there should be one license fee, and the Neighborhood Zone, Central Zone distinction should just go away. Presumably, DCRA just wants to keep the income stream.</p>	<p>The better approach is to be inclusive and ALLOW vending generally in Commercial, Industrial, University, and Government Zones, and then apply restrictions as needed through the permit process</p>
<p>(b)No more than three (3) sidewalk Vending Locations shall be designated on any side of any city block;</p>	<p>For residential buildings located on a corner, does that mean both facades are off limits?</p>		

	<p>(c)No sidewalk Vending Location shall be designated:</p> <p>(1)In front of a predominately residential building outside the Central Vending Zone;</p> <p>(2)On the median strip of a divided roadway, unless the strip is intended for use as a pedestrian mall or plaza;</p> <p>(3)Along the length of a Metrobus Stop Zone, a commuter bus zone, an intercity bus zone, or other curbside zone specifically designated and demarcated as being for transit use;</p> <p>(4)In a location that is on or that impedes free access to service or ventilation grates or covers;</p> <p>(5)On a restricted street designated in § 522.3; or</p>	<p>The length of these bus stop zones are defined elsewhere in the DCMR, but they are not clearly marked on-site. And in some cases, the bus stops on the street do not conform to the provisions in the DCMR. Which takes precedence?</p> <p>What does”impedes free access” mean? Sidewalk cafes get 24 hours to clear the site, and they are on top of manholes, too.</p>	<p>Same comment</p> <p>Same comment</p> <p>If DDOT is responsible for setting the standards for vending sites, has DDOT (or anybody else) reviewed this list of restricted streets, which is basically unchanged from the 1990s. Needless to say, there has been much development in DC since this list was formulated. We would actually like to see OP take a serious look at this list and determine if it needs updating. We think the list is indefensible on any rational grounds. But it’s always easier to cut-and-paste.</p>	
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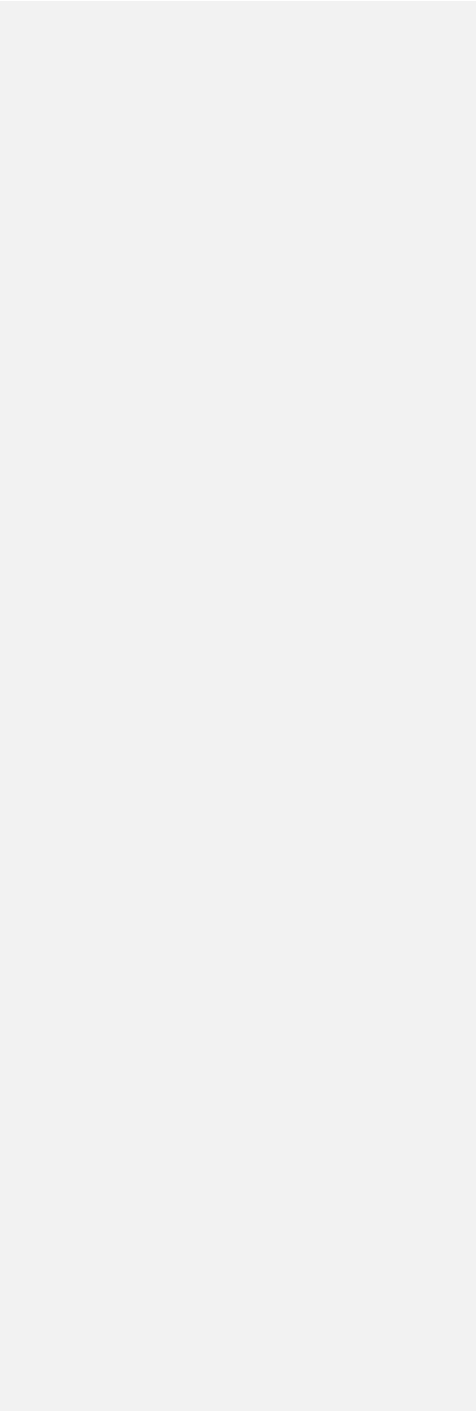
<p>(6)Within any area under the exclusive jurisdiction of the United States Park Police, the United States Capitol Police, or any other agency of the United States government;</p>	<p>Depending upon how you read the US Constitution and the Home Rule Charter, one could make the case that Congress, at the end of the day, has exclusive jurisdiction over the entire District of Columbia...</p>		
<p>(d)Within the Central Vending Zone, sidewalk vending shall be prohibited on sidewalks unless:</p> <p>(1)A ten foot (10 ft.) clear passageway is maintained;</p>	<p>This is arbitrary. Clear space requirements should be based more on pedestrian traffic.</p>	<p>See prior comment. There is evidence to suggest that 7-8 feet of clear space is all that is really needed, given DC’s pedestrian counts. See William Whyte.</p>	
<p>(2)The street is specifically exempted in § 522; or</p> <p>(3)The DDOT Director waives this restriction pursuant to § 521.2.</p>	<p>This provision was inserted merely to benefit certain vendors. We prefer to see site-specific waivers rather than language in a regulation that is targeted to individuals.</p>	<p>Same comment. This waiver should be on a Site Permit, not in the middle of a regulation.</p>	
<p>(e)Outside the Central Vending Zone, sidewalk vending shall be prohibited on sidewalks unless:</p> <p>(1)A seven foot (7 ft.) clear passageway is maintained;</p> <p>(2)The sidewalk is specifically exempted in §§ 523, 524, or 525; or</p> <p>(3)The DDOT Director waives this restriction pursuant to § 521.2.</p>			
<p>(f)No sidewalk Vending Location shall be designated within:</p> <p>(1)Twenty feet (20 ft.) of the driveway entrance to a</p>			

police or fire station;			
(2)Ten feet (10 ft.) of any other driveway;			
(3)Ten feet (10 ft.) of an alley;			
(4)Ten feet (10 ft.) of another sidewalk Vending Location;	This is arbitrary.	Same comment	
(5)Twenty feet (20 ft.) of the street-level entry to a Metrorail escalator;	What does this mean in practice? This places vending stands closer to Metro entrances than they are now!	At least it doesn't say, 20 feet from the Metro parapet, as the current regulation does....	
(6)Ten (10 ft.) of the street-level door to a Metrorail elevator;	Same comment.		
(7)A marked loading zone, entrance zone, or parking space designated for diplomatic parking, or other curbside location restricted for certain vehicles or uses;			
(8)One hundred feet (100 ft.) of the entrance to a District of Federal courthouse, or within such greater distance as may be designated by the DDOT Director upon the written request of the courthouse administrator;	Presumably the DDOT Director won't approve a request to prohibit vending within a half-mile of a courthouse or a school...	Same comment	
(9)Five feet (5 ft.) of a fire hydrant;			
(10)One hundred feet (100 ft.) of the main entrance to a building that is predominantly used for a primary or secondary school, unless operations at the Vending Location are restricted to non-school days and time periods on school days that begin thirty (30) minutes		Same comment as for Courthouses	

	<p>after school has been dismissed at the end of the school day.</p> <p>The DDOT Director may increase the minimum distance that a sidewalk Vending Location may be located from a specific school upon the written request of the Chancellor of the District of Columbia Public Schools or the principal of the school.</p> <p>(11)Twelve feet (12 ft.) of any crosswalk when on the vehicle approach side of the Vending Location and crosswalk; and</p> <p>(12)Five feet (5 ft.) from any crosswalk when not on the vehicle approach side of the Vending Location and crosswalk.</p>	There should be a definition of crosswalk added to these regulations.	We appreciate that DCRA went back to the old standard here.	
521.2	Upon the request of the <u>DCRA</u> Director, the DDOT Director may waive the minimum passageway requirement of §§ 521.1(d) or 521.1(e) if the DDOT Director determines there will not be an adverse impact on, among other things, pedestrian circulation and public safety. The <u>DCRA</u> Director shall note on the Vending Site Permit the issuance of the waiver by the DDOT Director.	Shouldn't requests for waivers come from vendors, as a way to determine whether potential new sites might be opened?	Same comment.	Same comment
521.3	The passageway required by §§ 521.1(d) and 521.1(e) shall be measured from the closest allowable projection of the vending cart or stand to the nearest building, private property line, or interruption of the public space by a public amenity or fixture, whichever is nearest.	This should be in the definitions section of the regulations.	Same comment. “Clear passageway is...”	Same comment
<b>522</b>	<b>VENDING LOCATIONS: CENTRAL VENDING ZONE</b>			
522.1	<p>The Central Vending Zone shall have the following boundaries:</p> <p>(a)Beginning at the northeast corner of Massachusetts</p>	First, we reject the idea that there needs to be any definition of Central Zone Vending or Neighborhood Zone Vending. Since permits are to be issued for each	<p>Note: did not update punctuation or numbering in this section.</p> <p>See prior comment. The right</p>	Same comment. No need to stick with the archaic system here. We will submit a proposal about how to

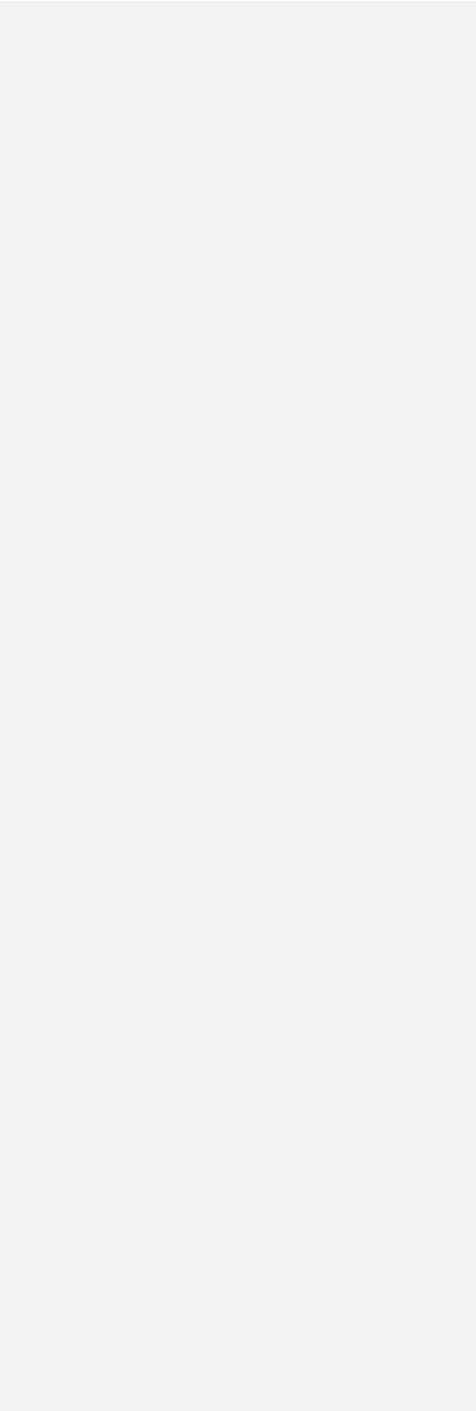
<p>Avenue, NW at 11<sup>th</sup> Street, NW;</p> <p>(b) East along the north curb of L Street, NW to the west curb of mid-block alley between 9th Street, NW and 10th Street, NW;</p> <p>(c) North along the center of the alley to the south curb of M Street, NW;</p> <p>(d) East along the south curb of M Street, NW to the west curb of 9th Street, NW;</p> <p>(e) North along the west curb of 9th Street, NW to the north curb of N Street, NW ;</p> <p>(f) East along the north curb of N Street NW, to the east curb of 6<sup>th</sup> Street, NW;</p> <p>(g) South along the east curb of 6th Street, NW to the north curb of Massachusetts Avenue, NW;</p> <p>(h) East along the north curb of Massachusetts Avenue, NW to the west curb of North Capitol Street, NW;</p> <p>(i) North along the west curb of North Capitol Street, NW to the north curb of Q Street, NW;</p> <p>(j) East along the north curb of Q Street, NE to the west curb of Eckington Place, NE;</p> <p>(k) North along the west curb of Eckington Place, NE to the north curb of R Street, NE;</p> <p>(l) East along the north curb of R Street, NE in a straight line to the north curb of New York Avenue, NE;</p>	<p>site, and since each site is unique, the DDOT Director should have discretion to open up sites in Commercial, Industrial, University and Government zones.</p>	<p>way to do this is to open up potential locations in the Commercial, Industrial, University and Government zones, whereby vendors would Finally, these zones have changed since the 2010 version. It is impossible to visualize these areas without a map. DCRA should publish a map of these areas on it’s website, in a format that allows people to zoom into the detail, such as a .pdf file.</p>	<p>manage vending sites using appropriate technology as part of our comments.</p>
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<p>(m) East along the north curb of New York Avenue, NE to the east curb of 9<sup>th</sup> Street, NE;</p> <p>(n) South along the east curb of 9th Street, NE to the east curb of Brentwood Parkway, NE;</p> <p>(o) South along the east curb of Brentwood Parkway, NE to the east curb of 6th Street, NE;</p> <p>(p)South along the east curb of 6th Street, NE to the south curb of M Street, NE;</p> <p>(q)West along the south curb of M Street, NE to the east curb of 5th Street, NE;</p> <p>(r)South along the east curb of 5th Street, NE to the south curb of H Street, NE;</p> <p>(s)West along the south curb of H Street, NE to the east curb of 3rd Street, NE;</p> <p>(t)South along the east curb of 3rd Street, NE to the north curb of Independence Avenue, SE;</p> <p>(u)West along the north curb of Independence Avenue, SE to the east curb of 2nd Street, SE;</p> <p>(v)South along the east curb of 2nd Street, SE to the south curb of C Street, SE;</p> <p>(w)West along the south curb of C Street, SE to the east curb of 1st Street, SE;</p> <p>(x)South along the east curb of 1st Street, SE to the south curb of D Street, SE;</p>			
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<p>(y)West along the south curb of D Street, SE to the east curb of New Jersey Avenue, SE;</p> <p>(z)South along the east curb of New Jersey Avenue, SE to the south curb of Interstate 695;</p> <p>(aa) East along the south curb of Interstate 695 to east curb of Water Street, SE;</p> <p>(bb) South from the east curb of Water Street, SE in a straight line to the west bank of the Anacostia River, SE;</p> <p>(cc) West along the north bank of the Anacostia River, SE to the east curb of 11th Street, SE;</p> <p>(dd) South along the east curb of 11th Street, SE to the east curb of Martin Luther King, Jr. Avenue, SE;</p> <p>(ee) South along the east curb of Martin Luther King, Jr. Avenue, SE to the north curb of Suitland Parkway, SE;</p> <p>(ff) North along Suitland Parkway, SE to the South Capitol Street Bridge;</p> <p>(ff) West along the South Capitol Street Bridge to the east bank of the Anacostia River, SE;</p> <p>(hh)South along the west bank of the Anacostia River, SE to the east bank of the Potomac River, SW;</p> <p>(ii)North along the east bank of the Potomac River, SW to the west curb of the Potomac Parkway to Rock Creek Parkway;</p> <p>(jj)North along Rock Creek Parkway in a straight line to</p>			
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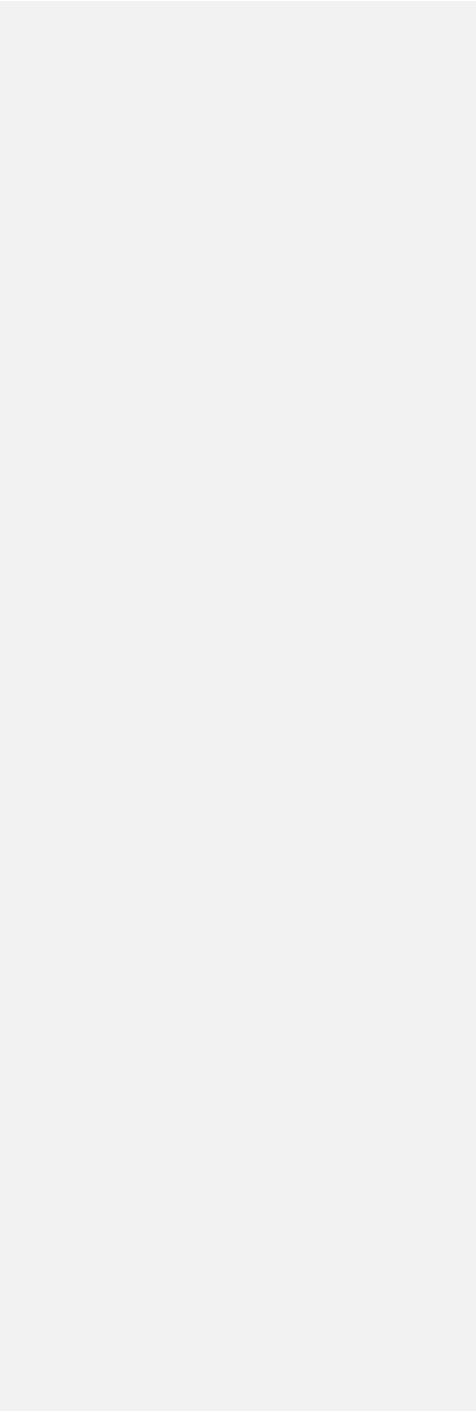


	<p>the north curb of N Street, NW;</p> <p>(kk) East along the north curb of N Street, NW to the west curb of New Hampshire Avenue, NW;</p> <p>(ll)Northeast along the west curb of New Hampshire Avenue, NW to the west curb of 20th Street, NW;</p> <p>(mm)North along the west curb of 20th Street, NW to the north curb of P Street, NW;</p> <p>(nn)East along the north curb of P Street, NW to west curb of Dupont Circle, NW;</p> <p>(oo)North along the west curb of Dupont Circle, NW to the north curb ofMassachusetts Avenue, NW; and</p> <p>(pp)East along the north curb of Massachusetts Avenue, NW to the northeast corner of Massachusetts Avenue, NW and 11th Street, NW.</p>			
522.2	<p>The following streets in the Central Vending Zone shall be exempt from the requirement that a minimum ten foot (10 ft.) clear passageway be maintained; provided, that each of the following vending sites shall maintain a seven foot (7 ft.) clear passageway:</p> <p>(a)East and west sides of 19th Street, NW between Constitution Avenue, NW and C Street, NW;</p> <p>(b) East and west sides of 20th Street, NW between Constitution Avenue, NW and C Street, NW; and</p> <p>(c) East and west sides of 21st Street, NW between Constitution Avenue, NW and C Street, NW.</p>	See prior comment.	This exception is for a particular group of vendors. It should be codified on their site permit, not in these regulations.	Same comment
522.3	Except for Vending Locations approved as part of a Vending Development Zone under § 564, no sidewalk	a) These restrictions are random on their face.	Same comment. If DDOT is responsible for	Same comments

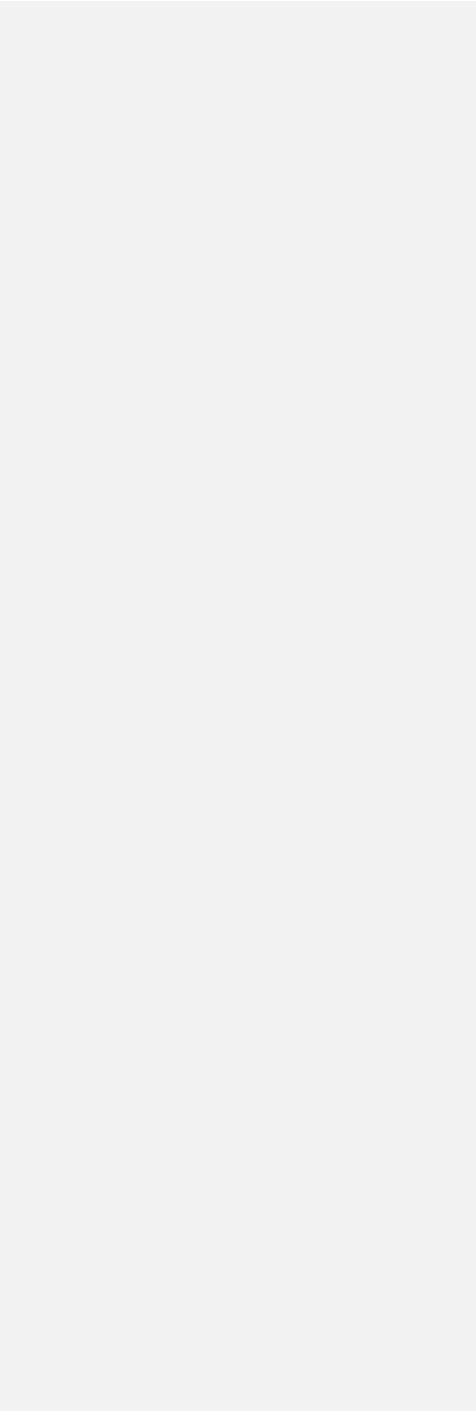
<p>Vending Locations shall be designated on the following streets in the Central Vending Zone:</p> <p>(a)East side of 2nd Street, SW between East Capitol Street and M Street, SE;</p> <p>(b)East side of 2nd Street, NE between K Street, NE and East Capitol Street;</p> <p>(c)East side of 10th Street, NW between E Street, NW and Pennsylvania Avenue, NW (Federal Bureau of Investigation building);</p> <p>(d) East side of 12th Street, NW between Constitution Avenue, NW and Pennsylvania Avenue, NW (Internal Revenue Service building (southern half of block) and Old Post Office building (northern half of block));</p> <p>(e)East side of 12th Street, NW between I Street, NW and K Street, NW;</p> <p>(f)East side of 12th Street, NW between New York Avenue, NW and G Street, NW;</p> <p>(g)East side of 13th Street, NW between L Street, NW and Massachusetts Avenue, NW;</p> <p>(h)East side of 14th Street, NW between Constitution Avenue, NW and D Street, NW (John A. Wilson Building, Ronald Reagan Building and International Trade Center, and Commerce Department building);</p> <p>(i)East side of 22nd Street, NW between F Street, NW and G Street, NW;</p>	<p>b) Restricting vending sites through regulation reduces the discretion of the DDOT Director to open new sites.</p> <p>c) Such a regulatory system does not account for the dramatic changes that occur over time in Washington DC.</p>	<p>setting standards for sites, have they reviewed these prohibited locations, or did they just let DCRA copy from the current regulations?</p> <p>Has the Office of Planning reviewed this list? Do they agree that all of these areas should be off-limits to all vending?. And if so, on what basis have they made that judgement? In our view, DCRA is the wrong agency to make planning decisions.</p>
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<p>(j)East side of 24th Street, NW between Pennsylvania Avenue, NW and L Street, NW;</p> <p>(k)East side of 24th Street, NW between Virginia Avenue, NW and G Street, NW;</p> <p>(l)East side of 25th Street, NW between H Street, NW and I Street, NW;</p> <p>(m)East side of 26th Street, NW between I Street, NW and K Street, NW;</p> <p>(n)East and west sides of Delaware Avenue, SW between M Street, SW and H Street, SW;</p> <p>(o)East and west sides of Half Street, SE between M Street, SE and I Street, SE;</p> <p>(p)East and west sides of Half Street, SW between M Street, SW and I Street, SW;</p> <p>(q)East and west sides of New Hampshire Avenue, NW between Virginia Avenue, NW and I Street, NW;</p> <p>(r)East and west sides of 1st Street, SW between Independence Avenue, SW and Canal Street, SW;</p> <p>(s)East and west sides of 1st Street, SW between M Street, SW and mid- block between M Street and N Street, SW;</p> <p>(t)East and west sides of 2nd Street, SE between M Street, SE and D Street, SE;</p> <p>(u)East and west sides of 3rd Street, SW between M</p>			
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Street, SW and I Street, SW;  (v)East and west sides of 5th Street, NW between H Street, NW and K Street, NW;  (w)East and west sides of 6th Street, SW between M Street, SW and G Street, SW;  (x)East and west sides of 8th Street, NW between E Street, NW and D Street, NW;  (y)East and west sides of 9th Street, NW between G Street, NW and H Street, NW;  (z)East and west sides of 21st Street, NW between C Street, NW and E Street, NW (State Department building);  (aa)East and west sides of 23rd Street, NW between C Street, NW and E Street, NW (State Department building);  (bb)East and west sides of 23rd Street, NW between L Street, NW and Washington Circle, NW;  (cc)East and west sides of 25th Street, NW between I Street, NW and K Street, NW;  (dd)East and west sides of 25th Street, NW between L Street, NW and M Street, NW;  (ee)East and west sides of 6th Street, NW between F Street, NW and H Street, NW;  (ff)East and west sides of 7th Street, NW between F Street, NW and H Street, NW;			
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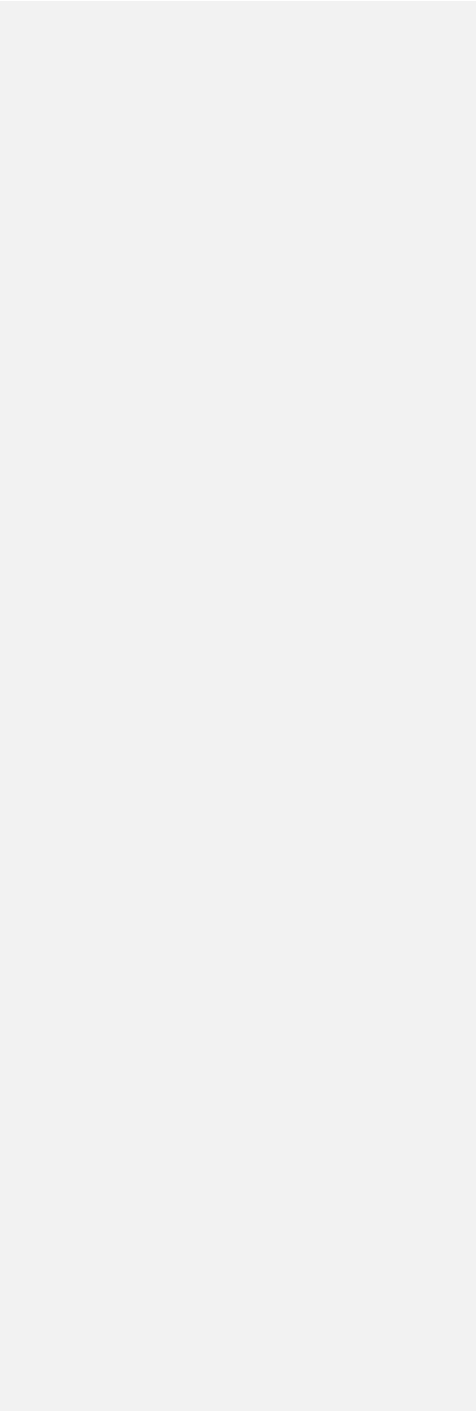


(gg)East and west sides of 3rd Street, NW between F Street, NW and G Street, NW;			
(hh)East and west sides of 4th Street, NW between F Street, NW and G Street, NW;			
(ii)North side of D Street, NW between 3rd Street, NW and 4th Street, NW;			
(jj)North side of D Street, NW between 5th Street, NW and 9th Street, NW;			
(kk)North side of E Street, NW between 1st Street, NW and 2nd Street, NW;			
(ll)North side of E Street, NW between 3rd Street, NW and 4th Street, NW;			
(mm) North side of F Street, NW between 21st Street, NW and 22nd Street, NW;			
(nn)North side of N Street, NW between 21st Street, NW and New Hampshire Avenue, NW;			
(oo)North side of Pennsylvania Avenue, NW between 9th Street, NW and 10 <sup>th</sup> Street, NW;			
(pp)North side of Virginia Avenue, NW between 23rd Street, NW and 24 <sup>th</sup> Street, NW;			
(qq)North and south sides of C Street, SE between South			



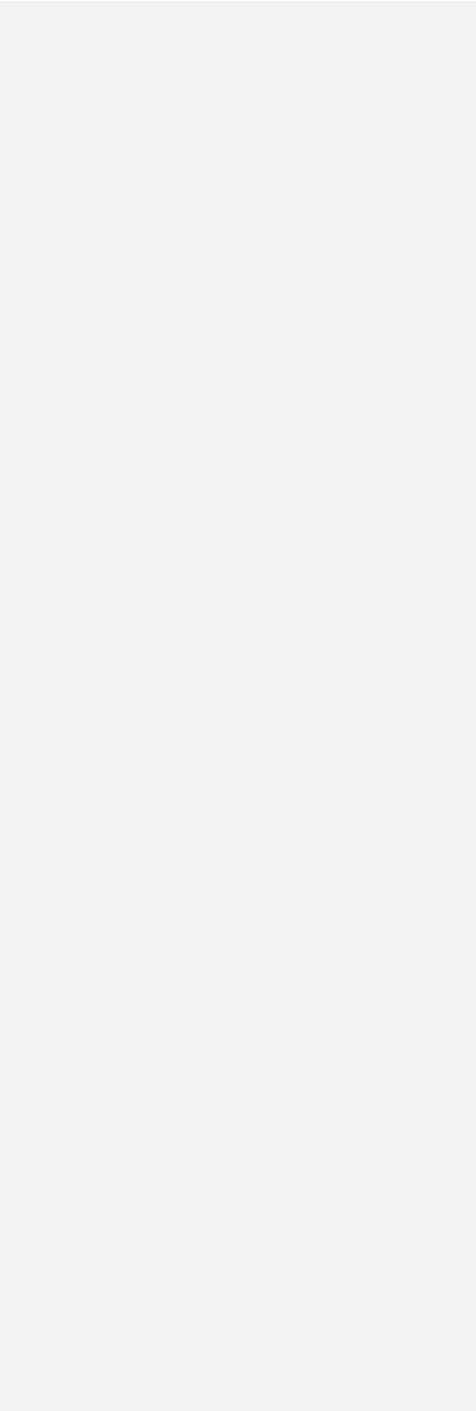
Capitol Street, SE and 3rd Street, SE;  (rr)North and south sides of C Street, SW between 6th Street, SW and South Capitol Street, SW;  (ss)North and south sides of C Street, NW between 21st Street, NW and 23 <sup>rd</sup> Street, NW;  (tt)North and south sides of Connecticut Avenue, NW between N Street, NW and Dupont Circle, NW;  (uu) North and south sides of D Street between 4th Street, SW and 3rd Street, SE;  (vv) North and south sides of E Street, SW between South Capitol Street and Interstate 395;  (ww) North and south sides of E Street, SW between 2nd Street, SW and 7 <sup>th</sup> Street, SW;  (xx) North and south sides of E Street, NW between 5th Street, NW and 14 <sup>th</sup> Street, NW;  (yy) North and south sides of E Street, NW between 21st Street, NW and 23 <sup>rd</sup> Street, NW;  (zz) North and south sides of F Street, NW between New Jersey Avenue, NW and North Capitol Street, NW;  (aaa)North and south sides of H Street, NW between 6th Street, NW and Massachusetts Avenue, NW;  (bbb) North and south sides of H Street, NW between New Hampshire Avenue, NW and 24th Street, NW;  (ccc)North and south sides of I Street, SE in a straight line between South Capitol Street, SE and 3rd Street,			
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<p>SE;</p> <p>(ddd) North and south sides of I Street, SW between 7th Street, SW and South Capitol Street, SW;</p> <p>(eee)North and south sides of I Street, NW between 13th Street, NW and 16<sup>th</sup> Street, NW;</p> <p>(fff)North and south sides of I Street, NW between 26th Street, NW and New Hampshire Avenue, NW;</p> <p>(ggg)North and south sides of Jefferson Place, NW between 18th Street, NW and 19th Street, NW;</p> <p>(hhh)North and south sides of K Street between Half Street, SW and 3rd Street, SE;</p> <p>(iii)North and south sides of K Street, SW between Wesley Place, SW and Delaware Avenue, SW;</p> <p>(jjj)North and south sides of K Street, NW between 25th Street, NW and 26<sup>th</sup> Street, NW;</p> <p>(kkk)North and south sides of L Street in a straight line between 3rd Street, SW and 3rd Street, SE;</p> <p>(lll)North and south sides of L Street, NW between 24th Street, NW and 25<sup>th</sup> Street, NW;</p> <p>(mmm)North and south sides of M Street, NW between 21st Street, NW and Connecticut Avenue, NW;</p> <p>(nnn)North and south sides of M Street, NW between 23rd Street, NW and 28<sup>th</sup> Street, NW;</p> <p>(ooo) North and south sides of Massachusetts Avenue, NW between Thomas Circle, NW and 11th Street, NW;</p>			
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<p>(ppp)North and south sides of N Street, NW between 18th Street, NW and Bataan Street, NW;</p> <p>(qqq) North and south sides of N Street, NW between 21st Street, NW and 25<sup>th</sup> Street, NW;</p> <p>(rrr) North and south sides of Sunderland Place, NW between 19th Street, NW and 20th Street, NW;</p> <p>(sss)North and south sides of F Street, NW between 6th Street, NW and 7<sup>th</sup> Street, NW (Verizon Center);</p> <p>(ttt) North and south sides of H Street, NW between 6th Street, NW and 7<sup>th</sup> Street, NW (Verizon Center);</p> <p>(uuu) North and south sides of G Street, NW between 3rd and 4th Streets, NW;</p> <p>(vvv)North and south sides of F Street, NW between 3rd Street, NW and 4<sup>th</sup> Street, NW;</p> <p>(www) South side of C Street, SW between 12th Street, SW and 14th Street, SW;</p> <p>(xxx) South side of E Street, NW between 9th Street, NW and 10th Street, NW;</p> <p>(yyy)South side of G Street, NW between 7th Street, NW and 9th Street, NW;</p> <p>(zzz)South side of G Street, NW between 23rd Street, NW and 24th Street, NW;</p> <p>(aaaa) South side of H Street, NW between 23rd Street,</p>			
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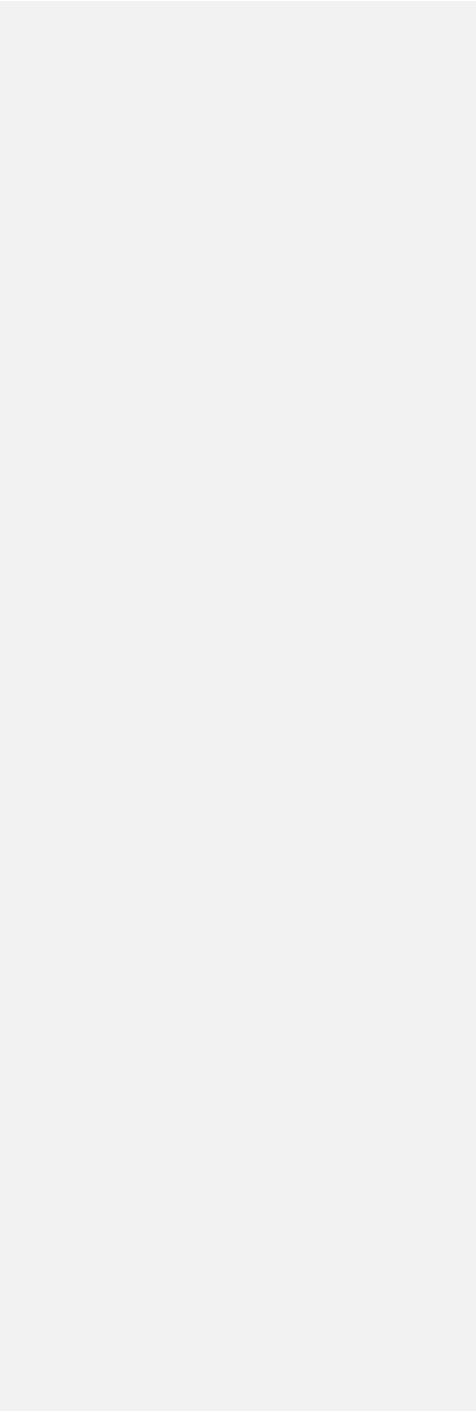


	<p>NW and 24th Street, NW;</p> <p>(bbbb) South side of K Street, NW between 24th Street, NW and 25th Street, NW;</p> <p>(cccc) West side of 5th Street, NW between D Street, NW and E Street, NW;</p> <p>(dddd) West side of 9th Street, NW between E Street, NW and Pennsylvania Avenue, NW;</p> <p>(eeee) West side of 17th Street, NW between Constitution Avenue, NW and C Street, NW;</p> <p>(ffff) West side of 17th Street, NW between D Street, NW and E Street, NW;</p> <p>(gggg) West side of 21st Street, NW between New Hampshire Avenue, NW and N Street, NW; and</p> <p>(hhhh) West side of 23rd Street, NW between Virginia Avenue, NW and G Street, NW.</p>			
523	<b>VENDING LOCATIONS: OLD GEORGETOWN VENDING ZONE</b>			
523.1	<p>No vendor shall vend on any sidewalk on public space within the area known as Old Georgetown enclosed by the following continuous boundary, except as specifically provided in § 523.2:</p> <p>(a) Bounded on the east by Rock Creek and Potomac Parkway from the Potomac River to the north boundary of Dumbarton Oaks Park;</p> <p>(b) Bounded on the north by the north boundary of Dumbarton Oaks Park, Whitehaven Street, NW, and Whitehaven Parkway, NW, to 35th</p>	<p>Note: The DC Vendors Caucus somehow did not include this section in its 2010 comments.</p>		<p>These sites go back to the 80s. Shouldn't they be updated?</p>

	<p>Street,NW, south along the middle of 35th Street, NW, to Reservoir Road, NW, west along the middle of Reservoir Road, NW, to Glover Archibold Park;</p> <p>(c) Bounded on the west by Glover Archibold Park from Reservoir Road, NW, to the Potomac River; and</p> <p>(d) Bounded on the south by the Potomac River and the Rock Creek and Potomac Parkway.</p>			
523.2	<p>The streets listed in this subsection shall constitute the Old Georgetown Vending Zone within which the DDOT Director may approve sidewalk Vending Locations, provided, that sidewalk Vending Locations shall be allowed:</p> <p>(a) Only within fifty feet (50 ft.) of the intersections of the cross streets with Wisconsin Avenue, NW;</p> <p>(b) Only on the sidewalks designated in paragraph (d);</p> <p>(c) Only in the directions from Wisconsin Avenue, NW, designated in paragraph (d), unless they are sites or markets authorized by the creation of a Vending Development Zone; and</p> <p>(d) Only at the following locations:</p> <p>(1) Northern sidewalk of P Street, NW, east of Wisconsin Avenue, NW;</p> <p>(2) Northern sidewalk of P Street, NW, west of Wisconsin Avenue, NW;</p> <p>(3) Northern sidewalk of O Street, NW, east of Wisconsin Avenue, NW;</p> <p>(4) Northern sidewalk of O Street, NW, west of Wisconsin Avenue, NW;</p> <p>(5) Northern sidewalk of Dumbarton Street, NW, east of Wisconsin Avenue, NW;</p>		<p>Has DDOT approved these sites, or has DCRA merely copied them from the current regulation?</p>	<p>Same comment</p>

	<p>(6) Southern sidewalk of Dumbarton Street, NW, east of Wisconsin Avenue, NW;</p> <p>(7) Northern sidewalk of N Street, NW, west of Wisconsin Avenue, NW; (two (2) Vending Locations);</p> <p>(8) Southern sidewalk of N Street, NW, west of Wisconsin Avenue, NW;</p> <p>(9) Southern sidewalk of N Street, NW, east of Wisconsin Avenue, NW;</p> <p>(10)Northern sidewalk k of Prospect Street, NW, west of Wisconsin Avenue, NW; and</p> <p>(11) Southern sidewalk of Prospect Street, NW, west of Wisconsin Avenue, NW.</p>			
524	<b>VENDING LOCATIONS: NEIGHBORHOOD VENDING ZONES</b>			
524.1	<p>The Neighborhood Vending Zones shall consist of the following streets:</p> <p>(a)Capitol Hill area:</p> <p>(1)H Street, NE from 3rd Street, NE to 15th Street, NE (Zones C-2-A,C-2-B, and C-3-A);</p> <p>(2)Pennsylvania Avenue, SE from 2nd Street, SE to Potomac Avenue,SE (Zones C-2-A and C-2-B);</p> <p>(3)8th Street, SE from D Street, SE to I Street, SE (Zone C-2-A);</p> <p>(4)15th Street, NE from A Street, NE to East Capitol Street (Zone C-2-A);</p> <p>(5)Benning Road, NE from Bladensburg Road, NE to Oklahoma Avenue, NE (Zones C-2-A and C-2-B); and</p>		<p>We would also like to see DCRA publish these areas as maps instead of legal descriptions.</p>	<p>Same comment</p>

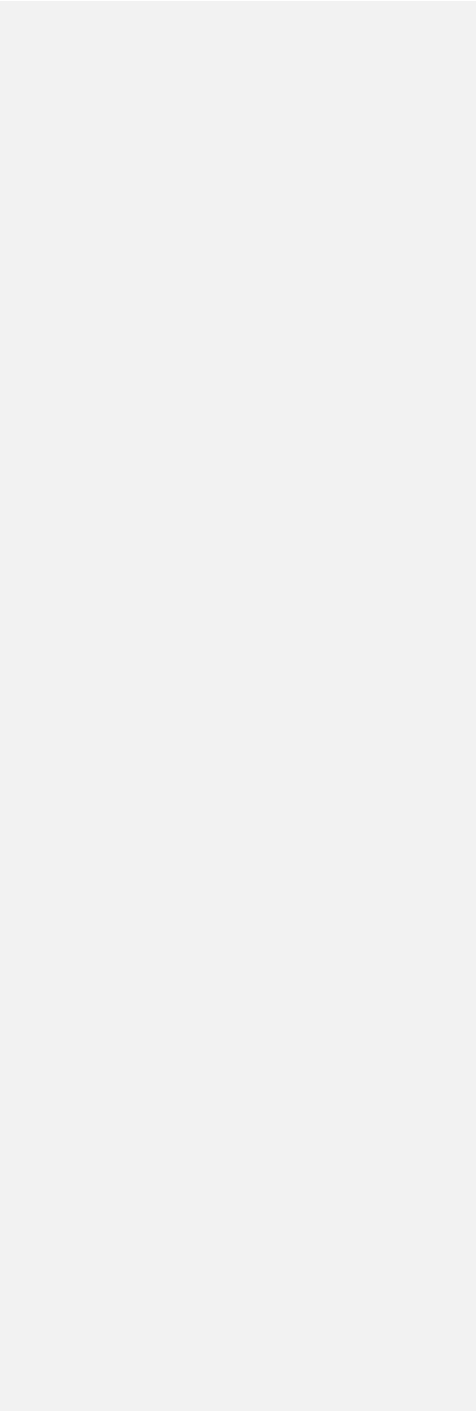
	<p>(6)East Capitol Street from 19th Street, SE to 22nd Street, SE (Zone GOV): The following restriction applies:</p> <p>(A) Only the south side of East Capitol Street shall be included in the Neighborhood Vending Zone.</p> <p>(b)Far Northeast and Southeast area:</p> <p>(1)Benning Road, SE from 44th Street, SE to A Street, SE (Zone C-3- A);</p> <p>(2)Branch Avenue, SE from Q Street, SE to S Street, SE (Zone C-1);</p> <p>(3)Central Avenue, SE from 56th Street, SE to Southern Avenue, SE(Zone C-1);</p> <p>(4)Dix Street, NE from 60th Street, NE to Eastern Avenue, NE (ZoneC-2-A);</p> <p>(5)Minnesota Avenue, NE from Blaine Street, NE to Grant Street, NE (Zone C-3-A);</p> <p>(6)Nannie Helen Burroughs Avenue, NE from 51st Street, NE to Division Avenue, NE (Zone C-1);</p> <p>(7)Nannie Helen Burroughs Avenue, NE from Minnesota Avenue, NE to 48th Street, NE (Zone C-1 and C-M-1);</p> <p>(8)Pennsylvania Avenue, SE from Alabama Avenue, SE to Fort Davis Street, SE (Zone C-2-A); and</p>			
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<p>(9)Pennsylvania Avenue, SE from Fairlawn Avenue, SE to 27<sup>th</sup> Street, SE (Zone C-2-A).</p> <p>(c)Far Southeast and Southwest area:</p> <p>(1)Martin Luther King, Jr. Avenue, SE from Good Hope Road, SE to Morris Road, SE (Zone C-3-A);</p> <p>(2)Good Hope Road, SE from Martin Luther King, Jr. Avenue, SE to 13th Street, SE (Zone C-3-A);</p> <p>(3)Naylor Road, SE from Alabama Avenue, SE to Denver Street, SE (Zone C-3-A);</p> <p>(4)Naylor Road, SE from 30th Street, SE to Southern Avenue, SE (Zone C-1);</p> <p>(5)Alabama Avenue, SE from 15th Street, SE to Stanton Road, SE (Zone C-1 and C-2-B);</p> <p>(6)Livingston Road, SE from 3rd Street, SE to South Capitol Street, SE (Zone C-3-A);</p> <p>(7)Martin Luther King, Jr. Avenue, SE from 4th Street, SE to Milwaukee Place, SE (Zone C-2-A);</p> <p>(8)Martin Luther King, Jr. Avenue, SE from Upsal Street, SE to Halley Place, SE (Zone C-1);</p> <p>(9)South Capitol Street from Martin Luther King, Jr. Avenue, SE to Chesapeake Street, SE (Zone C-2-A);</p> <p>(10)Savannah Street, SE from 22nd Street, SE to 23rd Street, SE (Zone C-1); and</p> <p>(11)Wheeler Road, SE from Wahler Place, SE to Barnaby Terrace, SE (Zone C-1).</p>			
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<p>(d)Mid-city area:</p> <p>(1)Mount Pleasant Street, NW from Irving Street, NW to Park Road, NW (Zone C-2-A);</p> <p>(2)7th Street, NW from Florida Avenue, NW to T Street, NW (ZoneC-2-B);</p> <p>(3)14th Street, NW from Columbia Road, NW to Meridian Place, NW (Zones C-2-A and C-3-A);</p> <p>(4)6th Street, NW from Fairmont Street, NW to College Street, NW (Zone R-5-B). The following restrictions apply:</p> <p>    (A)One (1) vendor in the first one hundred feet (100 ft.) of 6<sup>th</sup> Street NW south of the Fairmont Street, NW curb;</p> <p>    (B)Two (2) vendors in the next fifty feet (50 ft.) of 6<sup>th</sup> Street, NW; and</p> <p>    (C)One (1) vendor in the next 25 feet (25 ft) of 6<sup>th</sup> Street, NW .</p> <p>(5)14th Street, NW from S Street, NW to Florida Avenue, NW (ZonesCR and C-3-A);</p> <p>(6)Columbia Road, NW from Belmont Road, NW to Mozart Place, NW (Zone C-2-B);</p> <p>(7)Georgia Avenue, NW from Euclid Street, NW to Rock Creek Church Road, NW (Zone C-2-A);</p> <p>(8)Rhode Island Avenue, NW from T Street, NW to 1st Street, NW (Zone C-2-A); and</p> <p>(9)Florida Avenue, NW from Rhode Island Avenue, NW</p>			
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<p>to North Capitol Street.</p> <p>(e)Near Northwest area:</p> <p>(1)Florida Avenue, NW from Rhode Island Avenue, NW to North Capitol Street (Zone C-2-A);</p> <p>(2)P Street, NW from 23rd Street, NW to Dupont Circle, NW (Zones C-2-A, C-2-C, and C-2-B);</p> <p>(3)20th Street, NW from R Street, NW to S Street, NW (Zone C-3-B). The following restriction applies:</p> <p>(A) Only the west side of 20th Street, NW shall be included in the Neighborhood Vending Zone.</p> <p>(4)17th Street, NW from Q Street, NW to Riggs Place, NW (Zone C-2-A);</p> <p>(5)14th Street, NW from N Street, NW to U Street, NW (Zone C-3- A); 9th Street, NW from M Street, NW to P Street, NW (Zone C-2-A);</p> <p>(6) 7th Street, NW from M Street, NW to N Street, NW (Zone C-2-B);and</p> <p>(7) 7th Street, NW from O Street, NW to Q Street, NW (Zone C-2-A).</p> <p>(f)Rock Creek East area:</p> <p>(1)Georgia Avenue, NW from Rock Creek Church, NW to Varnum Street, NW (Zones C-2-A and C-3-A);</p>			
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<p>(2)Blair Road, NW from Whittier Street, NW to 5th Street, NW (Zones C- M-1 and C-2-A);</p> <p>(3)Georgia Avenue, NW from Fern Place, NW to Eastern Avenue, NW (Zone C-2-A);</p> <p>(4)Georgia Avenue, NW from Gallatin Street, NW to Van BurenStreet, NW (Zones C-2-A and C-3-A);</p> <p>(5)Riggs Road, NE from South Dakota Avenue, NE to Chillum Place, NE (Zone C-2-A);</p> <p>(6)Upshur Street, NW from 3rd Street, NW to Rock Creek Church Road, NW (Zone C-1); and</p> <p>(7)14th Street, NW from Buchanan Street, NW to Decatur Street, NW (Zones C-1 and C-M-1).</p> <p>(g)Rock Creek West area:</p> <p>(1)Connecticut Avenue, NW from Fessenden Street, NW to Nebraska Avenue, NW (Zone C-1);</p> <p>(2)Connecticut Avenue, NW from Livingston Street, NW to Oliver Street, NW (Zone C-1);</p> <p>(3)Connecticut Avenue, NW from Macomb Street, NW to Porter Street, NW (Zone C-2-A);</p> <p>(4)Connecticut Avenue, NW from Van Ness Street, NW to Albemarle Street, NW (Zone C-3-A);</p> <p>(5)Connecticut Avenue, NW from Calvert Street, NW to 24th Street, NW (Zones C-2-A and C-2-B);</p> <p>(6)Connecticut Avenue, NW from Hawthorne Street, NW to Jewett Street, NW (Zone C-2-A);</p>			
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<p>(7)MacArthur Boulevard, NW at Cathedral Avenue, NW (Zone C-1);</p> <p>(8)MacArthur Boulevard, NW from Arizona Avenue, NW to Dana Place, NW (Zone C-2-A);</p> <p>(9)MacArthur Boulevard, NW from V Street, NW to U Street, NW (Zone C-2-A);</p> <p>(10)Massachusetts Avenue, NW from 48th Street, NW to 49th Street,NW (Zone C-2-A);</p> <p>(11)New Mexico Avenue, NW from Embassy Park Drive, NW to Lowell Street, NW (Zone C-1);</p> <p>(12)Ordway Street, NW from alley east of Connecticut Avenue, NW to alley west of Connecticut Avenue, NW (Zone C-2-A). The following restriction applies: (A) Only the south side of Ordway Street, NW shall be included in the Neighborhood Vending Zone.</p> <p>(13)Wisconsin Avenue, NW from Albemarle Street, NW to Brandywine Street, NW;</p> <p>(14)Wisconsin Avenue, NW from Harrison Street, NW to Western Avenue, NW (Zones C-2-A, C-2-B, and C-3-A);</p> <p>(15)Wisconsin Avenue, NW from Macomb Street, NW to Idaho Avenue, NW. The following restriction applies:  (A)Only the west side of Wisconsin Avenue, NW shall be included in the Neighborhood Vending Zone.</p>			
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	<p>(16)Wisconsin Avenue, NW from Rodman Street, NW to 40th Street, NW (Zones C-1, C-2-A, and C-2-B); and</p> <p>(17)24th Street, NW from Calvert Street, NW to Connecticut Avenue, NW (Zone C-2-A).</p> <p>(h)Upper Northeast area:</p> <p>(1)Allison Street, NE from Michigan Avenue, NE to Eastern Avenue, NE (Zone C-1);</p> <p>(2)Bladensburg Road, NE from L Street, NE to Mount Olivet Road, NE (Zone C-2-A);</p> <p>(3)Florida Avenue, NE from West Virginia Avenue, NE to Montello Avenue, NW (Zone C-2-A);</p> <p>(4)Mount Olivet Road, NE from West Virginia Avenue, NE to Trinidad Avenue, NE (Zone C-2-A);</p> <p>(5)Rhode Island Avenue, NE from Monroe Street, NE to Eastern Avenue, NE (Zone C-2-A);</p> <p>(6)Rhode Island Avenue, NE from 4th Street, NE to 10th Street, NE (Zones C-2-C, C-3-A, C-M-2, and M);</p> <p>(7)Rhode Island Avenue, NE from 13th Street, NE to 18th Street, NE (Zone C-2-A);</p> <p>(8)12th Street, NE from Irving Street, NE to Randolph Street, NE (Zones C-1 and C-2-A); and</p> <p>(9)Benning Road, NE from Bladensburg Road, NE to Oklahoma Avenue, NE (Zones C-2-A and C-2-B).</p>			
525	<b>VENDING LOCATIONS: NATIONALS PARK VENDING ZONE</b>			

525.1	<p>The streets listed in this section shall constitute the Nationals Park Vending Zone in which sidewalk Vending Locations shall be allowed on the following streets and in the following numbers:</p> <p>(a)East side of First Street, SE between N Street, SE and N Place, SE: two (2) Vending Locations;</p> <p>(b)East side of First Street, SE between N Place, SE and O Street, SE: two (2) Vending Locations;</p> <p>(c)West side of Half Street, SE between M Street, SE and N Street, SE: seven (7) Vending Locations; and</p> <p>(d)North side of N Street, SE between Half Street, SE and Van Street, SE: three (3) Vending Locations.</p>	Again, codifying streets and the number of vendors restricts the ability of the DDOT Director and the vending community to respond to changes in the neighborhood and/or changes in the market.	Same comment.	Same comment
525.2	The DDOT Director may, at his or her discretion, approve additional sidewalk Vending Locations in the Nationals Park Vending Zone in addition to those listed in §525.1.		Under what procedure? Upon request of a licensed vendor?	And elsewhere the DCRA Director is basically empowered to remove them.
525.3	The <u>DCRA</u> Director shall assign the Vending Locations in the Nationals Park Vending Zone by lottery.	Lotteries are not the best way to link vendors to vending sites.	Same comment. Especially non-transparent lotteries, which is what we have seen in the Nationals Park area.	Same comment. Without transparency, how do we know DCRA isn't using "loaded dice"?
525.4	Applicants may apply electronically, via designated computer kiosks, for each monthly lottery by visiting the DCRA Business Licensing Center which shall maintain information regarding the application process and qualifications.	This provision should not be in the regulations. Does this mean that a vendor "may" ONLY apply electronically?	Same comment. There should be an internet application for this. In an attached document, we will describe how this system should work.	
525.5	Winners of each monthly lottery shall be notified by phone, first-class mail, electronic mail, or by being listed on the DCRA website (dcra.dc.gov).		Telephone notification is not appropriate. There must be a documentary trail.	
<del>525.6</del>	<del>Legally licensed vendors at the Robert F. Kennedy Memorial Stadium shall receive a preference in the</del>		This system was developed by DCRA Vending Coordinator Sam	And now Councilmember Barry's legislative intent is

	<del>assignment of Vending Locations in the Nationals Park Vending Zone in the form of an additional entry in each lottery, and upon winning a Vending Location in the monthly lottery, shall be awarded a Vending Site Permit pursuant to the provisions of this chapter.</del>		Williams. We do not believe that it complies with the original intent of the legislation introduced by Councilmember Barry when the Ballpark first opened.	gone.
	<b><u>PART 3: ROADWAY VENDING LOCATIONS</u></b>			
<b>526</b>	<b>VENDING LOCATIONS: ROADWAY VENDING LOCATIONS: GENERAL</b>			
526.1	<del>Other than roadway vendors operating under the provisions of § 556, no vendor may vend in any roadway location other than an authorized roadway Vending Location for which the roadway Vendor holds a valid Vending Site Permit. A Stationary Roadway Vendor must vend from a fixed location with a valid vending site permit in an assigned roadway vending location as designated in §527.</del>			
526.2	<del>A roadway Vendor shall be subject to the provisions of § 556. A Stationary Roadway Vendor may not vend in any roadway location other than an authorized Roadway Vending Location for which the Stationary Roadway Vendor holds a valid Vending Site Permit.</del>			
<b>527</b>	<b>VENDING LOCATIONS: ROADWAY VENDING LOCATIONS: AUTHORIZED LOCATIONS</b>			
527.1	<p>The authorized roadway Vending Locations shall be on the streets and in the numbers set forth as follows:</p> <p>(a)400 Independence Avenue, SW (National Air &amp; Space Museum) - <u>Location</u> Numbers one (1) through six (6);</p> <p>(b)600 Independence Avenue, SW (National Air &amp; Space Museum) - <u>Location</u> Numbers seven (7) through twelve (12);</p>	<p>This is the same defective scheme that has been rife with corruption, (buying and selling of sites, etc,) of which DCRA is well aware.</p> <p>This system has created a bad product. It diminishes the quality of our National Mall and the Smithsonian Institute. DCRA has clearly been captured by the</p>	Same comment. The level of regulatory capture here is breathtaking.	Same comment. The ONLY reason this business model continues to exist is because DCRA enables it, and due to the location, private actors do not comment because they do not have standing as adjacent property owners. This whole system is

(c)700 Independence Avenue, SW (Hirshhorn Museum) - <a href="#">Location</a> Numbers thirteen (13) through eighteen (18);	roadway vending lobby, and proposes to keep a bad system going.		begging for reform.
(d) 1400 Constitution Avenue, NW (National Museum of American History) - <a href="#">Location</a> Numbers nineteen (19) and twenty (20);			
(e) 1200 Independence Avenue, SW (Freer and Sackler Gallery) - <a href="#">Location</a> Numbers twenty-one (21) and twenty-two (22);			
(f) 600 Constitution Avenue, NW (National Gallery of Art) - <a href="#">Location</a> Numbers twenty-three (23) through twenty-six (26);			
(g)700 Constitution Avenue, NW (National Gallery of Art) - <a href="#">Location</a> Numbers twenty-seven (27) through thirty (30);			
(h)900 Constitution Avenue, NW (National Museum of Natural History) - <a href="#">Location</a> Numbers thirty-one (31) through thirty-five (35);			
(i)1200 Constitution Avenue, NW (National Museum of American History) - <a href="#">Location</a> Numbers thirty-six (36) through forty-one (41);			
(j)200 15th Street, NW (Ellipse East) - <a href="#">Location</a> Numbers forty-two (42) through fifty (50);			
(k)400 15th Street, NW (Ellipse East) - <a href="#">Location</a> Numbers fifty-one (51) through fifty-nine (59);			
(l)200 17th Street, NW (Ellipse West) - <a href="#">Location</a> Numbers sixty (60) through sixty-seven (67);			

	<p>(m)400 17th Street, NW (Ellipse West) - <u>Location</u> Numbers sixty-eight (68) and sixty-nine (69); and</p> <p>(n)500 17th Street, NW (State Place) - <u>Location</u> Numbers seventy (70) through seventy-two (72).</p> <p>(o)1500 Constitution Avenue, NW - <u>Location</u> Numbers seventy-three (73) through seventy-four (74).</p> <p>(p)2100 H Street NW – <u>Location</u> Numbers seventy-five (75) and seventy-six (76).</p>			
527.2	The DDOT Director shall designate specific portions of the streets listed in § 527.1, in the numbers set forth in § 527.1, as authorized <u>Stationary R</u> oadway Vending Locations.	Roadway vendors are still exempt from paying for parking under this regulation—while other vendors must pay for their parking. It's another example of DCRA's regulatory capture by the roadway vending lobby.	Same comment	Well, at least in this version, they pay a little more for the right to earn money on public space. But the cost is less per month than what it would cost to park.
528	<b>VENDING LOCATIONS: <u>STATIONARY</u></b> <b>ROADWAY VENDING LOCATIONS:</b> <b>ADDITIONAL LOCATIONS</b>			
528.1	<p>The DDOT Director, in consultation with the DCRA Director, may designate <del>additional</del> <u>Stationary R</u>oadway Vending Locations <u>in addition</u> to those authorized in § 527.1; provided, that no additional <u>Stationary R</u>oadway Vending Location shall be designated:</p> <p>(a)Within areas under the exclusive jurisdiction of the United States Park Police, the United States Capitol Police, or any other agency of the United States government;</p>	<p>See our prior comment, where technically ALL of DC is under the jurisdiction of the US government.</p>	<p>At the start of this regulation, the DDOT Director has the clear authority to set the standards and approve vending site locations.</p> <p>But here we see that DDOT is no longer independent. When it comes to roadway locations, a) DDOT must “consult” with DCRA, and b) DCRA is going to tie the hands of the DDOT Director with these further provisions which, we suspect, DDOT has not been consulted</p>	Same comments

	<p>(b)Within a <del>marked</del>-loading zone, entrance zone, parking space designated for diplomatic parking, or other curbside zone <del>specifically designated and demarcated as being for transit use or</del> restricted for certain vehicles or uses;</p> <p>(c)On a snow emergency route designated under section 4024 of <del>T</del>itle 18 of the <del>District of Columbia Municipal Regulations</del><u>DCMR</u>;</p> <p>(d)Within forty feet (40 ft.) of an intersection;</p> <p>(e)Along the length of a Metrobus Stop Zone, a commuter bus zone, an intercity bus zone, or other curbside zone specifically designated and demarcated as being for transit use;</p> <p>(f)Within forty feet (40 ft.) of the driveway entrance to a police or fire station or within twenty feet (20 ft.) of any other driveway;</p> <p>(g)Within twenty feet (20 ft.) of an alley; or</p> <p>(h)Within forty feet (40 ft.) from any crosswalk.</p>	<p>This is draconian. Just prohibit roadway vendors from operating during snow emergencies...</p> <p>This should be 20 feet.</p>	<p>about. And surely it must be a coincidence that these provisions effectively prevent the new food trucks from working around the National Mall.</p> <p>Same comment. Prohibiting vending on snow emergency routes the year-round is just plain protectionism for the Mall Vendors against the food trucks.</p> <p>Parking spaces go to 20 feet of the intersection, or less. The standard is not defensible.</p> <p>Actually, the purpose is clear. Make it impossible for food trucks to compete with Mall Vendors</p>	<p>This appears as well for food trucks later in this regulation, and it is untenable and intended to limit economic activity at best, and to make DDOT look bad, at worst.</p>
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	(i) Between the south side of Independence Avenue and the north side of Constitution Avenue, bounded by Rock Creek Parkway on the west and 4 <sup>th</sup> Street SE/SW on the east.		Here is where the true intent of this section of the regulation is most visible. Note that this provision is a new addition from the 2010 version. The National Mall vendor’s goal, to keep food trucks out of their territory, is a worthy one. And DCRA delivered! It cannot be more explicit than this.	
528.2	Upon the designation of additional <del>Stationary R</del> oadway Vending <del>L</del> ocations, a lottery shall be conducted by the Director to assign these <del>Stationary R</del> oadway Vending Locations, but shall be open only to roadway vendors whose vending is limited to fruits and vegetables or other healthy, nutritional food options. Any <del>stationary</del> roadway Vending Locations not assigned during this lottery shall be included in the lottery conducted pursuant to § 530.	We understand the desire to improve food options in DC, but this is not the right way to do it.	This language is appropriate in a licensing regulation?	There could in theory be a role for a food vendor to try to sell fresh and wholesome food in food deserts, but this whole provision makes no sense.
	<b><u>PART 4: MOBILE ROADWAY VENDING</u></b>			
<u>529</u>	<b><u>VENDING LOCATIONS: MOBIL ROADWAY VENDING LOCATIONS: GENERAL</u></b>			
<u>529.1</u>	<u>Mobile Roadway Vending (hereinafter) MRV vehicles operating in public space under this section shall have either a person holding a valid Class A, Class B, or Class D Vending Business License or a person holding a valid Vendor Employee Identification Badge issued pursuant to §558 inside the vehicle at all times while the vehicle is in operation.</u>			Presumably for food trucks selling potentially hazardous food, there is a requirement for a Person in Charge to hold a Food Handler’s Permit, as well

<u>529.2</u>	<u>To vend in designated MRV locations in the District during designated hours, MRV vehicles operating in public space under this section shall be required to obtain a three-month temporary MRV parking permit from the DDOT Director.</u>			Does this imply that after a 3 month temporary permit, a vendor can get a two year “permanent” permit, or does this condemn these operators to perpetual 3 month renewals?
<u>529.3</u>	<u>A Mobile Roadway Vendor may not vend on any block designated as Residential Permit Parking unless specifically authorized by a special event permit.</u>			
<u>529.4</u>	<u>MRV vehicles shall not include ice cream vending vehicles as defined in §599.</u>			The IRONY! It BURNS!
<u>529.5</u>	<u>MRV vehicles must be legally parked in order to vend from public space.</u>			
<b>530</b>	<b><u>VENDING LOCATIONS: MOBILE ROADWAY</u></b> <b><u>VENDING LOCATIONS: AUTHORIZED</u></b> <b><u>LOCATIONS</u></b>			
<u>530.1</u>	<u>The DDOT Director shall designate MRV locations where Mobile roadway Vendors, with valid MRV parking permits, may park in order to legally vend from public space.</u>			Once again, DCRA gets cause and effect mixed up. Until DDOT can find the locations that DCRA has mandated, what MRV operator will sign up for a permit and pay the fee?
<u>530.2</u>	<u>Each MRV location shall contain sufficient space for at least three Mobile Vending Vehicles and shall be designated by appropriate signage.</u>			This is arbitrary, and designed in advance to make the program a failure, which is the intention.
<u>530.3</u>	<u>There shall be no more than one MRV location per block on any one side of a street</u>			As if THIS is going to be the limitation on the program

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<u>530.4</u>	<u>Parking within MRV locations shall be limited to MRV vehicles during the hours of 11AM to 3PM on weekdays</u>			Why? Is there a market at other times? Why shouldn't it be served? A better rule would make parking available between the morning and evening Rush Hour Restrictions. And those parking passes should also be made available to sidewalk vendors who park a van in service to their stand.
<u>530.5</u>	<u>A Mobile Roadway Vendor may park within an MRV location for no more than four (4) hours and must be actively preparing to vend, actively vending, or preparing to depart the MRV during this period of time</u>			
<u>530.6</u>	<u>MRV vehicles parked in a designated MRV location shall be subject to the design standards of § 538.</u>			
<u>530.7</u>	<u>Notwithstanding any standards created pursuant to §538.1, an MRV vehicle may not exceed:</u>  <u>(a) Eighteen feet six inches (18 ft. 6 in.) in length;</u>  <u>(b) Eight feet (8 ft.) in width</u>  <u>(c) Ten feet six inches (10ft. 6 in.) in height, measured from the bottom of the tire.</u>			
<u>530.8</u>	<u>An MRV location shall not be established:</u>  <u>(a) Within areas under the exclusive jurisdiction of the United States Park Police, the United States Capitol</u>			The bow-tie parks, in theory,

<p><u>Police, or any other agency of the United States government;</u></p> <p><u>(b) Within a designated loading zone, entrance zone, parking space designated for diplomatic parking, or other curbside zone restricted for certain vehicles or uses;</u></p> <p><u>(c) Where the adjacent unobstructed sidewalk is less than 10 feet (10 ft.) wide in the Central Business Zone or seven feet (7 ft.) wide outside the Central Business District;</u></p> <p><u>(d) Along the length of a Metrobus Stop Zone, a commuter bus zone, an intercity bus zone, or other curbside zone specifically designated and demarcated as being for transit use.</u></p> <p><u>(e) Within forty feet (40 ft.) of the driveway entrance to a police or fire station or within twenty feet (20 ft.) of any other driveway.</u></p> <p><u>(f) Within twenty feet (20 ft.) of an alley.</u></p> <p><u>(g) Within forty feet (40 ft.) of any crosswalk;</u></p> <p><u>(h) Any of the locations enumerated in § 531.3 or</u></p>		<p>could be a good location for food trucks. This eliminates that option.</p> <p>This doesn't work for many of the most popular locations, where the US Park Service has especially narrow sidewalks.</p> <p>We're not sure about how this applies to bike lanes.</p> <p>This is an arbitrary and unworkable standard.</p> <p>Should maybe be 10 feet</p> <p>We think there should be a similar standard to sidewalk vendors—12 feet on the approach side, and maybe 10 feet on the departure side</p> <p>Again, random and arbitrary</p>
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	<u>(i) Any location that is not a legal parking space.</u>			So Doug Jemal cannot rent a space or two or three to MRV operators in one of his parking lots? Why?
<u>532.1</u>	<u>A Mobile Roadway Vending vehicle operating outside of a designated Mobile Roadway Vending location established pursuant to § 530 must:</u>  <u>(a) Vend in a legal parking space that meets the requirements of §531.2;</u>  <u>(b) Pay all parking meter fees; and</u>  <u>(c) Obey all posted time restrictions</u>			Stationary Roadway Vendors don't pay for their parking
<u>531.2</u>	<u>A Mobile Roadway Vending Vehicle operating outside of a designated Mobile Roadway Vending location shall not park and vend:</u>  <u>a) Within areas under the exclusive jurisdiction of the United States Park Police, the United States Capitol Police, or any other agency of the United States government;</u>  <u>(b) Within a designated loading zone, entrance zone, parking space designated for diplomatic parking, or other curbside zone restricted for certain vehicles or uses;</u>  <u>(c) Where the adjacent unobstructed sidewalk is less than 10 feet (10 ft.) wide in the Central Business Zone or seven</u>			Ok—the streets are DC's.  Ok—those aren't parking places  This is a problem as food truck vendors have noted.

	<p><u>feet (7 ft.) wide outside the Central Business District;</u></p> <p><u>(d) Along the length of a Metrobus Stop Zone, a commuter bus zone, an intercity bus zone, or other curbside zone specifically designated and demarcated as being for transit use.</u></p> <p><u>(e) Within forty feet (40 ft.) of the driveway entrance to a police or fire station or within twenty feet (20 ft.) of any other driveway.</u></p> <p><u>(f) Within twenty feet (20 ft.) of an alley.</u></p> <p><u>(g) Within forty feet (40 ft.) of any crosswalk;</u></p> <p><u>(h) Any of the locations enumerated in § 531.3 or</u></p> <p><u>(i) Any location that is not a legal parking space.</u></p>			<p>Ok, that not a parking spot.</p> <p>There are plenty of legal parking spaces within 20 feet of driveways, and some within 40 feet of police or fire station driveways. Why the arbitrary restriction?</p> <p>Same comment.</p> <p>Same comment.</p>
531.3	<p><u>Mobile Roadway Vending vehicles operating under this section shall not vend at the following locations:</u></p> <p><u>(a) Constitution Avenue between 23<sup>rd</sup> Street NW and 2<sup>nd</sup> Street NE;</u></p> <p><u>(b) Independence Avenue between 23<sup>rd</sup> Street NW and 2<sup>nd</sup> Street NE;</u></p>			<p>How was this list developed. It appears completely arbitrary to us.</p>

<p><u>(c) 17<sup>th</sup> Street, NW between Independence Avenue NW and H Street NW;</u></p> <p><u>(d) 15<sup>th</sup> Street NW, between Independence Avenue NW and H Street NW;</u></p> <p><u>(e) 14<sup>th</sup> Street NW between Constitution Avenue NW and Independence Avenue NW;</u></p> <p><u>(f) 7<sup>th</sup> Street NW between Constitution Avenue NW and Independence Avenue NW;</u></p> <p><u>(g) 4th Street NW, between Constitution Avenue NW and Independence Avenue NW;</u></p> <p><u>(h) 3rd Street NW, between Constitution Avenue NW and Independence Ave NW;</u></p> <p><u>(i) 1st Street NE, between Constitution Avenue NE and Independence Avenue, NE;</u></p> <p><u>(j) East Capitol Street NE between 1st Street NE and 2nd Street, NE;</u></p> <p><u>(k) Madison Drive, NW between 15th Street NW and 3rd Street, NW;</u></p> <p><u>(l) Jefferson Drive, NW between 15th Street NW and 3rd Street NW;</u></p>				
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	<u>(m) Pennsylvania Avenue, NW between 15th Street NW and 1st Street, NW; and</u>			
	<u>(n) Maryland Avenue, SW between Independence Avenue SW and 3rd Street, SW.</u>			
<b><u>532</u></b>	<b><u>VENDING LOCATIONS: MOBILE ROADWAY VENDING LOCATIONS: APPLICATION FOR NEW LOCATIONS</u></b>			
<u>532.1</u>	<u>An applicant may submit an application to DDOT to create a new Mobile Roadway Vending Location, provided that the applicant specifies a location that is not in conflict with the above standards. All applications are subject to DDOT review and approval.</u>			Does the applicant have to show there is space for 3 vendors? What you are asking DDOT to do is to take away 3 contiguous on-street parking spots for roadway vendors. Adjacent property owners and retailers will obviously complain. This is a system designed—from the start—not to work. Food trucks need 4 hours at one spot. DCRA has decided that private lots are not available. DCRA has decided to make DDOT the face of a system that they designed, and which they know cannot work. It is shameful.
<b><u>533</u></b>	<b><u>DIRECTOR'S DISCRETION</u></b>			
<u>533.1</u>	<u>The DDOT Director has the discretion to add, modify or remove a Mobile Roadway Vending location at any time.</u>			See above. Trading curbside parking for ANY other use is always tricky business. Why should DDOT take risks it doesn't have to?



	<b><u>PART 45: ASSIGNMENT OF VENDING LOCATIONS</u></b>			
<b><u>529.534</u></b>	<b>ASSIGNMENT OF SIDEWALK VENDING LOCATIONS</b>			
<b><u>529.153</u></b> <b><u>4.1</u></b>	Unoccupied sidewalk Vending Locations shall be assigned to licensed sidewalk vendors through a lottery conducted by the <u>DCRA</u> Director.	Lotteries are not the right way to assign specific vendors to specific sites.	First, there is no database of un-occupied sites, nor is there any plan or procedure here to make one. Second, randomly assigning vendors to a universe of “legal” sites is a recipe designed to put licensed vendors out of business.	Same comments.
<b><u>529.253</u></b> <b><u>4.2</u></b>	No vendor or person may participate in the lottery for sidewalk Vending Locations unless the vendor holds a Vending Business License or the person holds a current receipt for payment of Vending Business License fees for sidewalk vending and is registered for the lottery.			
<b><u>529.353</u></b> <b><u>4.3</u></b>	No holder of a Vending Business License shall be assigned more than five (5) sidewalk Vending Locations.	Is this saying that each vending business license holder should enter the lottery for each available vending location, and after each site is assigned to a vendor, all the names go back in the jar, and the next site is selected, and the process repeats until all the sites have names, but no vendor shall have his or her name pulled out of the jar more than 5 times?	Same comment.  Four years after DCRA cooked up this scheme, they still have no explanation for how it will work in practice, except that they will hire some private company to do it—a company that can keep it’s procedures private. Plus, there is no mechanism here to evaluate the results. There is a better system, and it is called the free market.	Same comments. This doesn’t even pass the laugh test.
<b><u>529.453</u></b> <b><u>4.4</u></b>	No more than one (1) vendor may occupy an assigned Vending Location, unless the <u>DCRA</u> Director specifies on the Vending Site Permit that the Vending Location is subject to a shared site agreement between several licensed vendors.	And under what conditions might that occur?	As we said earlier, this option should be on the application.	This should come from the vendor side, not from DCRA

<del>529.553</del> <u>4.5</u>	No lottery registration or Vending Location assignment may be transferred, sold, conveyed, or assigned from the assigned vendor to any other person. Any attempt to transfer a lottery registration or Vending Location assignment will disqualify from the lottery both the vendor seeking to transfer the registration and the person seeking to obtain it.	Why not? It's the only way to make it possible for the right kind of vending to occur at the right kind of site. The lottery approach is similar to the story about an infinite number of monkeys typing...A good result is possible---but extraordinarily unlikely.	Same comment. This whole procedure is un-workable.	Same comments.
<del>529.653</del> <u>4.6</u>	The <u>DCRA</u> Director may contract out the function of performing the lotteries for sidewalk Vending Locations.	Why should this be done? To avoid record-keeping requirements and eliminate FOIA requests?	It appears that our suspicions two years ago that the lottery contractor can't be FOIA'ed are indeed true.	Same comments.
<del>529.753</del> <u>4.7</u>	No Vending Site Permit shall be distributed until full payment is received from the vendor or person.			Why should a (let's say) 2 year "lease" (Permit fee) be paid 100% in advance when there is no language here about permit fee refunds?
<del>529.853</del> <u>4.8</u>	A vendor shall have thirty-five (35) calendar days from the billing date to remit payment for the sidewalk Vending Locations the vendor has won. Failure to remit payment shall allow the <u>DCRA</u> Director to rescind the Vending Site Permit offer.		The language here is at best "odd" for a regulation.	In a lottery, entries are "selected". The "winners" here are DCRA.
<del>529.953</del> <u>4.9</u>	The <u>DCRA</u> Director may lottery off unclaimed sidewalk Vending Locations until all sidewalk Vending Locations are claimed.	This is the first time that the Vending Site permit is referred to as a "lease" Will the permit include lease terms in addition to the terms and conditions within these regulations?	Corrected, but still...	"Lottery off" sounds like "auction"... and in some ways, that would be a more fair system!
<del>530.535</del>	<b>ASSIGNMENT OF <u>STATIONARY</u> ROADWAY VENDING LOCATIONS</b>			
<del>530.153</del> <u>5.1</u>	For a period of one (1) year from the publication in the <i>District of Columbia Register</i> of a notice of final rulemaking adopting this chapter, MPD shall oversee the lottery for <u>stationary</u> roadway Vending Locations. Upon the expiration of the yearlong period, the <u>DCRA</u> Director shall oversee the lottery.		All of these lottery records should be made public so that independent analysts can determine if the lottery results are occurring by chance, or not.	Same comment.

<del>530.253</del> <u>5.2</u>	<p><u>Stationary</u> Roadway Vending Locations shall be assigned as follows:</p> <p>(a)All <del>Stationary R</del>oadway Vending Locations shall be allocated by lottery;</p> <p>(b)The lottery shall be conducted monthly, with Vending Locations allocated to a vendor by the following days of the week;  (1) Mondays;  (2) Tuesdays  (3) Wednesdays;  (4) Thursdays;  (5)Fridays;  (6) Saturdays; or  (7) Sundays.</p> <p>(c)There shall be equal allocation in the lottery of Class A and Class B licenses; and</p> <p>(d)No vendor shall be issued <del>Stationary R</del>oadway Vending Site Permits for more than two (2) <u>Stationary Roadway</u><del>roadway</del> Vending Sites at any one time.</p>	First, lotteries are the wrong way to assign vendors to sites. Second, there is no market-oriented reason why food and merchandise units should be equal in number.	Same comment	This is just keeping the Roadway vending system intact, which has been very profitable for a few families because DCRA has set barriers to entry that are basically impossible to overcome. In short, DCRA continues to support this racket.
<del>530.353</del> <u>5.3</u>	No <u>Stationary R</u> oadway Vending Site Permit shall be distributed until full payment is received from the roadway vendor or person.			
<del>530.453</del> <u>5.4</u>	A vendor shall have thirty-five (35) calendar days from the billing date to remit payment for the <u>Stationary R</u> oadway Vending Locations the vendor has won. Failure to remit payment shall allow the <u>DCRA</u> Director to rescind the offer to the winning vendor.	Presumably the lotteries will be scheduled far enough in advance to unsure that a vendor pays before he or she works. But as an aside, under 507.1, wouldn't non-payment (or late payment) be a cause for suspension or revocation of the Vendor's license?	Same comment	Same comment
<del>530.553</del> <u>5.5</u>	The <u>DCRA</u> Director may lottery off unclaimed roadway Vending Locations until all roadway Vending Locations			How does this work? An instant lottery on any days in

	are awarded.			which all 76 sites aren't filled?
<del>530.6</del> <del>53</del> <u>5.6</u>	The <u>DCRA</u> Director shall register licensed roadway vendors for participation in the lottery by assigning each vendor a registration number.	Let's just make this process as opaque and convoluted as possible to eliminate accountability	And that number shall be the same one as pasted onto the side of the defective truck or trailer, that vendors sell to each other all the time to continue to participate in this charade.	Same comments
<del>530.7</del> <del>53</del> <u>5.7</u>	No vendor may participate in the lottery for <u>Stationary R</u> oadway Vending Locations unless the vendor holds a valid Vending Business License for roadway vending and is registered for the lottery.			
<del>530.8</del> <del>53</del> <u>5.8</u>	No vendor may operate on more than one (1) <u>Stationary R</u> oadway Vending Location per day, and only one (1) vendor may occupy an assigned <u>Stationary R</u> oadway Vending Location as described on the <u>Stationary R</u> oadway Vending Site Permit, unless otherwise specified by the <u>DCRA</u> Director on the <u>Stationary R</u> oadway Vending Site Permit.			You would not be surprised to hear that this system is not well enforced.
<del>530.9</del> <del>53</del> <u>5.9</u>	No lottery registration or <u>Stationary R</u> oadway Vending Location assignment or permits may be transferred from a vendor to any other person.	Practically speaking, this is a) unenforceable, and b) counterproductive to achieving a good result on the street.	Same comment	Same comments.
<del>530.1</del> <del>53</del> <u>5.10</u>	The <u>DCRA</u> Director may contract out the function of performing the lottery for <u>Stationary R</u> oadway Vending Locations; provided that the lottery may be subject to any government-required audit or review.	See prior comment about outsourcing lottery functions	Same comment. The new language tells us <i>exactly</i> how open DCRA is to oversight and review.	Same comments. Let's make sure our stuff can't be seen under a FOIA.
	<b><u>PART 5: MISCELLANEOUS</u></b>			
<del>531.5</del> <del>36</del>	<b>PUBLIC MARKETS</b>			
<del>531.1</del> <del>53</del> <u>6.1</u>	No person shall operate or vend from a public market unless the public market is located on:			

	<p>(a)Public space approved by the DDOT Director;</p> <p>(b)Private space; or</p> <p>(c)A combination of both public space approved by the DDOT Director and private space.</p>			
<del>531.253</del> <u>6.2</u>	No person shall manage a <del>public-farmer's</del> market on public or private space without holding a Class C Vending Business License.			Still curious about what's supposed to happen for vendors at public markets who don't sell food. This new draft is particularly unclear about that...
<del>531.353</del> <u>6.3</u>	No Class C Vending Business License holder shall operate a <del>farmer's</del> market on public space without first obtaining a Public Space Permit from the DDOT Director.			
<del>531.453</del> <u>6.4</u>	Each person operating at a <del>public-farmer's</del> market managed by the holder of a Class C Vending Business License on public space shall be subject to all applicable license and health laws and regulations.	Vendors on private space are exempt from all regulations?	What about taxes? Where do they pay taxes on the income they earn in DC?	
<u>536.5</u>	<u>No Class C Vending Business License Holder shall operate a farmer's market on public or private space without first obtaining a DOH health inspection certificate and food safety compliance inspection in accordance with subtitle A of Title 25 of the DCMR.</u>			
536. <del>65</del>	Each farmer's market operated by the holder of a Class C Vending Business License that is operating on private space shall obtain a certificate of occupancy from the <u>DCRA</u> Director.	On what grounds would a C of O be approved or denied? And we remain confused by this: vendors working at markets on private property either are, or are not, subject to which laws and regulations?	And where do they pay taxes on the income they earn in DC?	So, License + Public Space Permit (for the public space) + C of O for the private space. That sort of makes sense.
<del>531.653</del> <u>6.7</u>	A person who is authorized by the Class C Vending Business License holder to operate at a <del>public-farmer's</del> market may operate without a Vending Business License or Vending Site Permit; provided that the person shall:		Obviously, this is an air-tight solution to the tax question. It's clearly impossible for vendors at	So, our reading that vendors at public markets DO need to get vending licenses is

	<p>(a) Comply with all applicable laws and regulations regarding the registration of the person's business with the Office of Tax and Revenue and DCRA; and</p> <p>(b) Comply with any standards imposed by DOH or other relevant agencies.</p>		DC markets who live outside of DC to evade this!	correct?
<del>531.753</del> <u>6.8</u>	A Class C Vending Business License holder shall maintain records of all persons operating at each <del>public</del> <u>farmer's</u> market managed by the licensee.		And the logical next provision in the regulation should be the requirement that the Class C market operator convey that information to the Office of Tax and Revenue, so OTR could ensure that people who earned income in DC paid appropriate taxes in DC. Somehow, that provision is missing.	
<del>532.537</del>	<b>TEMPORARY RELOCATION OF VENDORS</b>			
<del>532.453</del> <u>7.1</u>	The <u>DCRA</u> Director, the DDOT Director, or MPD may order the temporary relocation of a vendor from the vendor's permitted Vending Location in construction areas, for special events or transportation requirements, or <u>any</u> other situations where the Vending Location is either unavailable or creates a threat to the public health, safety, or welfare.			
<del>532.253</del> <u>7.2</u>	Any temporary relocation shall last only until such time as the original Vending Location is determined by the <u>DCRA</u> Director, the DDOT Director, or MPD to be useable again.			
<del>532.353</del> <u>7.3</u>	A vendor subject to a temporary relocation shall be relocated by the <u>DCRA</u> Director to the closest available location that is deemed allowable for vending.			
<del>532.453</del>	In any situation where a temporary relocation will be for			

<u>7.4</u>	at least twenty-one (21) days, the <u>DCRA</u> Director shall issue the affected vendor a new Vending Site Permit for the new Vending Location.			
	<b><u>SUBCHAPTER D: DESIGN STANDARDS, OPERATIONAL STANDARDS, AND INSPECTIONS</u></b>			
	<b><u>PART 1: DESIGN STANDARDS</u></b>			
<del>533</del> <u>538</u>	<b>DESIGN STANDARDS: GENERAL</b>			
<del>533.153</del> <u>8.1</u>	The Director may develop design standards for vending vehicles, vending stands, and vending carts in addition to those set forth in this chapter.		We still do not understand what expertise DCRA has to establish design guidelines.	Same comment
<del>533.253</del> <u>8.2</u>	The provisions of sections <del>534, 535, 536, 537, 538</del> <u>539, 540, 541</u> , 542, 543 <u>547, 548</u> and <del>548-553</del> shall not apply to activities licensed and permitted under § 503.1(c).			
<del>534</del> <u>539</u>	<b>DESIGN STANDARDS: VENDING CARTS</b>			
<del>534.153</del> <u>9.1</u>	No vending cart, including any display on or attachments to the cart allowed by this section, shall exceed the following dimensions unless specified by the <u>DCRA</u> Director on the Vending Site Permit:  (a)Four feet six inches (4 ft. 6 in.) in width unless the vendor vends food from the vending cart, in which case the cart shall not exceed five feet (5 ft.) in width;  (b)Seven feet (7 ft.) in length, unless the vendor vends food from the vending cart, in which case the cart shall not exceed eight feet (8 ft.) in length; and  (c)Eight feet six inches (8 ft. 6 in.) in height, measured from the bottom of the tire.	These dimensions reflect the current regulation. They are arbitrary at best; they are too small to allow food carts to carry sufficient equipment and product; they eliminate the potential for appropriate weather protection, and they effectively serve to grandfather in worn-out equipment that should be replaced.	The new draft has slightly modified these size standards, which are arbitrary at best.          To the top of what? The umbrella? The cart?	Same comments.  To our knowledge, no sidewalk vendor vends from a “cart”. As a historical sidebar, these standards came from the Pennsylvania Avenue Development Corporation in the 70s. They’ve never been realized, but they do allow for the oversized hot dog carts on Pennsylvania Avenue, so that’s good.
<del>534.253</del> <u>9.2</u>	A vending cart shall be covered by either:	First, it should be “may be covered”; second, these dimensions are completely	Same comment. We should note that the definitions that DCRA	Same comments.

	<p>(a)One (1) umbrella, which shall not exceed nine feet (9 ft.) in diameter nor extend more than four and one half feet (4.5 ft.) in any direction from the body of the cart; or</p> <p>(b)One (1) canopy which shall not overhang more than six inches (6 in.) in any direction from the body of the cart.</p>	non-functional, as DCRA well knows.	has established to not describe what a “cart” is. So we are not sure what kind of vending operation these regulations refer to.	
<del>534.353</del> <u>9.3</u>	<p>Any umbrella or canopy used to cover a vending cart:</p> <p>(a)Shall be made of water-resistant canvas with wood or metal frames; and</p> <p>(b)Shall not contain any advertising other than advertising allowed under § <del>538</del><u>543</u>.</p>	Canvas? If DCRA wants to prohibit blue plastic tarps or sheets of plastic, fine. But waterproof canvas is not a good substitute...	Actually, we happen to know that these standards come from a portion of the old regulations, under the old PADC chapter. They were unworkable then, and they are unworkable now. Why they remain in this regulation, we do not know.	Same comments.
<del>534.453</del> <u>9.4</u>	No food or merchandise shall be hung or otherwise displayed from the back of the vending cart.	First DCRA mandates overall dimensions that are far too small, and then they prohibit a vendor from displaying product (which they are required to carry) in the only available display areas. (the side and back of a stand).	The new language is a step in the right direction. But prohibiting vendors-especially merchandise vendors-from displaying product from the back of the stand – limits vendors unnecessarily. A better approach would be to eliminate the requirement that vending stands be set up parallel to the curb and 2 feet from it. Allow the display from the back of the stand; allow the vendor space to sell from the back of the stand. Set reasonable clear space standards, and call it a day.	Same comments.
<del>534.553</del> <u>9.5</u>	No food or merchandise hung or otherwise displayed on the front of the vending cart shall extend more than two feet (2 ft.) from the front of the vending cart or extend past the sides of the vending cart.	See prior comment.	See prior comment from 2010 in 534.4	Same comments.



<del>534.653</del> <u>9.6</u>	All food, merchandise, and equipment, other than food or merchandise hung or displayed on the front of the vending cart, shall be contained within or beneath the body of the vending cart, provided that up to two (2) coolers or containers with food may be placed immediately adjacent to the vending cart, at least four inches (4in.) off the ground, and in compliance with DOH food storage regulations; provided further, that the total size of the coolers or containers taken together shall not exceed the length of the cart (eight feet (8 ft)).	See prior comment.	DCRA here allows hot dog carts (mostly) to operate as usual. The prohibition in 534.5 seems to disallow the standard practice of hanging chips off the sides of the carts. It’s a detail, but this is pretty much a defective regulation.	Same comments.
<del>534.753</del> <u>9.7</u>	The cart shall be placed on one (1) or more wheels; provided, that:  (a)The wheels shall not exceed two feet eight inches (2 ft. 8 in.) in diameter;  (b)The wheels shall be a wood or metal frame with rubber trim for tires; and  (c)The cart may include stabilizing legs in addition to the wheel or wheels.	Why does DCRA want to grandfather in the current crop of worn-out hot dog carts, and prohibit workable food vending solutions? For example, the On the Fly carts are illegal under this provision, and yet they park on the sidewalk. The DC Central Kitchen cart is another example of an over-size cart...	See prior comment. (As an aside, we’ve always admired the “one or more wheels” language).  If it is not obvious by now, these regulations confuse the kinds of “carts” that we used to see in shopping mall common area space in the 70’s, with hot dog “carts” we see on the street of DC today. This is ridiculous and unnecessary.	Same comments.
<del>534.853</del> <u>9.8</u>	The vending cart shall be equipped with a chock to be used to prevent the cart from rolling or moving.			Same comments.
<del>535.540</del>	<b>DESIGN STANDARDS: VENDING VEHICLES</b>			
<del>535.154</del> <u>0.1</u>	No vending vehicle, including of any display on or attachments to the vehicle allowed by this section, shall exceed the followings dimensions unless otherwise authorized by the <u>DCRA</u> Director:  (a)Eighteen feet six inches (18 ft. 6 in.) in length;  (b)Eight feet (8 ft.) in width; and		Extension of the size requested by the roadway vendors is ok with us.	Same comments.

	(c)Ten feet six inches (10 ft. 6 in.) in height, measured from bottom of the tire.			
<del>535.254</del> <u>0.2</u>	No food, merchandise, or equipment shall be hung or otherwise displayed from the non-serving side or back of the vending vehicle.		We’d add “the front” but evidently the roadway vendors didn’t want that. . . .	Same comments.
<del>535.354</del> <u>0.3</u>	All food, merchandise, and equipment, other than the serving window flap or awning shall be firmly attached to the body of the vending vehicle and shall not project more than twelve inches (12 in) from the body of the vehicle when serving and must be retracted when not serving.	Given the size of the trucks, this, for once, is a workable standard.	We used the language from the redline version, but on it’s face it makes no sense because it says the window flap or awning shall not be firmly attached to the truck body, which obviously cannot be true. Evidently DCRA is trying to avoid where vendors actually display merchandise over the grounds of the National Mall, which, given the National Mall restrictions, seems reasonable. We’d suggest replacing “serving” with “open for business”.	Same comments.
<del>535.754</del> <u>0.4</u>	All vending vehicles shall rest on inflated tires.		Or what!?	No comment is necessary.
<del>536.541</del>	<b>DESIGN STANDARDS: VENDING STANDS</b>			
<del>536.154</del> <u>1.1</u>	The design and operation of all vending stands shall conform with the following requirements, unless otherwise authorized by the <u>DCRA</u> Director on the Vending Site Permit:  (a)The stand shall consist of a wood, plastic, or metal	Again, DCRA is grandfathering in— actually requiring-- a vending stand design that almost everyone agrees can and should be improved.  A four-foot, six-inch wide table is a) not commercially available, and b) will not fit conveniently in a van or truck. Why is DCRA compelled to regulate the construction of a table that will be fully	Same comment  Same comment. This all comes from the PADC regs which are obsolete.	Same comments.

<p>table with attached folding legs, a stair-stepped structure approved by the Director, or a shoe- shine stand structure approved by the <a href="#">DCRA</a> Director. If the stand or structure is made of wood, the wood shall consist of weather-resistant lumber with two (2) coats of varnish or non-toxic paint;</p> <p>(b)The stand shall not exceed a maximum horizontal surface area of seven feet by four feet six inches (7 ft. x 4 ft. 6 in.);</p> <p>(c)The surface area of the table (or the highest surface area of the stair- stepped structure) shall be at a height of between one foot (1 ft.) and four and a half feet (4.5 ft.);</p> <p>(d)The stand shall have a canopy that shall not exceed seven feet nine inches by five feet three inches (7 ft. 9 in. x 5 ft. 3 in.) and shall be comprised of water-resistant canvas or six (6) ply polyurethane materiel, covering a metal or wood frame mounted above the stand.</p> <p>The uppermost point of the canopy shall not exceed</p>	<p>covered?</p> <p>Weather-resistant lumber is full of toxic chemicals. It is not meant to be handled on a daily basis.</p> <p>This is the current standard.</p> <p>Why not move to a 4x8 standard? The area is roughly the same and the materials are standardized at that dimension.</p> <p>It is unclear, under this “standard” what exactly is allowed between the top of the table (4.5 feet) and the canopy. Are additional shelves allowed?</p>	<p>Why this standard is not 4’x8’ or 5’ x 8’ is beyond us. And the lumber/coatings requirement is both dumb and un-enforceable.</p> <p>The actual standard should allow merchandise vendors to extend their roof well beyond the table size, to protect their merchandise from rain, provided that the roof is more than 7 feet from the pavement.</p> <p>We are thankful that the color of the table skirt will be no longer prescribed by regulation.</p>
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	<p>more than nine feet (9 ft.) in height and the lowest point on the canopy, inclusive of any canopy flap, shall not be less than seven feet (7 ft.) in height measured from the sidewalk pavement. The canopy shall be clean and in good repair;</p> <p>(e)A skirt or tablecloth shall be attached to the table surface on all sides and shall extend from the table surface to no more than one inch (1 in.) from the sidewalk pavement. The skirt shall be clean and in good repair; and</p> <p>(f)No free standing racks or other free-standing forms of display shall be allowed around the stand.</p>		Should this always be true?	
<del>537</del> <u>542</u>	<b>DESIGN STANDARDS: FOOD VENDING CARTS AND VEHICLES</b>			
<del>537.1</del> <u>542.1</u>	All vending vehicles and vending carts that vend food shall be inspected and approved by the DOH Director as being of a design which is approved by, or is equivalent to a design approved by, the National Sanitation Foundation. All equipment used in the vehicle or cart for the vending of food shall be inspected and approved by the DOH Director as being of commercial grade and in compliance with National Sanitation Foundation standards or the equivalent.	The National Sanitation Foundation would tell you that equipment is either NSF certified, or it isn't. Few of the food vending carts on the street today could meet NSF standards.	Same comment	Same comments.
<u>542.2</u>	<u>If DCRA waives any design standard for a food vending cart or vehicle that is not in compliance with §§539, 540, 541 or 542, a written waiver approving the non-complaint cart or vehicle shall be issued by DCRA, MPD, and DDOT to the DOH Director prior to DOH either conducting a food safety code compliance</u>			This seems complicated.

	<u>inspection pursuant to subtitle A of Title 25 of the DCMR or issuing a health inspection certificate.</u>			
<del>537.254</del> <u>2.3</u>	<p>All vending vehicles and vending carts that vend food shall be designed and operated in accordance with all relevant food safety laws and may be required to include:</p> <p>(a)A fresh water tank with at least a five gallon (5 gal.) capacity or more <u>for food vending carts</u>;</p> <p><u>(b) a fresh water tank with at least a thirty-eight gallon (38 gal.) capacity or more for food vending vehicles</u>;</p> <p><del>(b)</del>(c)A waste water tank with a capacity fifteen percent (15%) or larger than the required fresh water tank;</p> <p><del>(d)</del>(e)A three (3) compartment sink with hot and cold running water;</p> <p><del>(e)</del>(f)A separate hand washing sink with mixing faucet;</p> <p><del>(f)</del>(g)Walls, ceiling, and floors that are smooth and easily cleanable;</p> <p><del>(g)</del>(h)Natural or electrical lighting to provide a minimum of fifty (50) candles of light on work surfaces;</p> <p><del>(h)</del>(i)A generator-powered refrigerator that will maintain stored foods at forty- one degrees Fahrenheit (41° F) or below and that has sufficient holding capacity for one</p>	<p>The actual requirements should be based on the use of the unit.</p> <p>This regulation appears to give DOH flexibility in approving individual units for specific purposes. We hope that DOH is prepared to use that discretion thoughtfully.</p> <p>This is too limiting a requirement. For many purposes, a cold-plate is just as effective as a generator powered refrigerator.</p>	<p>Same comment.</p> <p>3 compartment sinks only necessary when washing, rinsing, and sanitizing is part of the vending operation.</p> <p>We need some generator regulations in this draft. Having said that, different vending operations need different requirements.</p>	<p>Same comments.</p> <p>Could depend on the proposed operation.</p>

	(1) day of operation;  ( <del>hi</del> )A generator-powered freezer that will hold foods at zero degrees Fahrenheit (0° F) or below and that has sufficient holding capacity for one (1) day of operation; and  ( <del>ij</del> )Adequate ventilation.		Most vending units will not need to hold food at freezing temperatures.	
<del>538.543</del>	<b>DESIGN STANDARDS: ADVERTISING</b>			
<del>538.154</del> <del>3.1</del>	No advertising, other than the name of the vending business and any food, merchandise, or service (including the price thereof) sold as part of the vending business, shall be placed on a vending vehicle, stand, or cart, including any canopy or umbrella.	This says that signage can be placed “adjacent” to the vehicle, or (as we read this) signage may also be placed <i>on</i> an adjacent vehicle. Surely this is a mistake.	This was fixed. Thank you.	
<del>538.254</del> <del>3.2</del>	Advertising of any food, merchandise, or service (including the price thereof) sold as part of the vending business may be placed only on the front side of a vending vehicle or vending cart or on the front side of a vending stand skirt and shall not be placed on an umbrella or canopy or on the back or side (street side) of any vending vehicle or vending cart or on the back or side of a vending stand skirt.			We’d prefer this be relaxed, but an live with it. Food trucks advertise on all 4 sides, so to make it equitable, we would prefer a revision.
<del>538.354</del> <del>3.3</del>	Advertising of the name of the vending business may be placed on the canopy, umbrella, vending stand skirt, or along the lower half of the front, side, or back of a vending vehicle or cart.	Does the “name” of the vending business have to be the same as the name of the licensed entity?	What is the “governmental interest” in this provision—especially since DCRA got rid of the “no-hand-written signs” section?	Does DCRA really want to get into a First Amendment thing about the content of signs?
<del>539.544</del>	<b>DESIGN STANDARDS: PHASE-IN PERIOD</b>			
<del>539.154</del> <del>4.1</del>	Any vendor issued a Vending Business License prior to the date of publication in the <i>District of Columbia</i>			

	<p><i>Register</i> of a notice of final rulemaking adopting this chapter, shall have until one (1) year from that date of publication to come into compliance with the following subsections of this chapter:</p> <p>(a) Subsection <del>534.2</del><u>539.2</u>; and Subsection <del>534.5</del><u>539.5</u>.</p>			
	<b><u>PART 2: OPERATIONAL STANDARDS</u></b>			
<del>540</del> <u>545</u>	<b>OPERATIONAL STANDARDS: GENERAL</b>			
<del>540.1</del> <u>54</u> <del>5.1</del>	A vendor shall comply with, all District <b>and federal laws</b> and regulations applicable to the operation of a vending business.			Why the addition? And why mention federal law in a local ordinance? By definition, it is a given—unless DC intends to use this provision as the reason to revoke the licenses of vendors who sell counterfeit merchandise, in which case, we approve.
<del>540.2</del> <u>54</u> <del>5.3</del>	No vendor shall vend in public space (a) After after the expiration of the Vending Business License, Vending Site Permit, or any other license, permit, certificate, or authorization required for the lawful operation of the vendor’s vending business; or (b) During any period when the vendor’s Vending Business License, Vending Site Permit, or any other license, permit, certificate, or authorization required for the lawful operation of the vendor’s vending business has been suspended or revoked.			
540.3	A vendor shall at all times obey posted traffic and parking signs.			
<del>541</del> <u>546</u>	<b>OPERATIONAL STANDARDS: AUTHORIZED HOURS OF OPERATIONS</b>			

<del>541.154</del> <u>6.1</u>	Vendors may operate only during the following hours:  (a) Sunday through Thursday, from 5:00 a.m. to 10:00 p.m.; and  (b) Friday and Saturday from 5:00 a.m. to 1:00 a.m. the next day; provided, that vendors operating in Residential Zones, as specified in the District of Columbia Zoning Regulations, shall not vend past 10:00 p.m. on any night of the week.	These hours are overly restrictive in some circumstances. There is a market to provide food for clientele leaving nightclubs at closing time—and there are common sense reasons why offering food to this market may improve public safety. This regulation prohibits that, for no good reason.		Same comment. The prohibition of food trucks from private space we’ve seen earlier in this draft may make this section more critical.
<del>541.254</del> <u>6.2</u>	Notwithstanding § <del>541.546</del> .1, the Vending Site Permit for each Vending Location in a Vending Development Zone shall establish the hours of operation for that Vending Location.			Of course. BIDs can do whatever they want.
<del>542.547</del>	<b>OPERATIONAL STANDARDS: PLACEMENT OF VENDING VEHICLES, VENDING CARTS, AND VENDING STANDS</b>			
<del>542.154</del> <u>7.1</u>	No vendor shall vend in a location that is not a Vending Location assigned to the vendor by the <u>DCRA</u> Director.		Redundant	The language changes again
<del>542.254</del> <u>7.2</u>	A vendor shall place his or her vending stand or vending cart parallel to the curb, with the longest side of the vending stand or vending cart parallel to the curb and located two feet (2 ft.) from the curb face, unless otherwise specified by the Director on the Vending Site Permit.	DDOT should have great latitude to site stands most advantageously.		Same comment. These are all the dumb regulations currently in place today.
<del>542.354</del> <u>7.3</u>	No vendor shall vend upon, or impede free access to, service and ventilation grates and covers or in any location that would not be an authorized Vending Location under § 521.1, unless specifically authorized by the Director or the DDOT Director or as part of a Vending Development Zone.	The first half of this provision is already covered in 521.1(c)(4), and we do not understand the second half of this provision. “...would not be an authorized vending location...”? A vendor has a site permit for a specific site. By definition, it must therefore be “authorized”.	Earlier, we said that Metro ventilation grills should be off-limits. And they should. This provision sets yet again a different standard. And it shouldn’t.	As we said earlier, outdoor cafes get 24 hours to move. Why the differing standards?



<del>542.454</del> <del>7.4</del>	No vendor shall drive a vehicle onto or over a curb with the purpose of dropping off or picking up a vendor cart for towing.			
<del>542.554</del> <del>7.5</del>	No vendor shall place his or her vending vehicle, vending stand, or vending cart in such a manner that it impedes passage of pedestrians along the sidewalks.	Technically, this standard is impossible to achieve. The clear passageway standards are set elsewhere in these regulations.	See prior comment. Anything place on a sidewalk can be said to “impede passage of pedestrians”. Delete this.	Same comment.
<del>543.548</del>	<b>OPERATIONAL STANDARDS: PLACEMENT OF EQUIPMENT AND RELATED ITEMS</b>			
<del>543.154</del> <del>8.1</del>	All surplus merchandise, food, equipment, and other items related to the operation of a vending vehicle, vending stand, or vending cart shall be kept either in or under (or, in the case of a vending stand, on) the vending vehicle, vending stand, or vending cart.	We already discussed the fact that the size limitations and equipment requirements imposed under these regulations make it difficult for vendors to operate. This provision appears to eliminate the ability of vendors to sell beverages from in front of a cart. There just isn't room within the dimensions specified by DCRA to store adequate stock and operate.	The regulations have now addressed beverage coolers in front of carts.  What they don’t do is set standards for the set-up and tear-down of sidewalk vending stands, and they should.  There should be a “set-up/tear-down period” for vendors where this provision is waived.	Same comments.
<del>543.254</del> <del>8.2</del>	No merchandise, food, equipment, or other items related to the operation of a vending vehicle, vending stand, or vending cart shall be stored or placed upon any public space adjacent to the vending vehicle, vending stand, or vending cart.		See prior comment	Same comments.
<del>543.354</del> <del>8.3</del>	No vendor shall place any vending equipment or related items upon, or in a place or manner impeding free access to, service and ventilation grates and covers in accordance with § <del>542.547</del> .3.			See above.
<del>543.454</del> <del>8.4</del>	No merchandise, food, equipment or other items related to the operation of a vending vehicle, vending stand, or vending cart shall be stored or otherwise kept on the			

	public space beyond the hours of operation of the vending business.			
<del>544.154</del> <b>549</b>	<b>OPERATIONAL STANDARDS: FOOD PREPARATION AND HANDLING</b>			
<del>544.154</del> <b>9.1</b>	<p>All preparation, handling, transportation, and storage of food vended under this chapter shall be in compliance with:</p> <p>(a)An Act Relating to the adulteration of foods and drugs in the District of Columbia, approved February 17, 1898 (30 Stat. 246.; D.C. Official Code §§ 48-101 <i>et seq.</i> (2009 Repl. &amp; 2011 Supp.));</p> <p>(b)<u>Subtitle A (Food and Food Operations) of Title 25 (Food Operations and Community Hygiene</u> of the District of Columbia Municipal Regulations;</p> <p>(c)Any other applicable law or regulation related to the preparation, handling, transportation, or storage of food;</p> <p>(e)Requirements of, and conditions imposed by, the health inspection certificate, including any plans or standards approved or imposed as part of the issuance of the health inspection certificate; and</p> <p>(d)Any applicable standards established by DOH.</p>			
<del>544.254</del> <b>9.2</b>	No food vending equipment shall be used for purposes other than those authorized by the DOH Director.		??? A vendor can't cater an event elsewhere, if licensed elsewhere, using equipment he or she owns?	Same comments.
<del>544.354</del> <b>9.3</b>	No food may be vended from a vending vehicle, cart, or stand unless there is a person <del>who holds a valid food protection manager certificate and a DOH issued certified food protection manager identification card in charge</del> on site at the time of the preparation, handling, and sale of the food <u>who holds a valid:-</u>		Hold this thought. This is not obvious elsewhere in these regulations.	Fixed.

	<p><u>(1) Food Protection Manager Certificate issued by the Conference of Food Protection Standards for Accreditation of Food Protection Manager Certification Programs in accordance with §203 of subtitle A (Food and Food Operations) of Title 25 of the DCMR; and</u></p> <p><u>(b) DOH-issued a Certified Food Protection Manager Identification Card in accordance with §203 of subtitle A (Food and Food Operations) of Title 25 of the DCMR;</u></p>			
<del>545</del> <u>550</u>	<b>OPERATIONAL STANDARDS: FIRE SAFETY</b>			
<del>545.155</del> <u>0.1</u>	All vending vehicles equipped with cooking appliances shall have at least one (1) fire extinguisher with a minimum rating of 2A-10BC mounted in the cooking area.			
<del>545.255</del> <u>0.2</u>	<p>All vending vehicles operating with propane or open flames shall meet the following standards:</p> <p>(a)All propane compartments shall be secured and placarded;</p> <p>(b)No smoking signs shall be posted on the vehicle; and</p> <p>(c)Propane or open flame permits shall be clearly posted on the vehicle.</p>			
<del>546</del> <u>551</u>	<b>OPERATIONAL STANDARDS: USE OF AMPLIFICATION SYSTEMS</b>			
<del>546.155</del> <u>1.1</u>	No vendor shall operate a loud speaker or sound amplifier, or play a radio, drum, or other musical instrument as a means of advertising in such a manner as to create a noise disturbance, as that term is defined in section 2799 of title 20 of the <del>District of Columbia Municipal Regulations</del> <u>DCMR</u> .			

<del>546.255</del> <del>1.2</del>	Activities open to the public and provided for in subsection 2805.2 of <del>title Title</del> 20 of the <del>District of Columbia Municipal Regulations</del> DCMR are exempt from the limitations set forth in this section.			
	<b><u>PART 3: INSPECTIONS</u></b>			
<del>547.552</del>	<b>INSPECTIONS: FOOD PREPARATION AND HANDLING</b>			
<del>547.155</del> <del>2.1</del>	The vendor’s food preparation, handling, transportation, and storage operations shall be subject to inspection at any time to verify compliance with applicable provisions of <del>the Food Code</del> subtitle A of Title 25 of the DCMR and any conditions imposed by the health inspection certificate.			
<del>547.255</del> <del>2.2</del>	Each food vending business shall be inspected by the DOH Director at least once every six (6) months. Failure to pass an inspection shall be cause for summary suspension of the vendor’s Vending Business License and Vending Site Permit pursuant to §§ 507 and 512.			
<del>548.553</del>	<b>INSPECTIONS: DESIGN STANDARDS</b>			
<del>548.155</del> <del>3.1</del>	A vendor’s vending vehicle, vending stand, or vending cart shall be subject to inspection at any time by the <u>DCRA</u> Director to verify compliance with applicable design standards required by this chapter.			
<del>548.255</del> <del>3.2</del>	Failure to comply with design standards for vending vehicles, vending stands, or vending carts may be cause for the issuance of a civil infraction or the summary suspension or revocation of a Vending Site Permit.	There is NO proportionality in these regulations. First DCRA crafts unworkable standards, full of gray areas open to interpretation, and then if a vendor mis-interprets a design regulation, his or her license shall be summarily seized, and potentially revoked. No other licensed business would dare operate with this level of oppressive enforcement hanging over their heads.	Same comment	Same comments. The regulation DOES allow for 6 minor infractions of this type, but because of the way it’s structured, it’s unclear that a minor infraction from one inspector won’t turn into a firing offense from another. The penalties need to be clarified.

<del>549</del> <u>554</u>	<b>INSPECTIONS: FIRE SAFETY</b>			
<del>549.155</del> <u>4.1</u>	All vending vehicles, vending carts, or vending stands with deep fryers, propane or open flame, or any other electrical or cooking devices shall be inspected by FEMS at least once a year or as the Fire Marshal prescribes.			
<del>549.255</del> <u>4.2</u>	If a vending vehicle, vending cart, or vending stand fails an inspection performed pursuant to this section, the FEMS inspector may summarily seize the Vending Business License and Vending Site Permit and deliver it to the Director. The Director shall return the seized Vending Business License or Vending Site Permit to the licensee upon the licensee’s vending vehicle, vending cart, or vending stand passing FEMS inspection.		<b>This is the standard that ought to be followed by <i>every</i> inspector. Notice this provision is not about punishment; it’s about solving a problem and moving on.</b>	Same comment. We think that if a license is seized for cause, the license should be returned after the infraction is cured, and the vendor can either pay the fine, or contest the NOI. Meanwhile, he or she continues to work.
	<b><u>PART 4: OTHER STANDARDS OF OPERATION</u></b>			
<del>550</del> <u>555</u>	<b>MAINTENANCE STANDARDS</b>			
<del>550.155</del> <u>5.1</u>	All vending vehicles, vending carts, and vending stands, including canopies and umbrellas, shall be maintained in a safe, clean, and sanitary condition, and in good repair.			Why are the vendors at the National Mall allowed to continue to drive trucks that resemble those seen in Cuba? Because they have a number stuck on them? There is your lottery system at a glance.
<del>550.255</del> <u>5.2</u>	All vending vehicles, vending carts, and vending stands, including canopies and umbrellas, shall be maintained so that the vending vehicle, cart, or stand remains at all times in compliance with the standards of this subchapter.	Does this apply during the “set up” and “tear-down” periods?	Same comment, and see earlier comment.	
<del>551</del> <u>556</u>	<b>DISPLAY OF LICENSES, PERMITS, AND CERTIFICATES</b>			
<del>551.155</del>	A vendor shall conspicuously display on the vendor’s	How about “all applicable certifications	And you are forgetting the	This is ridiculous, given the



	impound or immobilize the vending vehicle, vending stand, or vending cart on which the Vending Business License, Vending Site Permit, or health inspection certificate is unlawfully displayed.			
551.5	If a summary impounding or immobilization occurs pursuant to § <del>554</del> <u>556</u> .4, the <u>DCRA</u> Director or MPD shall release the impounded or immobilized vending vehicle, vending stand, or vending cart to the vendor upon the payment of a fine in an amount established by the <u>DCRA</u> Director.	Same comment as before....	Same comment as before	Same comment.
551.6	Failure to display <u>any required certificates of authority</u> , or to provide <u>those certificates</u> to an authorized District government representative, <del>any required certificates of authority</del> may result in summary suspension of a vendor’s Vending Business License or Vending Site Permit and the impounding or immobilizing of the vending vehicle, vending stand, or vending cart. The vendor’s license or site permit shall be returned to the licensee upon the proper display or <del>providing provision</del> of the required certificates of authority.	At least this clarifies the meaning of 507.2(c)...	Same comment as before	Same comments as before. Give a vendor a chance to “cure” the violation.
<del>552</del> <u>557</u>	<b>MOTOR VEHICLE REGISTRATION AND INSPECTION OF VENDING VEHICLES AND CARTS</b>			
<del>552-155</del> <u>7.1</u>	All vending vehicles and vending carts:  (a) Shall be registered and inspected by the District of Columbia Department of Motor Vehicles or by the motor vehicle department of another state or municipality with appropriate jurisdiction;  (b) Shall display all current tags on the vehicle or cart; and  (c) Shall not vend any food, merchandise, or services if	Why does DC not require that all vending equipment which conducts business in the District be registered and inspected IN DC? How can “roach coach” operators with Maryland tags routinely do business in DC with no District oversight?	Same comment as before	As well, nowhere in this regulation are insurance requirements, which we find baffling....

	the vehicle has temporary tags.			
<del>552.255</del> <u>7.2</u>	Any vending vehicle not displaying current vehicle registration shall be subject to removal and shall subject the licensee to summary suspension of their Vending Business License and Vending Site Permit. The vendor’s vehicle, Vending Business License and Vending Site Permit shall be returned to the licensee upon the proper display of current vehicle registration.			
<del>553.558</del>	<b>EMPLOYEES OF LICENSED VENDORS</b>			
<del>553.155</del> <u>8.1</u>	No person shall work at a vending business unless the person is the licensed vendor of the vending business or is an employee or independent contractor of the vendor holding a valid Vendor Employee Identification Badge.	<i>Another</i> “Certificate of Authority” .... And the provision allowing “independent contractors” is exploitation of marginal people, waiting to happen....	It is a good idea to have people working at vending stands to have a badge.	It would be good to make this really easy to get.
<del>553.255</del> <u>8.2</u>	The employing vendor shall follow all applicable District and federal employment laws and regulations.		How, possibly, can this be enforced under this regulation?	
<del>553.355</del> <u>8.3</u>	<p>An employee or independent contractor of a vendor may operate the vendor’s Class A vending business without the vendor being present; provided, that the employee or independent contractor holds a valid :</p> <p><u>(a) Food Protection Manager Certificat issued by the Confernde of Food Protections Sandards for Accreditation of Foo Protection Manger Certificat Programs in accordance with § 203 of subtitle A (Food and Food Operations) of Title 25 of the DCMR; and</u> <u>(b) DOH-issued a Certified Food Protection Manager Identification Card in accordance with § 203 of subtitle A (Food and Food Operations) of Title 25 of the DCMR.</u></p> <p><del>DOH issued food protection manager certificate and a DOH issued certified food protection manager identification card.</del></p>	Can Class B vendors have employees? This is unclear.	Earlier, this was unclear. We presume that Class B vendors can have employees as well	



<del>553.455</del> <u>8.4</u>	No person may act as an employee or independent contractor of a vendor unless that person holds a valid Vendor Employee Identification Badge issued by the <u>DCRA</u> Director.	Why should an “Independent Contractor” hold an “employee badge?” The two terms are wholly unrelated in law, and the responsibilities of an employer to an employee are completely different from those a business owner owes to his or her “independent contractor”.	Same comment. Having said that, we must remind DCRA of the 20 point test that the IRS uses to determine whether an employee is actually an employee, or an independent contractor. It is pretty clear to us that the so-called “independent contractors” don’t really pass the test, as far as vending is concerned.	Same comment. This language is incredibly sloppy.
<del>553.555</del> <u>8.5</u>	<p>A person shall apply for a Vendor Employee Identification Badge by submitting an application to the <u>DCRA</u> Director, on a form prescribed by the <u>DCRA</u> Director, which shall include:</p> <p>(a)The name, address, and telephone number of the person;</p> <p>(b)The name and license number of the vendor for whom the person will act as an employee or independent contractor;</p> <p>(c)The signature of the person;</p> <p>(d)The notarized signature of the vendor;</p> <p>(e)The application fee, which shall be fifty-five dollars (\$55); and</p> <p>(f)Any additional information or documentation required by the <u>DCRA</u> Director.</p>	<p>No photograph? Vendor employees are required to have telephones, and that information then becomes public record controlled by DCRA?</p> <p>Notarized? Why?</p> <p>A person who seeks to be a vendor employee is required to purchase a separate badge, for \$55 each, for each vendor he or she works for?</p>	<p>Same comment</p> <p>Same comment</p> <p>All employees really should need are a photo ID badge, which, as we argued 6 years ago, ought to be produced by DMV with a utility bill or other ID and \$10 to cover the cost.</p>	<p>It makes sense to give an employee of a vendor on public space a badge—just as it makes sense for the principals also to have badges. It makes the visitors to Washington feel better about the whole deal.</p> <p>It should cost employees about \$10, and an employee badge should be interchangeable.</p> <p>A requirement that the ownership status of any vending unit should be available for any public space vendor does make sense—it’s basically a business card with the permit numbers attached. Those should perhaps be required to make it easy for</p>

		What other business is required to submit to this level of scrutiny when it comes to their employees? What possible public purpose(s) do these provisions further?		people to contact a vendor—or an appropriate government official—if there is a problem.
<del>553.655</del> <u>8.6</u>	The Vendor Employee Identification Badge shall include the name of the employee or independent contractor of the vendor, a badge number, the name of the licensed vendor, and the Vending Business License number of the vendor.		It should NOT include the Vending business license number of the vendor, at \$55 a pop! My identity doesn't change; I work for vendor A on MWF and vendor B on TTTh &S. I have an ID, and that is sufficient. It ought to be on the vendor to identify his or her employees/registered agents if he or she is not present. The liability should flow upward to the "owner" of the site.	We try to explain how to solve this problem above.
<del>553.755</del> <u>8.7</u>	An employee or independent contractor:  (a) Shall conspicuously wear his or her Vendor Employee Identification Badge when the employee or independent contractor is operating the vendor's vending business; and  (b) Shall not represent any licensed vendor other than the vendor whose name appears on the employee's or independent contractor's Vendor Employee Identification Badge.	And yet, Licensed Vendors themselves are not required to wear District authorized identification badges.	Same comment	See above.
<del>553.855</del> <u>8.9</u>	A licensed vendor shall be held responsible for the actions of his or her employees and independent contractors, where such actions are related to the operation of the vending business and, either singularly or in combination, the Vending Business License, Vending Site Permit, Vendor Employee Identification	We'd agree with this provision and in fact would like to see it strengthened....		Same comment

	Badge, and health inspection certificate of the vendor may be suspended or revoked based on those actions.			
<del>554</del> <u>559</u>	<b>LITTERING AND CUSTOMER LINES</b>			
<del>554.155</del> <u>9.1</u>	Vendors shall keep sidewalks, roadways, and other public space adjoining and adjacent to their assigned Vending Location clean and free from paper, peelings, and refuse of any kind.			
<del>554.255</del> <u>9.2</u>	All vendors shall affix to their stands or vehicles a container for litter that shall be maintained and emptied when full. Public trash receptacles shall not be used for compliance with this section.	This should not apply to merchandise stands at all; and food vendors should be allowed to keep one or more free-standing trash containers.	See prior comment	Same comment
<del>554.355</del> <u>9.3</u>	A vendor shall ensure that waiting customers do not completely block the public sidewalk. A vendor shall comply with this subsection by asking customers, through verbal communication and signage on the vehicle, to not impede pedestrian access along the public sidewalks.		This sounds effective. How about letting a vendor set down a rope-line to guide customers?	That would be illegal under this draft.
<del>555</del> <u>560</u>	<b>DISPLAY OF SAMPLE ITEMS</b>			
555.1	No vendor shall display any object (including signage) used as an example of merchandise or food for sale or to advertise merchandise, services, or food for sale unless the object conforms precisely to the merchandise or food being sold by the vendor at that particular Vending Location.	“Precisely”? Roadway vendors on the National Mall do not sell pretzels that are two feet wide.	Same comment. We are looking for a lot of signage updates now that Kodak has gone bankrupt.	Same comments
<del>556</del>	<del><b>ROADWAY VENDING</b></del>			
<del>556.1</del>	<del>Deleted</del>	We applaud the new food vendors who	Forgive us if we have a hard time distinguishing between the “Roadway Vending” in Part 3-- “Roadway Vending Locations, et.sec, and this section, “Roadway Vending”.	

		have entered the vending scene. We encourage their success.	We know this is supposed to be the special section for the Food Trucks, and we know DCRA tried really hard to accommodate both the Roadway Vendors and the Food Truck operators. Unfortunately, we feel obligated to mention that this distinction makes these regulations impossible to understand.... Hear us out...	
<del>556.2</del>	<del>Deleted</del>	We believe this is unenforceable. And unwise. Vendors who have invested \$thousands to introduce new food concepts, and a new, workable business model based on social networking, deserve support, not arbitrary regulations designed to equate high-end food vendors with popsicle trucks.		
<del>556.1</del>	<del>Vending vehicles, other than those assigned to the designated vending locations in § 527.1, shall operate pursuant to the provisions of this section.</del>	So let them stay in the parking spot for one or two hours, as the meter allows, and do business! And to repeat, stationary roadway trucks on the Mall should pay for parking as well.	This would be food trucks, who operate units (in theory) identical to the white roadway trucks on the Mall...and also, possibly, ice cream trucks and Roach Coaches who come in from Maryland or DC to sell at construction sites or in our neighborhoods.	
<del>556.2</del>	<del>Vending vehicles that sell predominantly ice cream, confectionary treats, coffee or tea, or other prepared desserts under a Class A Vending Business License shall:</del>  <del>(a) Park at a legal parking space, pay all required parking fees, and obey all posted parking regulations;</del> <del>(b) Remain at the location so long as there is a line of</del>		That seems workable!	

	<del>customers waiting to be served; and (e) Remain at the location for no more than ten (10) minutes when there is no line of customers waiting to be served.</del>			
556.3	<del>Vending vehicles that sell predominantly non-dessert prepared foods or that prepare the food in the vehicle under a Class A Vending Business License shall:  (a) Park at a legal parking space, pay all required parking fees, and obey all posted parking regulations; and (b) Remain at the location for the duration of the time allowed by the parking meter or applicable posted parking regulations.</del>		This seems workable, too! Except when the food truck is directly in front of an in-line competitor.	
556.4	<del>Vending vehicles operating under this section shall not vend at the following locations: (a) Constitution Avenue between 23rd Street, NW, and 2nd Street, NE; (b) Independence Avenue between 23rd Street, NW, and 2nd Street, NE; (c) 17th Street, NW, between Independence Avenue, NW, and H Street, NW; (d) 15th Street, NW, between Independence Avenue, NW, and H Street, NW; (e) 14th Street, NW, between Constitution Avenue, NW, and Independence Avenue, NW; (f) 7th Street, NW, between Constitution Avenue, NW, and Independence Avenue, NW; (g) 4th Street, NW, between Constitution Avenue, NW, and Independence Avenue, NW; (h) 3rd Street, NW, between Constitution Avenue, NW, and Independence Avenue, NW; (i) 1st Street, NE, between Constitution Avenue, NE, and</del>			

	<p><del>Independence Avenue, NE;</del> <del>(j) East Capitol Street, NE, between 1st Street, NE, and 2nd Street, NE;</del> <del>(k) Madison Drive, NW, between 15th Street, NW, and 3rd Street, NW;</del> <del>(l) Jefferson Drive, NW, between 15th Street, NW, and 3rd Street, NW;</del> <del>(m) Pennsylvania Avenue, NW, between 15th Street, NW, and 1st Street, NW;</del> <del>(n) Maryland Avenue, SW, between Independence Avenue, SW, and 3rd Street, SW; and</del> <del>(o) Within a Vending Development Zone created pursuant to § 560, unless specifically authorized by the Vending Site Permit.</del></p>			
<del>556.5</del>	<p><del>A roadway vending vehicle shall be issued a Vending Site Permit, at the cost set forth in § 508.7., specifying that it may not vend from the following locations:</del></p> <ul style="list-style-type: none"><li><del>(a) Within one hundred feet (100 ft.) of a traffic circle.</del></li><li><del>(b) Within twenty feet (20 ft.) of any intersection or within any of the distances specified in this chapter; provided, that vehicles vending ice cream or other products likely to attract children as customers shall, when stopping to make a sale, park at a legal parking spaced at the curb, outside of, but as close as possible to a pedestrian crosswalk without entering the intersection or otherwise interfering with the flow of traffic.</del></li><li><del>(c) Any of the locations enumerated in §556.4;</del></li><li><del>(d) Any location that is not a legal parking space.</del></li></ul>		<p>As we’ve stated earlier, this provision seems to be a pretty far stretch from the the current <u>law</u>, which says that a Vending Site Permit is a document “setting forth the specific location on public space from which the person may vend”. The law also says that <u>every</u> vendor must have a vending site permit. But that is so 2009.</p> <p>Now, three years after DCRA wrote the language that the Council passed in law, saying that every vendor must have a Site Permit, which is a license for a specific location---Now the idea is that <i>some</i> vendors need to have a permit to describe exactly where they will vend—spots that</p>	

			<p>don't exist, and never will; permits that don't exist, and never will—but <i><b>other</b></i> vendors can have a “site permit” that describes simply where they will not be allowed to vend.</p> <p><u>DCRA and it's lawyers seem ok with this.</u> But let's go back to Section 521(b)... no vending here, here, or here. No one in the DC Vendors Caucus can rationally understand why Roadway vendors are proposed under this regulation to <i><b>get</b></i> a site permit, provided they don't vend here, here, and here, while sidewalk vendors <b>CANNOT</b> get a site permit, provide they don't vend here, here and here.</p> <p>We understand quite well, however, why this says what it does. We are convinced that the rationale is illegal, but so much of this regulation is discriminatory and unconstitutional, we are almost getting weary of pointing it out.</p>	
556.6	<p>Vending vehicles operating under this section shall have a Class A Vending Business License holder or a person with a valid Vendor Employee Identification Badge issued pursuant to § 553 inside the vehicle while the vehicle is in operation.</p>		<p>Actually, the vending unit should be required to have somebody with a Food-handler's permit on-board.</p>	

<del>556.7</del>	<del>Vending vehicles shall be subject to the design standards of § 535.</del>	Discriminatory on its face against Class B vendors, and it also is confusing when considered against other provisions of this regulation which allow employees or “independent contractors”...	We kept our old comment here because, on face value, there is no reason that a merchandise vendor shouldn’t have the same “roaming” rights as a food truck vendor.	
<del>556.8</del>				
<del>557</del> <u>561</u>	<b>PURCHASE OR RECEIPT OF STOCK</b>			
<del>557.156</del> <u>1.1</u>	No vendor shall purchase any inventory stock from public space.	This is unworkable on its face. We have already described how the size restrictions that DCRA proposes to impose are too small This provision prevents any vendor from accepting for delivery refills of necessities or any other back-stock. No other business in the District is prevented from taking delivery of necessary supplies, except vendors under this provision.	If the wholesale house parks in a Loading Zone or on a parking meter and make a delivery, does this regulation apply?	Upon re-reading this, this is crazy. Vendor (on cell phone) “I’d like 30 pounds of beef and 20 pounds of chicken” or “I’d like 20 XXL Obama’s and 10 XL Obama’s”  This is illegal?
<del>557.256</del> <u>1.2</u>	No vendor shall take delivery of any inventory stock in public space, with the exception of perishable food items for consumption and ice.	It gets worse. Any wholesaler who seeks to supply a vendor may see his or her business license suspended or revoked. On what grounds? We have an idea—let's apply the same standard to every other business in DC, and let's see how far we get putting Fed Ex and UPS out of business!	See prior comment OK, so food vendors can take delivery and merchandise vendors cannot.  (And DCRA deleted the penalty against wholesalers making deliveries. All the risk is against a licensed merchandise vendor). What is the underlying purpose here?	Same comments.
<del>558</del> <u>562</u>	<b>PLACING VENDING BUSINESS LICENSES ON HOLD</b>			
<del>558.156</del> <u>1.1</u>	The <u>DCRA</u> Director shall create a process by which a vending business may voluntarily put its Vending	We understand the purpose of this provision, but it is poorly drafted. It's	See prior comment	Same comment, generally. The restrictions on



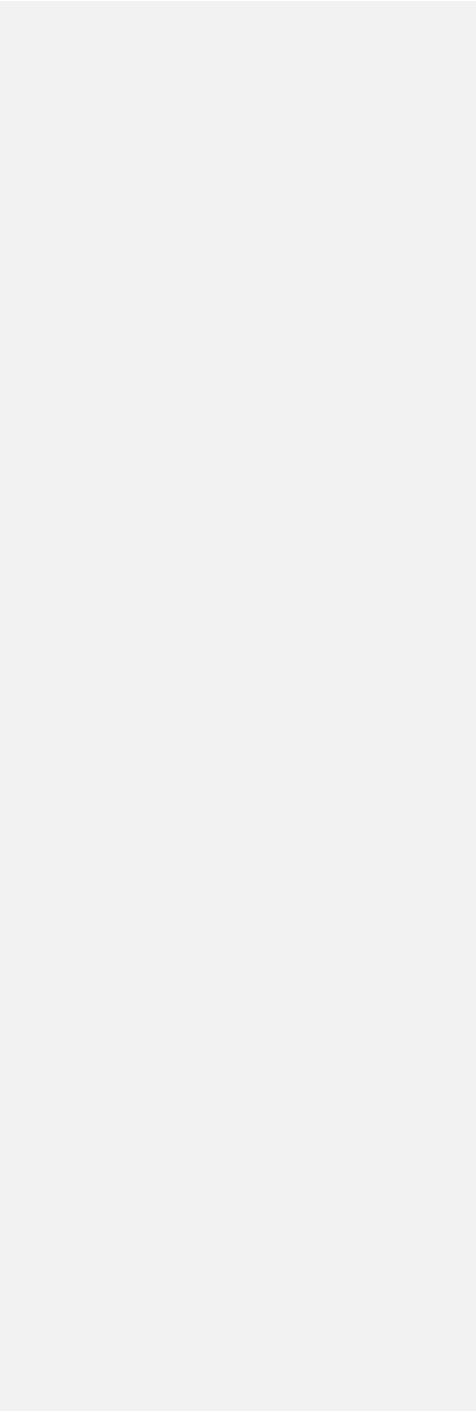
	<p>Business License on hold and subsequently retrieve it from hold status to avoid suspension or revocation of a Vending Site Permit.</p>	<p>purpose is to allow vendors who have immigrated to America, but whose families are overseas, to return to their families for extended periods, but to retain their right to their vending site during their absence. We believe that the provisions which allow vendors to engage “employees” or “independent contractors” to operate their vending businesses generally make Section moot. We can see exceptional circumstances under which a vendor may need to place his or her license “on hold” --but we are talking about public space, and we believe that market opportunities should not be wasted. Other vendors should be allowed to temporarily occupy spaces vacated by permit-holders who choose to put their permit “on hold”.</p>		<p>transferring licensure which are shot through this regulation make a process which ought to informal and workable into something bureaucratic and unwieldy.</p> <p>Since the Director will never get around to implementing this provision—which would imply changes to these regulations—the choice is either to trust the Vending Coordinator to keep track of this stuff, get it right, and not exploit people who are extremely exploitable. The other choice is to re-write the “license transfer” provisions in this regulation, and get it right from the start.</p>
<p><del>558.256</del> <u>1.2</u></p>	<p>A Vending Business License may be placed on hold and in the possession of the <u>DCRA</u> Director during such times that the vending business is not in operation for seasonal purposes or emergent issues; provided, that the holder of the Vending Business License is in compliance with the Clean Hands Certification.</p>			
<p><del>558.356</del> <u>1.3</u></p>	<p>Placement of a Vending Business License on hold pursuant to this section shall not stay the license’s expiration date and, to remain valid, it must be renewed on or before its expiration date, pursuant to § 506.</p>			<p>There should be some language here if there is a Site Permit attached to the license.</p>
<p><del>558.456</del> <u>2.4</u></p>	<p>A vendor, or any employee or independent contractor employed by the vendor, who vends any products, food,</p>			

	merchandise, or services while his or her Vending Business License is placed on hold shall be subject to the revocation of his or her Vending Business License.			
<del>559</del> <u>563</u>	<b>REQUIREMENT TO UPDATE INFORMATION</b>			
<del>559-156</del> <u>3</u>	If, pursuant to the provisions of this chapter, a vendor provided information to a District agency and that information changes, the vendor shall, within ten (10) business days after the change in information, provide updated information to the appropriate agency.	Will new certificates of authorization be issued with the updated information? And what will be the charge to the vendors who comply with this provision? And what will be the penalties to the vendors who don't?	See prior comment	Same comment.
	<b><u>SUBCHAPTER E: VENDING DEVELOPMENT ZONES AND SPECIAL EVENTS</u></b>			
<del>560</del> <u>564</u>	<b>VENDING DEVELOPMENT ZONES</b>			
560.1	The <u>DCRA</u> Director may establish Vending Development Zones (VDZ) to promote new and innovative vending practices designed to achieve the following objectives: (a) For communities to utilize vending and public markets to create unique and attractive destinations and increase foot traffic in commercial corridors; (b) For communities to have expanded capability to manage vending and public markets in unique high-density hospitality zones; (c) Provide opportunities for vendors to expand their creativity and entrepreneurship in both their products and their carts stands or vehicles; (d) Expand vending and public market opportunities for small and local businesses; (e) Improve the safety, appearance, and use of public space; and (f) Allow for greater expansion of the creative economy through the addition of entertainment and artistic business ventures in public space.		The goals seem worthy. The term “communities” in this section seems wrong, because Vending Development Zones will obviously be “top-down” things created by BIDs as opposed to “bottom-up” proposals generated by the “community”.  These VDZ’s are nothing more than the privatization of public space, and DCRA and the BIDs can use whatever language they like to make it sound better.	Same comments.

<p><del>560.256</del> <del>4.2</del></p>	<p>Notwithstanding other provisions of this chapter, and of chapter 13 of <del>T</del>itle 19 of the <del>District of Columbia Municipal Regulations</del>DCMR, the <del>DCRA</del> Director shall allow a VDZ greater flexibility in complying with regulations governing the:</p> <p>(a)Location of vendors in public space , provided, that no category of Vending Business License is specifically excluded;</p> <p>(b)Method for assigning Vending Locations including the exclusion of any roadway vending vehicle <del>operating pursuant to § 556</del> that is not expressly included by Vending Site Permit in the VDZ;</p> <p>(c)Design standards for vending vehicles, vending carts, roadway vending vehicles, and vending stands;</p> <p>(d)Hours of operation;</p> <p>(e)Length of time for which a Vending Site Permit shall be issued; and</p> <p>(f)Special performance and entertainment requirements of <del>c</del>Chapter 13 of Title 19 of the <del>District of Columbia Municipal Regulations</del>DCMR.</p>		<p>A meaningless provision...</p> <p>Since the permits under §556 don't "include" anything, this allows a VDZ to keep food trucks out....</p> <p>This is potentially good...</p> <p>This could be good or bad...</p> <p>This is potentially good or bad...</p> <p>One of the odd things about this whole ordinance is it makes no provisions for buskers or jugglers or street performers—and that is a defect that shouldn't appear here. That kind of activity ought to be allowed, upon application, by right.</p>	
<p><del>560.356</del> <del>4.3</del></p>	<p>The <del>DCRA</del> Director may establish a VDZ upon the approval of an application submitted by a business association, community organization, or District government agency.</p>	<p>Why the limit on the types of entities that can seek to operate a Vending Development Zone? And we cannot understand why any DC agency has any business applying for, or operating, a Vending Development Zone.</p>	<p>See prior comment.</p>	<p>Same comments.</p>
<p><del>560.456</del></p>	<p>The Director shall administer the process for reviewing applications in consultation with the following</p>	<p>Good. This is the first mention of inter-</p>	<p>See prior comment.</p>	<p>Same comments.</p>

<u>4.4</u>	<p>Coordinating Agencies:</p> <p>(a)Department of Small and Local Business Development;</p> <p>(b)Department of Health;</p> <p>(c)District Department of Transportation; and</p> <p>(d)Office of Planning.</p>	<p>agency consultation within this regulation.</p>		
<del>560.556</del> <u>4.5</u>	<p>A VDZ application shall be reviewed in a two (2)-part process:</p> <p>(a)The applicant shall submit five (5) hard copies or one (1) electronic copy of a pre-application to the <u>DCRA</u> Director who shall forward a copy to each Coordinating Agency. The pre-application shall include the following information:</p> <p>(1) The applicant’s mission, bylaws, process for electing officers, and public meeting requirements or, in the case of a Coordinating Agency, its mission and responsibilities;</p> <p>(2) The purpose and intent of establishing a VDZ, including aspects of placemaking and creative economy planning;</p> <p>(3) A map delineating the proposed boundaries of the VDZ and all current Vending Locations; and</p> <p>(4) The partner organizations collaborating on the application.</p>	<p>We are fundamentally opposed to DSLBD, DOH, DDOT,OP or DCRA (or any other DC agency) getting into the vending management business.</p>	<p>See prior comment.</p> <p>These standards for a pre-application are weak. But that’s a feature, not a bug, in this Kabuki Dance.</p> <p>This is a paper exercise. No penalties accrue to the BID who proposes, organizes, and fails to deliver on a VDZ.</p> <p>Meanwhile, existing vendors will</p>	<p>Same comments.</p>

<p>(b)Upon verification of the items required by paragraph (a), the Director shall approve the pre-application. Within ninety (90) calendar days of notification from the <u>DCRA</u> Director of pre-application approval, the applicant shall, in consultation with the Coordinating Agencies, prepare and submit five (5) hard copies or one (1) electronic copy of a VDZ application to the <u>DCRA</u> Director. The application shall demonstrate how the purpose and intent of the proposed VDZ will be realized and include the following:</p> <p>(1) A description of the proposed innovative vending strategy or expanded management opportunity;</p> <p>(2) A map showing proposed vending and public market locations;</p> <p>(3) An implementation plan that may include, but is not limited to:</p> <p>(A)Financial assistance, equipment assistance, storage assistance, technical advice, or business planning support for existing and potential new vendors;</p> <p>(B)Marketing strategy for placemaking, coordinated design, semi-permanent fixtures, entertainment, or creative economy programming;</p> <p>(C)Partnership opportunities; and</p> <p>(D)Diversity of products or services offered;</p> <p>(4)A plan for coordinating with existing vendors and businesses located within the proposed VDZ; and(5)Any other information that the Director requires.</p>		<p>be eliminated, potential vendors will be turned down, and almost certainly promises will be broken.</p> <p>In theory, this could work. But there needs to be checks and balances.</p>	
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<del>560.656</del> <u>4.6</u>	<p>The <u>DCRA</u> Director and <del>c</del>Coordinating <del>a</del>Agencies shall review VDZ applications to identify any issues that the applicant must resolve prior to further processing of the application. Additionally,</p> <p>(a)The <u>DCRA</u> Director shall forward each VDZ application to the Coordinating Agencies for evaluation based upon:</p> <p>(1)Compliance with objectives defined in § <del>560.564</del>.1; and</p> <p>(2) The ability of the applicant to achieve the proposed innovative vending strategy.</p> <p>(b)Each Coordinating Agency shall review the application concurrently within forty-five (45) days and forward any issues to the <u>DCRA</u> Director.</p> <p>(c)The <u>DCRA</u> Director shall notify the applicant of any issues identified by a Coordinating Agency and the applicant shall work with the Coordinating Agencies to address all issues within thirty (30) days of receiving notification. The Coordinating Agencies shall notify the Director when all issues have been resolved; and</p> <p>(d)The Director may deny an application if the applicant is unable to resolve any issues identified by the Coordinating Agencies.</p>	<p>The Coordinating Agencies are also eligible to be applicants! How can they independently review other applicants, when they may have their own application in place?</p>	<p>Same comment.</p> <p>Think about power and politics. Which agency wants to argue against the BID, or an application that is half-way through a process that has already been (unofficially) been signed off by the Mayor? This is a “process”?</p>	
<del>560.756</del> <u>4.7</u>	<p>Within forty-five (45) days of receiving favorable reports from all coordinating agencies, DCRA shall hold a public hearing to solicit public comments on the VDZ application. The <u>DCRA</u> Director shall publish notice of the hearing in the <i>District of Columbia Register</i> and shall give notice of the hearing to the affected Advisory Neighborhood Commission, and post copies of the</p>			

	application on the DCRA website at least fifteen (15) calendar days before the hearing.			
<del>560.856</del> <u>4.8</u>	Within forty-five (45) days after the public hearing, the Director shall either approve or deny the VDZ application based upon the information in the VDZ application and the findings from the public hearing.		It would be nice if “denied” meant “denied” but we’ll bet that a VDZ will have standing to resurrect itself....	
<del>560.956</del> <u>4.9</u>	The <u>DCRA</u> Director shall assist in the implementation of the VDZ vending strategy. Vending Business Licenses and Vending Site Permits shall be issued consistent with the approved VDZ application. Pursuant to the VDZ vending strategy, the <u>DCRA</u> Director shall manage the site delegation and distribution of Vendor Locations to vendor site applicants.			
<del>560.564.10</del>	The Director may require the VDZ applicant or vendors in a VDZ to provide information or reports that are needed to assess long-term benefits or disadvantages of the innovative vending practices.			
<del>560.44564.11</del>	The Director may suspend or revoke a vendor’s Vending Business License or Vending Site Permit if the vendor fails to comply with the VDZ vending strategy.		As a matter of law, this is a very interesting provision in a regulation.	Indeed, this heads to Supreme Court territory...
<del>560.42564.12</del> <u>2</u>	<p>The Director shall discontinue a VDZ if:</p> <p>(a)The VDZ vending strategy fails to achieve the purpose and intent of the VDZ; or</p> <p>(b)The Director determines that it is not in the best interest of the public to continue the VDZ, based on such factors as:</p> <p>(1)Poor management of the VDZ;</p> <p>(2)Unsafe conditions resulting from the VDZ; and</p>	Is there a provision to allow a VDZ to amend its plan and change over time?	Is there a time limit on this? The “temporary” moratorium on the issuance of vending licenses was supposed to be for 6 months and we are basically going on 14 years. The VDZ is obviously more stall-ball. How long does a VDZ get to play out the clock?	Same comment.

	(3)Failure to follow or maintain the vending plan contained in the VDZ application.			
<del>560.</del> <del>13564.1</del> <u>3</u>	Before the Director discontinues a VDZ, the <u>DCRA</u> Director shall provide notice to the businesses, organizations, or agencies administering the VDZ of the intent to discontinue the VDZ and the reasons for the discontinuance		Actually, this notice should be made public as well, so that, if it ever should happen that a DCRA Director ever reaches the end of his or her patience, there is a public record of it.	Same comment.
<del>560.</del> <del>14564.1</del> <u>4</u>	Within forty-five (45) days of receiving the notice from the Director, the businesses, organizations, or agencies administering the VDZ shall cure the identified reasons for the discontinuance of the VDZ. The Director, at his or her discretion, may extend the forty-five (45) day period for good cause.		The regulation here should say that the VDZ managers may cure, and the administrator may decide to kill the program anyway.	Same comment.
<del>560.</del> <del>15564.1</del> <u>5</u>	<p>The <u>DCRA</u> Director shall designate as a VDZ that area previously referred to as the vending demonstration area approved pursuant to rulemaking issued by DCRA on September 16, 2005 (52 DCR 8522-8523); provided, that</p> <p>(a)The boundaries of this VDZ may be revised without the need for additional rulemaking; and</p> <p>(b)All agreements entered into by the Public Space Planning and Management Corporation and any licensed vendor in the area previously referred to as the vending demonstration area shall be assigned to the Downtown Business Improvement District.</p>		This is an interesting provision in this regulation. The regulation refers to an independent entity called the Public Space Planning and Management Corporation, which had a contract with the DC government to establish and carry out a Vending Demonstration Program in a portion of the Downtown DC BID District. The contract expired more than 5 years ago, and the PSPMC itself voted to dissolve itself more than 5 years ago, at the behest of the PSPMC President Rich Bradley. It is unclear how this regulation can simply stipulate that this area “shall be designated” as a VDZ without going through the	<p>This remains an odd provision in this regulation. In effect, the Downtown DC BID is getting a Vending Development Zone without going through the procedures laid out above.</p> <p>They just get one, without saying what they are going to do.</p> <p>This little quirk in the regulation needs a tad more scrutiny.</p>



			<p>application process that other VDZ’ are required to undertake.</p> <p>We do know that, even though the PSPMC’s board voted to dissolve the organization, it’s incorporation in DC has been maintained by the Downtown DC BID. Only recently has the Downtown DC BID allowed the PSPMC’s incorporation to lapse.</p>	
<del>561</del> <u>565</u>	<b>SPECIAL EVENTS</b>			
<del>561.1</del> <u>565.1</u>	Persons who are authorized by the organizer of a licensed Special Event to vend within the boundaries of a licensed Special Event may vend without a Vending Business License or Vending Site Permit.			
<del>561.2</del> <u>565.2</u>	A vendor authorized to vend within the boundaries of a licensed Special Event area shall comply with all applicable laws and regulations regarding the registration of vendor’s business with the Office of Tax and Revenue and DCRA and shall comply with any standards imposed by DOH or other relevant agencies.			In the current regulation, vendors operating within a Special Event Zone (particularly the Inauguration area, but others as well) were automatically grandfathered. We guess that’s done, as well.
	<b><u>SUBCHAPTER F: STREET PHOTOGRAPHY</u></b>			
<del>562</del> <u>566</u>	<b>STREET PHOTOGRAPHY: REQUIREMENTS AND RESTRICTIONS</b>			With digital cameras, we don’t really need to spend much time on this. But this is the DCRA mindset in this regulation....
<del>562.1</del> <u>566.1</u>	A vendor holding a Vending Business License for street photography (and each individual working as an employee or independent contractor of the vendor) shall			

	deliver or cause to be delivered a finished photograph of the person purchasing the photograph either at the time of the purchase of the photograph or within a time period specified on a card handed to the person at the time of the taking of the photograph.			
<del>562.255</del> <del>66.2</del>	<p>The card required by § <del>562.256</del>66.1 shall contain the following:</p> <p>(a)The name of the vendor;</p> <p>(b)The name of the employee or independent contractor (if any) taking the photograph;</p> <p>(c)The vendor’s Vending Business License Number;</p> <p>(d)The employee’s or independent contractor’s Vendor Employee Identification Badge number;</p> <p>(e)The telephone number of the vendor; and</p> <p>(f)The time period within which the photograph shall be delivered, and a statement that if the photograph is not delivered within the time period specified on the card, the vendor shall refund the purchase price.</p>			
<del>562.356</del> <del>6.3</del>	Each finished photograph shall be clear and sharp, and shall show no blur of focus or camera movement which affects the principal subject.			
	<b><u>SUBCHAPTER G: SOLICITING</u></b>			
<del>563.567</del>	<b>SOLICITING: GENERAL PROVISIONS</b>			
<del>563.156</del> <del>7.1</del>	<p>No person shall solicit any person from a street, sidewalk, or other public space, or in any way interfere with the free passage of any person along any street, sidewalk, or other public space, for the purpose of inducing that person to do any of the following:</p> <p>(a)Buy any merchandise, food, or service;</p>			

	(b)Patronize any hotel, motel, inn, or boarding house; or  (c)Patronize any place of entertainment or amusement.			
<del>563.256</del> <u>7.2</u>	No person shall solicit any other person within or on the grounds of any railroad or bus station or depot, or on public space in the District of Columbia, for the purpose of securing a passenger or passengers for transportation for hire, unless properly licensed and permitted to do so by the Mayor.	Isn't this provision obsolete?		
<del>563.356</del> <u>7.3</u>	No person shall, on any public highway in the District of Columbia, solicit employment to guard, watch, wash, clean, repair, or paint, any automobile or other vehicle, except as provided for in Title 18 of the <del>District of Columbia Municipal Regulations</del> <u>DCMR</u> .	OK.		
<del>563.456</del> <u>7.4</u>	No person shall remain in front of or enter any store or vending business where goods are sold at retail for the purpose of enticing away or in any manner interfering with any person who may be in front of or who may have entered the store or vending business for the purpose of buying.	OK.		
<del>563.556</del> <u>7.5</u>	<u>Unless issued a valid Class D Vending Business License,</u> <del>n</del> No person shall sell or offer to sell tickets from the sidewalks, streets, or public spaces anywhere in the District of Columbia for any excursion, theatrical performance, opera, sporting event, or any entertainment of any kind, <u>except in locations specifically designated for that purpose.</u>	???		CAN you get a Class D license to sell tickets?
	<b><u>SUBCHAPTER H: MISCELLANEOUS PROVISIONS</u></b>			
<del>564.568</del>	<b>VENDING DEPOTS</b>			
<del>564.156</del> <u>8.1</u>	Vending depots servicing vending vehicles or carts with Class A Vending Business Licenses shall provide all of the following services to the vendor <u>in accordance with chapter 37, subtitle A (Food and Food Operations) of Title 25 of the DCMR</u> :	Licensed restaurants ought to have authority to operate food cart out of their licensed kitchens. This regulation does not specifically allow that, and it should.	Same comment	Same comment

	<p>(a)Storage of the vending vehicle or cart;</p> <p>(b)Food preparation, <u>including approved food handling areas, as needed;</u></p> <p>(c) <u>Proper storage of inventory, such as food, utensils and supplies;</u></p> <p>(c)Basic maintenance and cleaning; <del>and</del> <u>including:</u></p> <p><u>(1) Hot and cold water;</u></p> <p><u>(2) Sloped and properly drained cleaning areas</u></p> <p><u>(3) Potable water; and</u></p> <p><u>(4) Electrical outlets; and</u></p> <p>(d)Proper disposal of trash and food waste, <u>such as garbage and liquid.</u></p>	<p>The definition of “storage” should be defined, as should basic maintenance and cleaning. The current “vending depots” would improve if there were real competition.</p>		
<u><del>564.256</del></u> <u>8.2</u>	<p>The operator of a vending depot shall maintain a ledger that includes current information on the name, license number, and address of each vendor and supplier doing business with the operator. This ledger shall be made available during regular business hours for inspection by any duly authorized District government agent <u>in accordance with § 3701, subtitle A of Title 25 of the DCMR.</u></p>			
<u><del>564.356</del></u> <u>8.3</u>	<p>The operator of a vending depot may offer additional services to a vendor, such as the wholesale sale of food or beverages or towing services; provided, that the vending depot shall not require that a vendor accept any additional services as part of the contract to provide the minimum services set forth in § <u><del>564.568</del></u>.1.</p>	<p>Good</p>		
<u><del>564.456</del></u> <u>8.4</u>	<p>The operator of a vending depot shall:</p> <p>(a) Comply with all applicable laws and regulations regarding registration of the person’s business with the Office of Tax and Revenue and DCRA;</p> <p>(b) Obtain all necessary business licenses from DCRA; and</p> <p>(c) Comply with the <del>Food Code</del> <u>subtitle A of Title 25 of the DCMR</u> and all applicable standards imposed by DOH or other relevant agencies.</p>			
<u><del>565</del></u> <u>569</u>	<p><b>PENALTIES</b></p>			

<del>565.156</del> <u>9.1</u>	A person violating any provision of this chapter may be issued a civil infraction pursuant to <del>c</del> Chapter 33 of Title 16 of the <del>District of Columbia Municipal RegulationsDCMR</del> .			
<del>565.256</del> <u>9.2</u>	A fine imposed under this section shall be imposed and adjudicated pursuant to titles I-III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code §§ 2-1801.01 <i>et seq</i> (2007 Repl. & 2011 Supp.)).		Note that there are four classes of penalties, and history shows that vending violations are generally ticketed at the highest level. These regulations would be much improved if offenses against particular provisions were assigned levels of infraction, from minor to major, according to the DCRA 4-step scale.	Same comment.
<del>565.356</del> <u>9.3</u>	Any fines issued pursuant to this section may be in addition to the revocation or suspension of a vendor's Vending Business License or Vending Site Permit		As we have shown, due process is ignored throughout this regulation. Naturally, DCRA would like to impose fines on top of the penalties they enact through their trampling on due process.	Same comment
<del>566</del> <u>570</u>	<b>SEVERABILITY I</b>			
<del>566.157</del> <u>0.1</u>	If any provision of this chapter, or the application of any provision of this chapter, is held invalid in any circumstance, the validity of the remainder of the provisions of this chapter, and the application of any provision in any other circumstance, shall not be affected; and to this end, the provisions of this chapter shall be severable.			No question this provision is needed!
<b>599</b>	<b>DEFINITIONS</b>	We believe there are a number of terms that appear in these regulations that need to be defined. However, we will not attempt to do that here.	Same comment	Same comment

	<b>Central Vending Zone</b> –the area delineated by the boundaries listed in § 522.1.			
	<b>Clean Hands Certification</b> –the certification required by the Clean Hands Before Receiving a License or Permit Act of 1996, effective May 11, 1996 (D.C. Law 11-118; D.C. Official Code §§ 47-2861 <i>et seq.</i> ).			
	<b>Coordinating Agencies</b> –the several District agencies identified in § 560.4.			
	<b>Coordinating Agency</b> –any of the Coordinating Agencies.			
	<b>Director</b> –the Director of the Department of Consumer and Regulatory Affairs.			
	<b>DCRA</b> –the Department of Consumer and Regulatory Affairs.			
	<b>DCRA Business Licensing Center</b> –the Department of Consumer and Regulatory Affairs, 1100 Fourth Street, SW, Second Floor.			
	<b>DDOT</b> –the District Department of Transportation.			
	<b>DDOT Director</b> –the Director of the District Department of Transportation.			
	<b>DOH</b> –the Department of Health.			
	<b>DOH Director</b> –the Director of the District Department of Health.			
	<b>FEMS</b> –the District of Columbia Fire and Emergency Medical Services Department.			
	<b>Fire Chief</b> –the Chief of the District of Columbia Fire and Emergency Medical Services Department.			
	<b>Fire Marshal</b> –the Fire Marshal of the District of Columbia Fire and Emergency Medical Services Department.			

	<b>Fixture</b> –any District government-authorized furniture or equipment that is secured or permanently affixed to the public right-of-way or other public space.			
	<b>Food</b> –any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum as defined in the Food Code.			
	<b>Food Code</b> –Title 25 of the District of Columbia Municipal Regulations.			
	<b>Metrobus Stop Zone</b> –that area of the public roadway specifically designated for the exclusive use of Metrobus in loading and unloading passengers.			
	<b>Mobile Roadway Vendor</b> - deleted			
	<b>MPD</b> –the Metropolitan Police Department.			
	<b>MPD Chief</b> –the Chief of the Metropolitan Police Department.			
	<b>Nationals Park Vending Zone</b> –the Vending Locations designated in § 525.1.			
	<b>Neighborhood Vending Zones</b> –any of the several areas delineated by the boundaries in § 524.1.			
	<b>Old Georgetown</b> –the area delineated by the boundaries in § 523.1.			
	<b>Old Georgetown Vending Zone</b> –the area designated by § 523.2.			
	<b>Person</b> –any individual or business entity.			
	<b>Public market</b> –a vending operation which takes place			

	in an area of public space set aside and permitted on a regular basis for the sale of goods, merchandise, and services provided on site. The term “public market” may include a farmers market, flea market, antiques market, or other similar type of market.			
	<b>Public space</b> –all publicly-owned property between property lines on a street, as such property lines are shown on the records of the District of Columbia, including any roadway, tree space, sidewalk, or parking area between property lines.			
	<b>Receipts for purchases</b> – deleted			
	<b>Records of sales</b> – deleted			
	<b>Registered agent</b> –any person who maintains a residence or business address in the District of Columbia and is authorized by a vendor and agrees to accept service of process and legal notices on behalf of a vendor.			
	<b>Roadway vendor</b> –a vendor who operates a vending business while occupying public space in that portion of a street or highway that is improved, designed, or ordinarily used for vehicular travel.			
	<b>School day</b> –the period from 9:00 a.m. to 3:00 p.m. on a regular instructional day during the school year of the District of Columbia Public Schools, as defined in section 305 of subtitle E of title 5 of the District of Columbia Municipal Regulations.			
	<b>Sidewalk vendor</b> –a vendor at a sidewalk Vending Location who engages in business while occupying a portion of the street other than that reserved for vehicular travel.			
	<b>Special Event</b> –an activity, such as shows and exhibits of any kind, conventions,			



	parades, circuses, sporting events, fairs, and carnivals, held for a limited period at a designated location on public space and authorized by the Mayor, pursuant to D.C. Official Code §47-2826 (2005 Repl.).			
	<b>Street photography</b> –the business of operating on public space taking photographs, for profit or gain, of any person or persons upon public space with the intent to immediately, or within a reasonably brief period of time, deliver the photograph to the purchaser.			
	<b>VDZ</b> – shall have the same meaning as a Vending Development Zone.			
	<b>Vending business</b> –a business venue for the vending of food, products, services, or merchandise and operated by a licensed vendor.			
	<b>Vending Business License</b> –the basic business license with a vending endorsement issued by the Department of Consumer and Regulatory Affairs.			
	<b>Vending cart</b> –a wheeled, non-motorized, self-contained apparatus designed to be pulled by a vehicle or pushed by hand, designed to be operated from a sidewalk Vending Location, and from which food, products, merchandise, or services are intended to be vended.			
	<b>Vending depot</b> –any business that supplies vendors with merchandise, products, or food items; or that, for a fee, stores, services or maintains vending stands, carts, or vehicles.			
	<b>Vending Development Zone</b> –a specific vending area created pursuant to § 560.			
	<b>Vendor Employee Identification Badge</b> –the badge issued by the Director of the Department of Consumer and Regulatory Affairs to a person employed by a licensed vendor pursuant to § 553.			

	<b>Vending establishment</b> –the actual structure that will constitute the means by which a vendor will offer goods or food for sale to the public, including vending vehicles, vending stands, and vending carts.			
	<b>Vending Location</b> –any of the locations in the public space identified by the Director of the District Department of Transportation as being suitable for vending.			
	<b>Vending Site Permit</b> –the permit issued by the Director of the Department of Consumer and Regulatory Affairs allowing for vending from the public space.			
	<b>Vending stand</b> –a table or other similar, approved structure used by a vendor for displaying merchandise, products, or food that is offered for sale, or offering a service in exchange for a fee.			
	<b>Vending vehicle</b> –a wheeled, self-contained vehicle used for the purpose of selling food, merchandise, products, or services upon the area of a street generally reserved for vehicular traffic or vehicular parking. The term “vending vehicle” may include trailers and self-propelled vehicles.			
	<b>Vendor</b> –any person engaged in selling goods and services exclusively from the public space and for the immediate delivery upon purchase.			

