

	CHAPTER 5 VENDORS	2010 Comments	2012 Comments
	SUBCHAPTER A: GENERAL PROVISIONS		.
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.
501	AGENCY RESPONSIBILITIES		
	SUBCHAPTER B: VENDING LICENSES, PERMITS, AND AUTHORIZATIONS		
502	GENERAL LICENSURE REQUIREMENTS		
503	VENDING BUSINESS LICENSE: CLASSES OF LICENSES		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.
504	VENDING BUSINESS LICENSE: APPLICATION & FEES		
505	VENDING BUSINESS LICENSE: ISSUANCE		
506	VENDING BUSINESS LICENSE: EXPIRATION AND RENEWAL		
507	VENDING BUSINESS LICENSE: DENIAL, SUSPENSION, REVOCATION, AND SEIZURE		
508	VENDING SITE PERMIT: GENERAL REQUIREMENTS AND FEES		
509	VENDING SITE PERMIT: APPLICATION		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.
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		The vending moratorium lives on, 14 years after it was implemented.
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		
SUBCHAPTER C: VENDING LOCATIONS PART 1: GENERAL			
520	VENDING LOCATIONS: GENERAL		
PART 2: SIDEWALK VENDING LOCATIONS			
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		
PART 3: ROADWAY VENDING LOCATIONS			
526	VENDING LOCATIONS: ROADWAY VENDING LOCATIONS: GENERAL		
527	VENDING LOCATIONS: ROADWAY VENDING LOCATIONS: AUTHORIZED LOCATIONS		
528	VENDING LOCATIONS: ROADWAY VENDING LOCATIONS: ADDITIONAL LOCATIONS		
PART 4: ASSIGNMENT OF VENDING LOCATIONS			
529	ASSIGNMENT OF SIDEWALK VENDING LOCATIONS		
530	ASSIGNMENT OF ROADWAY VENDING LOCATIONS		
PART 5: MISCELLANEOUS			
531	PUBLIC MARKETS		
532	TEMPORARY RELOCATION OF VENDORS		
SUBCHAPTER D: DESIGN STANDARDS, OPERATIONAL STANDARDS, AND			

INSPECTIONS PART 1: DESIGN STANDARDS

- 533 DESIGN STANDARDS: GENERAL
- 534 DESIGN STANDARDS: VENDING CARTS
- 535 DESIGN STANDARDS: VENDING VEHICLES
- 536 DESIGN STANDARDS: VENDING STANDS
- 537 DESIGN STANDARDS: FOOD VENDING CARTS AND VEHICLES
- 538 DESIGN STANDARDS: ADVERTISING
- 539 DESIGN STANDARDS: PHASE-IN PERIOD

PART 2: OPERATIONAL STANDARDS

- 540 OPERATIONAL STANDARDS: GENERAL
- 541 OPERATIONAL STANDARDS: AUTHORIZED HOURS OF OPERATIONS
- 542 OPERATIONAL STANDARDS: PLACEMENT OF VENDING VEHICLES, VENDING CARTS, AND VENDING STANDS
- 543 OPERATIONAL STANDARDS: PLACEMENT OF EQUIPMENT AND RELATED ITEMS
- 544 OPERATIONAL STANDARDS: FOOD PREPARATION AND HANDLING
- 545 OPERATIONAL STANDARDS: FIRE SAFETY
- 546 OPERATIONAL STANDARDS: USE OF AMPLIFICATION SYSTEMS

PART 3: INSPECTIONS

- 547 INSPECTIONS: FOOD PREPARATION AND HANDLING
- 548 INSPECTIONS: DESIGN STANDARDS
- 549 INSPECTIONS: FIRE SAFETY

PART 4: OTHER STANDARDS OF OPERATION		
550	MAINTENANCE STANDARDS	
551	DISPLAY OF LICENSES, PERMITS, AND CERTIFICATES	
552	MOTOR VEHICLE REGISTRATION AND INSPECTION OF VENDING VEHICLES AND CARTS	
553	EMPLOYEES OF LICENSED VENDORS	
554	LITTERING AND CUSTOMER LINES	
555	DISPLAY OF SAMPLE ITEMS	
556	MOBILE ROADWAY VENDING	
557	PURCHASE OR RECEIPT OF STOCK	
558	PLACING VENDING BUSINESS LICENSES ON HOLD	
559	REQUIREMENT TO UPDATE INFORMATION	
SUBCHAPTER E: VENDING DEVELOPMENT ZONES AND SPECIAL EVENTS		
560	VENDING DEVELOPMENT ZONES	
561	SPECIAL EVENTS	
SUBCHAPTER F: STREET PHOTOGRAPHY		
562	STREET PHOTOGRAPHY: REQUIREMENTS AND RESTRICTIONS	
SUBCHAPTER G: SOLICITING		
562	SOLICITING: GENERAL PROVISIONS	
SUBCHAPTER H: MISCELLANEOUS PROVISIONS		
563	VENDING DEPOTS	
564	PENALTIES	
565	SEVERABILITY	
599	DEFINITIONS	

500	<u>SUBCHAPTER A: GENERAL PROVISIONS</u>		
	PURPOSE		
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 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 guidelines 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
500.3	Nothing in this chapter is intended to interfere with the exercise of activities pursuant to 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.)).	Good.	Same comment as before
501	AGENCY RESPONSIBILITIES		
501.1	<p>The Director of the Department of Consumer and Regulatory Affairs (hereinafter Director) shall be responsible for:</p> <p>a) Coordinating 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>(d) Enforcing this chapter’s provisions, including the requirement that vendors vend only from their assigned Vending Location; provided, that the Director shall not be responsible for enforcing the application of the Food Code to vendors;</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>(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>(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>(h) Establishing standards regarding the design, maintenance, and operations of vendors and vending equipment.</p>	<p>Wouldn't “the market” be a better arbitor of this than DCRA?</p> <p>Again, wouldn't “the market” tend to lead vendors to make rational decisions?</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>Based on all the various certificates and authorizations required here, the database needs to have more fields than this...</p> <p>Same comment as before</p> <p>Same comment as before. There are a number of vending locations (e.g. outside nightclubs) where extended hours are 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).</p>
501.2	<p>The DDOT Director shall be responsible for:</p> <p>(a) Designating, modifying, and waiving, as appropriate, the standards for Vending Locations, pursuant to § 520 and § 528;</p>	<p>As we read these regulations, there are no “standards” whatsoever for vending locations, merely locations where vending is prohibited.</p>	<p>Same comment as before</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>(c)Creating and maintaining a database and map of all approved Vending Locations; and</p> <p>(d)Assisting, as appropriate, with the enforcement of the provisions of this chapter.</p>	<p>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>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 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>
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>(b)Enforcing any criminal laws, including laws regarding assault, harassment, and intimidation, in connection with vending; and</p> <p>(c) Assisting with the enforcement of the provisions of this chapter.</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>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</p>

			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.
501.4	<p>The Department of Health (DOH) Director shall be responsible for:</p> <p>(a)Designating the categories of food that may be vended under a specific class of Vending Business License and, where authorized under this chapter, designating specific categories of food that may be vended at a specific Vending Location;</p> <p>(b)Reviewing and either approving or denying applications for licenses or other certificates of authority required under the Food Code for the vending of food from public space;</p> <p>(c)Regularly inspecting food vending operations; and</p> <p>(d)Enforcing the application of the Food Code to vendors.</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.	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 for preventing certain types of food from being vended at certain locations.
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.
	<u>SUBCHAPTER B: VENDING LICENSES, PERMITS, AND OTHER AUTHORIZATIONS</u>		
502	GENERAL LICENSURE REQUIREMENTS		
502.1	No person shall vend any product, service, merchandise, or food from public	In theory, this is the right	Same comment as before. We

	<p>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 Director, except as provided by § 502.3;</p> <p>(b)Vending Site Permit assigned pursuant to § 508, unless the vendor is a Roadway Vendor pursuant to § 556;</p> <p>(c)Health inspection certificate issued by the DOH Director, if the person vends food;</p> <p>(d)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</p> <p>(e)Permit from FEMS, if the vendor uses propane gas or solid fuels, such as wood pellets or charcoal.</p>	<p>approach. But the way this is organized in these regulations is completely unworkable.</p>	<p>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>
502.2	<p>The licenses and permits required under § 502.1 shall be subject to any conditions imposed by the District agency issuing or assigning the license, permit, or certificate.</p>	<p>The conditions ought to be spelled out in regulation.</p>	<p>Same comment as before</p>
502.3	<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 public market licensed under § 531;</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</p>	<p>Ok</p> <p>ok</p> <p>ok</p> <p>Good</p> <p>ok</p>	

	permitted Special Event.		
502.4	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.
503	VENDING BUSINESS LICENSE: CLASSES OF LICENSES		
503.1	<p>The 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 space under §503.3; 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 other than 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 and other open markets on public or private space for the sale of agricultural goods and other farm products, or other food, merchandise, or services that the Director designates; and</p>	<p>The basic structure of this licensing scheme makes sense.</p> <p>Merchandise ought to include non-potentially-hazardous food 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. 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</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 Director designates.		what taxes do market operators pay under this regulation?
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 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. & 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>Evidently the idea is that vendors at public markets are not “vendors” because they are licensed, so they can sell this stuff?</p> <p>This is arbitrary</p> <p>As is this</p> <p>And this</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 9901 of subtitle 25 of the District of Columbia Municipal Regulations; and</p> <p>(m) Any plants, other than non-controlled and non-hazardous cut flowers, dried flowers, and potted plants.</p>		See our prior comment. DCRA just let’s this go under the current enforcement regime...
504	VENDING BUSINESS LICENSE: APPLICATION AND FEES		
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, food, or service to be offered for sale;</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>“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>As does this.</p>	Presumably a vending business can hold more than one class of license.

	<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>(i)If the applicant is applying for a Class A license</p> <p> (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</p> <p> (2) If the applicant will be using propane or open flame, a propane or open flame</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>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.</p>	<p>Same comment as before. 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>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>permit issued by FEMS; and</p> <p>(j)Any additional information required by the Director or, for Class A licenses, by the DOH Director.</p>	<p>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 prior comment.</p>
504.3	<p>The 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>(c)The person either 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; or</p> <p>(3) Arrested and convicted for a criminal offense while vending with a license.</p>	<p>This provision is both vague and overly restrictive.</p> <p>There is no indication about how far backward this goes...And we are well aware about the accuracy of DCRA's vending-related record-keeping through the years.</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 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</p>

		The standard here, by the way, should be “convicted”...	citation is not the same as a conviction.
504.4	An applicant whose license application is rejected pursuant to § 504.3 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.	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?	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.
504.5	No person shall be eligible to be issued a Vending Business License unless the person is at least eighteen (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 of title 17 of the District of Columbia Municipal Regulations.		How were these fees established? Under DC law, these fees should be reasonably associated with the enforcement costs.
505	VENDING BUSINESS LICENSE: ISSUANCE		
505.1	Within forty-five (45) days of filing a complete application for a Vending Business License, the applicant shall be notified by the 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
505.2	If the application is approved, the Director shall issue a Vending Business License to the applicant; provided, that if the applicant has applied for a Class A Vending Business License, no license shall be issued by the 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.
505.3	The Vending Business License shall include the vendor’s name, the class of license, and	No photo? No Date of Birth?	See prior comment. One would

	the date of expiration.	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.	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.
505.4	All Vending Business Licenses shall be valid for two (2) years from the date of issuance, unless the Director designates a shorter time period.	Are the fees pro-rated if the designated period is less than two years?	
505.5	If the application is denied, the Director shall follow the procedures set forth in § 507.		
505.6	The Director 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 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>
506	VENDING BUSINESS LICENSE: EXPIRATION AND RENEWAL		
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?

506.2	Not less than forty-five (45) days before the expiration of the Vending Business License, a licensee shall submit a renewal application to DCRA on a form prescribed by the Director.	Will a notice be sent to vendors as they are to other business license holders?	Same comment
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 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?
506.5	Upon the expiration of a person's Vending Business License, the 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
507	VENDING BUSINESS LICENSE: DENIAL, SUSPENSION, REVOCATION, AND SEIZURE		
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, merchandise, or food;</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>(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>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</p>	Same basic comments. Now the suspension or revocation appears to be for one year.

	<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 pursuant to §502.4 and 510.4, respectively;</p> <p>(g)The vendor is found to have violated 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)Sections 533 through 543;</p> <p>(2)Sections 545 through 559; or</p> <p>(3)Section 562; or</p> <p>(h)The vendor is found to have violated § 544 of this chapter.</p>	<p>regulatory uncertainty.</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>
507.2	<p>The Director may summarily suspend 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>(b)The sale of adulterated food, as the term is defined in section 9901 of subtitle A of title 25 of the District of Columbia Municipal Regulations, when a determination is made by the DOH Director that the food is adulterated;</p>	<p>DCRA should have to pass a burden of proof to show merchandise is counterfeit before seizing a vendor's license.</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>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>We have the records from federal court that proves that DCRA does not take counterfeiting seriously.</p>

	<p>(c) Failure to provide all required certificates of authority upon demand by an authorized District government official; or</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.</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>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 Director's intent to revoke or suspend the license and stating that they are entitled to appeal the revocation or suspension to the Office of Administrative Hearings.		Again, this is a huge due-process concern. Read this provision again! It says, 1) a vendor's license is suspended or revoked, 2) then they get a notice from the Director saying the Director <i>intends</i> to suspend or revoke the license the Director has already revoked, and 3) there is an appeal process. Shouldn't the hearing occur PRIOR to the revocation?
507.4	If a person's Vending Business License is summarily suspended pursuant to § 507.2, 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". That way a vendor	

		can work until his guilt or innocence can be proven.	
507.5	A notice issued by the 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 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.	
507.7	A vendor shall surrender his or her Vending Business License and Vending Site Permit promptly to the 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 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.		
508	VENDING SITE PERMIT: GENERAL REQUIREMENTS AND FEES		
508.1	No person may vend from the public space in the District of Columbia without a Vending Site Permit issued by the Director pursuant to this chapter; except that that Class C Public Market managers may manage vendors from public space upon the issuance of a Public Space Permit issued by DDOT and roadway vending vehicles may operate pursuant to §556.	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?	<p>Actually the requirements for Site Permits are clear, but the authority doesn’t come from this regulation—Rather, it is a requirement in law.</p> <p>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”;</p>

			<p>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 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>
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 under § 531; or</p> <p>(b)Persons authorized to sell products, merchandise, food, or services at a licensed or permitted Special Event.</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</p>	

		individual site permits. We have seen vendors being ticketed for being only inches too close or too far from the curb.	
508.4	A vendor may vend only at the assigned Vending Location as stated on his or her Vending Site Permit.		Except when the Vending Site Permit doesn't state a location, even though the law says it must.
508.5	In addition to the authority in § 520.2, the Director, the DDOT Director, or MPD may eliminate a Vending Location without prior notice for public safety or transportation reasons, construction requirements, or Special Event operations.	With notice?	Asked and answered in this draft
508.6	The 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?
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?
508.8	The monthly fee for a monthly Vending Site Permit for roadway vending at locations designated by § 526 shall be one hundred and twenty-three dollars (\$123) 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?
508.9	The monthly fee for a monthly Vending Site Permit in the Nationals Park Vending Zone shall be one hundred twenty-three dollars (\$123) per lottery.	Shouldn't the fee be based on the number of home games?	See prior comment
509	VENDING SITE PERMIT: APPLICATION		
509.1	A person shall submit an application for a Vending Site Permit to the 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 Director separately from an application for a Vending Business License if:		

		<p>space. We don't have the space here to explain how wrong-headed a lottery process is to assign vending sites.</p>	<p>This whole lottery idea is intended to punish long-time vendors working at well-established sites.</p>
<p>(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);</p>		<p>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.</p>	
<p>(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 of value; and</p>		<p>DCRA has no way to know whether any transfers occurred, because they most certainly occurred privately. And what duration of time constitutes “continuously”?</p>	<p>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.</p>
<p>(3)The vendor is vending in a location that is in compliance with this chapter;</p>			
<p>(d)The merchandise, food, or services is authorized to be vended at the available Vending Location;</p>		<p>We find nothing in these regulations to specify the basis by which certain goods or services are “authorized” to be sold a certain locations. Who is this “central planner” that can maximize the utility for vending and for all other uses of public</p>	

	(e)The applicant provides a Clean Hands Certification; and (f)The applicant has paid all the required fees.	space? DCRA? And they do this by lottery?	
510.2	No more than one (1) vendor may occupy an assigned Vending Location, unless the 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 th Street.	This should be an option on the application.
510.3	The Vending Site Permit shall delineate the specific site, zone, dates and time 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? .
511	VENDING SITE PERMIT: EXPIRATION AND RENEWAL		
511.1	A Vending Site Permit, other than for 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 Director.	Will the permit fee be adjusted if the term is reduced?	Same comment
511.2	A vendor shall apply for renewal of the vendor’s annual Vending Site Permit, other than for roadway vending or Nationals Park Vending Zone vending sites, at least forty- five (45) days prior to the expiration date on the permit.	Same as before...Will DCRA mail a notice of renewal just as they do for other licensees?	Same comment

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 is no longer valid and the vendor shall immediately surrender the Vending Site Permit to the Director. If the Vending Site Permit is not immediately surrendered, the 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 § 558.	Does the Director have authority to seize DOH issued permits, as well, under 506.5?	
512	VENDING SITE PERMIT: DENIAL, SUSPENSION, REVOCATION, AND SEIZURE		
512.1	<p>The 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 not a location that is eligible for authorization as a Vending Location under this chapter or any other applicable law or regulation;</p> <p>(b)The DDOT Director eliminated the Vending Location associated with the Vending Site Permit;</p> <p>(c)The Vending Location, or the vending-related activities at the Vending Location, constitute a threat to public safety; or</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,</p>	<p>This is a tautology. By definition, a vendor cannot GET a site permit that is not eligible. Can they?</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</p>	<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>Same comment. We think that ONLY MPD should have the authority to make this kind of determination.</p> <p>Same comment</p>

	convey, or sell the Vending Site Permit to another person.	performance at a Vending Site Permit in these regulations that we can find.	
512.2	In situations other than those enumerated in § 512.1, upon the suspension or revocation of a vendor's Vending Site Permit, the 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.	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.	Same comment, and the same due-process concerns as before. The hearing should come <i>before</i> the action.
512.3	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. 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 § 558		
512.4	If a vendor's Vending Site Permit is summarily suspended or revoked by the Director under this section, the vendor may appeal the summary suspension or revocation to the Office of Administrative Hearings.	See comments above.	Same comment
512.5	A notice issued by the 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.		
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 § 558.	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	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

		the “vending lottery” above....	at a site (authorized or not) where there is money to be made.
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
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.		
513	HEALTH INSPECTION CERTIFICATE: GENERAL		
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 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 Vending Business License or a Vending Site Permit for a Class A 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
514	HEALTH INSPECTION CERTIFICATE: APPLICATION		
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 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.	This should be a separate process from Vending licensure.	Same comment

515	HEALTH INSPECTION CERTIFICATE: ISSUANCE		
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, 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, all equipment and utensils, and the food supplies;</p> <p>(c)A review of the preparation and holding procedures for the food; including overnight refrigeration and overall compliance with the Food Code; and</p> <p>(d)DOH has issued its approval of any plans for health-related compliance.</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
515.3	The DOH Director shall include the vehicle tag number of the vending vehicle or cart on the health inspection certificate.		
516	HEALTH INSPECTION CERTIFICATE: SUSPENSION		
516.1	A health inspection certificate, and the associated Class A Vending Business License, may be summarily suspended by the DOH Director for Food Code violations pursuant to Section A4409 of Title 25 of the District of Columbia Municipal Regulations.	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.
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.		
517	FOOD PROTECTION MANAGER CERTIFICATE		
517.1	No person shall operate a Class A vending business unless that person, or an individual employed by that person, holds a valid food protection manager certificate and a DOH-issued certified food protection manager identification card.	As we understand the Health regulations, a certified food protection manager needs to be <u>on-site</u> during each hour of	Same comment. Elsewhere in these regulations, that standard is ignored. Of course, the standard should only apply to vendors

		operation.	selling potentially hazardous food.
517.2	Application for a food protection manager certificate and certified food manager identification shall be made to DOH on forms and in the manner prescribed by the DOH Director.		
518	PROPANE AND OPEN FLAME PERMIT		
518.1	<p>No person shall operate a vending vehicle, cart, or stand that uses propane or open flames without meeting the following 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.		
519	HOOD SUPPRESSION SYSTEM APPROVAL		
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.		
	<u>SUBCHAPTER C: VENDING LOCATIONS</u> <u>PART 1: GENERAL</u>		
520	VENDING LOCATIONS: GENERAL		
520.1	The DDOT Director shall approve Vending Locaitons that meet the standards for locations on streets, sidewalks, and other public spaces where vending may be permitted pursuant to § 521 and § 528.	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	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,

		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 experience should be valued in the determination of vending sites.	(except, inexplicably, for food trucks, even though the law requires they have Site Permits, too). So the result is that the moratorium for sidewalk vending sites lives on, and on, and on.
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 vending site 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>
520.3	The DDOT Director shall create and maintain an accurate and updated map of approved Vending Locations. This information shall be published on the websites of DDOT (ddot.dc.gov) and DCRA (dcra.dc.gov).	Good	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.
	<u>PART 2: SIDEWALK VENDING LOCATIONS</u>		
521	VENDING LOCATIONS: SIDEWALK VENDING		
521.1	All sidewalk Vending Locations shall be in accordance with the following standards:	Did the DDOT Director actually	Same comment. Earlier, we see

		sign off 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.	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.
(a)Sidewalk Vending Locations shall only be located along streets within: (1)The Central Vending Zone; (2)Neighborhood Vending Zones; (3)The Old Georgetown Vending Zone; and (4)The Nationals Park Vending Zone;		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. Except, presumably, in so-called Vending Development Zones	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 Nighborhood 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 fee, and the Neighborhood Zone, Central Zone distinction should just go away. Presumably, DCRA just wants to keep the income stream.
(b)No more than three (3) sidewalk Vending Locations shall be designated on any side of any city block;			
(c)No sidewalk Vending Location shall be designated:			
(1)In front of a predominately residential building outside the Central Vending Zone;			

	<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>For residential buildings located on a corner, does that mean both facades are off limits?</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?</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>
--	---	--	---

	<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>(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>(2)The street is specifically exempted in § 522; or</p> <p>(3)The DDOT Director waives this restriction pursuant to § 521.2.</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>Depending upon how you read the 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>This is arbitrary. Clear space requirements should be based more on pedestrian traffic.</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>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.</p> <p>Same comment. This waiver should be on a Site Permit, not in the middle of a regulation.</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 police or fire station;</p> <p>(2)Ten feet (10 ft.) of any other driveway;</p> <p>(3)Ten feet (10 ft.) of an alley;</p> <p>(4)Ten feet (10 ft.) of another sidewalk Vending Location;</p> <p>(5)Twenty feet (20 ft.) of the street-level entry to a Metrorail escalator;</p> <p>(6)Ten (10 ft.) of the street-level door to a Metrorail elevator;</p> <p>(7)A marked loading zone, entrance zone, or parking space designated for diplomatic parking, or other curbside location restricted for certain vehicles or uses;</p> <p>(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;</p> <p>(9)Five feet (5 ft.) of a fire hydrant;</p> <p>(10)One hundred feet (100 ft.) of the main entrance to a building that is predominantly</p>	<p>This is arbitrary.</p> <p>What does this mean in practice? This places vending stands closer to Metro entrances than they are now!</p> <p>Same comment.</p> <p>Presumably the DDOT Director won't approve a request to prohibit vending within a half-mile of a courthouse or a school...</p>	<p>Same comment</p> <p>At least it doesn't say, 20 feet from the Metro parapet, as the current regulation does....</p> <p>What does the new language mean?</p> <p>Same comment</p> <p>Same comment as for Courthouses</p>
---	--	---

	<p>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 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>		We appreciate that DCRA went back to the old standard here.
521.2	Upon the request of the 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 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.
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...”
522	VENDING LOCATIONS: CENTRAL VENDING ZONE		
522.1	<p>The Central Vending Zone shall have the following boundaries:</p> <p>(a)Beginning at the northeast corner of Massachusetts Avenue, NW at 11th 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>	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 site, and since each site is unique, the DDOT Director should have discretion to open up sites in Commercial,	<p>Note: did not update punctuation or numbering in this section.</p> <p>See prior comment. The right way to do this is to open up potential locations in the Commercial, Industrial, University and Government zones, whereby vendors would</p>

<p>(e) North along the west curb of 9th Street, NW to the north curb of N Street, NW to the east curb of 6th Street, NW;</p> <p>(i) South along the east curb of 6th Street, NW to the north curb of Massachusetts Avenue, NW;</p> <p>(j) East along the north curb of Massachusetts Avenue, NW to the west curb of North Capitol Street, NW;</p> <p>(k) North along the west curb of North Capitol Street, NW to the north curb of Q Street, NW;</p> <p>(l) East along the north curb of Q Street, NE to the west curb of Eckington Place, NE;</p> <p>(m) North along the west curb of Eckington Place, NE to the north curb of R Street, NE;</p> <p>(n) East along the north curb of R Street, NE in a straight line to the north curb of New York Avenue, NE;</p> <p>(o) East along the north curb of New York Avenue, NE to the east curb of 9th Street, NE;</p> <p>(p) South along the east curb of 9th Street, NE to the east curb of Brentwood Parkway, NE;</p> <p>(q) South along the east curb of Brentwood Parkway, NE to the east curb of 6th Street, NE;</p> <p>(r)South along the east curb of 6th Street, NE to the south curb of M Street, NE;</p> <p>(s)West along the south curb of M Street, NE to the east curb of 5th Street, NE;</p> <p>(t)South along the east curb of 5th Street, NE to the south curb of H Street, NE;</p> <p>(u)West along the south curb of H Street, NE to the east curb of 3rd Street, NE;</p>	<p>Industrial, University and Government zones.</p>	<p>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>
---	---	--

(v)South along the east curb of 3rd Street, NE to the north curb of Independence Avenue, SE;

(w)West along the north curb of Independence Avenue, SE to the east curb of 2nd Street, SE;

(x)South along the east curb of 2nd Street, SE to the south curb of C Street, SE;

(y)West along the south curb of C Street, SE to the east curb of 1st Street, SE;

(z)South along the east curb of 1st Street, SE to the south curb of D Street, SE;

(aa)West along the south curb of D Street, SE to the east curb of New Jersey Avenue, SE;

(bb)South along the east curb of New Jersey Avenue, SE to the south curb of Interstate 695;

(cc) East along the south curb of Interstate 695 to east curb of Water Street, SE;

(dd) South from the east curb of Water Street, SE in a straight line to the west bank of the Anacostia River, SE;

(ee) West along the north bank of the Anacostia River, SE to the east curb of 11th Street, SE;

(ff) South along the east curb of 11th Street, SE to the east curb of Martin Luther King, Jr. Avenue, SE;

(gg) South along the east curb of Martin Luther King, Jr. Avenue, SE to the north curb of Suitland Parkway, SE;

(hh) North along Suitland Parkway, SE to the South Capitol Street Bridge;

(ii) West along the South Capitol Street Bridge to the east bank of the Anacostia River, SE;

	<p>(jj)South along the west bank of the Anacostia River, SE to the east bank of the Potomac River, SW;</p> <p>(kk)North along the east bank of the Potomac River, SW to the west curb of the Potomac Parkway to Rock Creek Parkway;</p> <p>(ll)North along Rock Creek Parkway in a straight line to the north curb of N Street, NW;</p> <p>(mm) East along the north curb of N Street, NW to the west curb of New Hampshire Avenue, NW;</p> <p>(nn)Northeast along the west curb of New Hampshire Avenue, NW to the west curb of 20th Street, NW;</p> <p>(oo)North along the west curb of 20th Street, NW to the north curb of P Street, NW;</p> <p>(pp)East along the north curb of P Street, NW to west curb of Dupont Circle, NW;</p> <p>(qq)North along the west curb of Dupont Circle, NW to the north curb ofMassachusetts Avenue, NW; and</p> <p>(rr)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.
522.3	Except for Vending Locations approved as part of a Vending Development Zone under §	a) These restrictions are random	Same comment.

<p>560, no sidewalk 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>(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>on their face.</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>If DDOT is responsible for 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 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>
--	---	---

(p)East and west sides of Half Street, SW between M Street, SW and I Street, SW;

(q)East and west sides of New Hampshire Avenue, NW between Virginia Avenue, NW and I Street, NW;

(r)East and west sides of 1st Street, SW between Independence Avenue, SW and Canal Street, SW;

(s)East and west sides of 1st Street, SW between M Street, SW and mid- block between M Street and N Street, SW;

(t)East and west sides of 2nd Street, SE between M Street, SE and D Street, SE;

(u)East and west sides of 3rd Street, SW between M 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;

<p>(ee)East and west sides of 6th Street, NW between F Street, NW and H Street, NW;</p> <p>(ff)East and west sides of 7th Street, NW between F Street, NW and H Street, NW;</p> <p>(gg)East and west sides of 3rd Street, NW between F Street, NW and G Street, NW;</p> <p>(hh)East and west sides of 4th Street, NW between F Street, NW and G Street, NW;</p> <p>(ii)North side of D Street, NW between 3rd Street, NW and 4th Street, NW;</p> <p>(jj)North side of D Street, NW between 5th Street, NW and 9th Street, NW;</p> <p>(kk)North side of E Street, NW between 1st Street, NW and 2nd Street, NW;</p> <p>(ll)North side of E Street, NW between 3rd Street, NW and 4th Street, NW;</p> <p>(mm) North side of F Street, NW between 21st Street, NW and 22nd Street, NW;</p> <p>(nn)North side of N Street, NW between 21st Street, NW and New Hampshire Avenue, NW;</p> <p>(oo)North side of Pennsylvania Avenue, NW between 9th Street, NW and 10th Street, NW;</p> <p>(pp)North side of Virginia Avenue, NW between 23rd Street, NW and 24th Street, NW;</p> <p>(qq)North and south sides of C Street, SE between South Capitol Street, SE and 3rd Street, SE;</p> <p>(rr)North and south sides of C Street, SW between 6th Street, SW and South Capitol Street, SW;</p> <p>(ss)North and south sides of C Street, NW between 21st Street, NW and 23rd Street, NW;</p> <p>(tt)North and south sides of Connecticut Avenue, NW between N Street, NW and Dupont Circle, NW;</p>		
--	--	--

(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 7th Street, SW;

(xx) North and south sides of E Street, NW between 5th Street, NW and 14th Street, NW;

(yy) North and south sides of E Street, NW between 21st Street, NW and 23rd 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, SE;

(ddd) North and south sides of I Street, SW between 7th Street, SW and South Capitol Street, SW;

(eee)North and south sides of I Street, NW between 13th Street, NW and 16th Street, NW;

(fff)North and south sides of I Street, NW between 26th Street, NW and New Hampshire Avenue, NW;

(ggg)North and south sides of Jefferson Place, NW between 18th Street, NW and 19th Street, NW;

(hhh)North and south sides of K Street between Half Street, SW and 3rd Street, SE;

<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 26th 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 25th 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 28th Street, NW;</p> <p>(ooo) North and south sides of Massachusetts Avenue, NW between Thomas Circle, NW and 11th Street, NW;</p> <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 25th 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 7th Street, NW (Verizon Center);</p> <p>(ttt) North and south sides of H Street, NW between 6th Street, NW and 7th 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 4th 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, 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	VENDING LOCATIONS: OLD GEORGETOWN VENDING ZONE		
523.1	No vendor shall vend in or upon any highway or public space within the area known as Old Georgetown enclosed by the following continuous boundary, except as specifically provided in § 523.2:	Note: The DC Vendors Caucus somehow did not include this section in its 2010 comments.	

	<ul style="list-style-type: none">(a) Bounded on the east by Rock Creek and Potomac Parkway from the Potomac River to the north boundary of Dumbarton Oaks Park;(b) Bounded on the north by the north boundary of Dumbarton Oaks Park, Whitehaven Street, NW, and Whitehaven Parkway, NW, to 35th 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;(c) Bounded on the west by Glover Archibold Park from Reservoir Road, NW, to the Potomac River; and(d) Bounded on the south by the Potomac River and the Rock Creek and Potomac Parkway.		
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> <ul style="list-style-type: none">(a) Only within fifty feet (50 ft.) of the intersections of the cross streets with Wisconsin Avenue, NW;(b) Only on the sidewalks designated in paragraph (d);(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(d) Only at the following locations:<ul style="list-style-type: none">(1) Northern sidewalk of P Street, NW, east of Wisconsin Avenue, NW;(2) Northern sidewalk of P Street, NW, west of Wisconsin Avenue, NW;(3) Northern sidewalk of O Street, NW, east of Wisconsin Avenue, NW;(4) Northern sidewalk of O Street, NW, west of Wisconsin Avenue, NW;(5) Northern sidewalk of Dumbarton Street, NW, east of Wisconsin Avenue, NW;(6) Southern sidewalk of Dumbarton Street, NW, east of Wisconsin Avenue, NW;(7) Northern sidewalk of N Street, NW, west of Wisconsin Avenue, NW; (two (2) Vending Locations);(8) Southern sidewalk of N Street, NW, west of Wisconsin Avenue, NW;(9) Southern sidewalk of N Street, NW, east of Wisconsin Avenue, NW;(10)Northern sidewalk k of Prospect Street, NW, west of Wisconsin Avenue, NW; and(11) Southern sidewalk of Prospect Street, NW, west of Wisconsin Avenue, NW.		Has DDOT approved these sites, or has DCRA merely copied them from the current regulation?

524	VENDING LOCATIONS: NEIGHBORHOOD VENDING ZONES		
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>(6)East Capitol Street from 19th Street, SE to 22nd Street, SE (Zone GOV): The following restriction applies:</p> <p style="padding-left: 40px;">(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</p>		<p>We would also like to see DCRA publish these areas as maps instead of legal descriptions.</p>

(Zone C-1);

(7)Nannie Helen Burroughs Avenue, NE from Minnesota Avenue, NE to 48th Street, NE (Zone C-1 and C-M-1);

(8)Pennsylvania Avenue, SE from Alabama Avenue, SE to Fort Davis Street, SE (Zone C-2-A); and

(9)Pennsylvania Avenue, SE from Fairlawn Avenue, SE to 27th Street, SE (Zone C-2-A).

(c)Far Southeast and Southwest area:

(1)Martin Luther King, Jr. Avenue, SE from Good Hope Road, SE to Morris Road, SE (Zone C-3-A);

(2)Good Hope Road, SE from Martin Luther King, Jr. Avenue, SE to 13th Street, SE (Zone C-3-A);

(3)Naylor Road, SE from Alabama Avenue, SE to Denver Street, SE (Zone C-3-A);

(4)Naylor Road, SE from 30th Street, SE to Southern Avenue, SE (Zone C-1);

(5)Alabama Avenue, SE from 15th Street, SE to Stanton Road, SE (Zone C-1 and C-2-B);

(6)Livingston Road, SE from 3rd Street, SE to South Capitol Street, SE (Zone C-3-A);

(7)Martin Luther King, Jr. Avenue, SE from 4th Street, SE to Milwaukee Place, SE (Zone C-2-A);

(8)Martin Luther King, Jr. Avenue, SE from Upsal Street, SE to Halley Place, SE (Zone C-1);

(9)South Capitol Street from Martin Luther King, Jr. Avenue, SE to Chesapeake Street, SE (Zone C-2-A);

(10)Savannah Street, SE from 22nd Street, SE to 23rd Street, SE (Zone C-1); and

(11)Wheeler Road, SE from Wahler Place, SE to Barnaby Terrace, SE (Zone C-1).

(d)Mid-city area:

(1)Mount Pleasant Street, NW from Irving Street, NW to Park Road, NW (Zone C-2-A);

(2)7th Street, NW from Florida Avenue, NW to T Street, NW (ZoneC-2-B);

(3)14th Street, NW from Columbia Road, NW to Meridian Place, NW (Zones C-2-A and C-3-A);

(4)6th Street, NW from Fairmont Street, NW to College Street, NW (Zone R-5-B). The following restrictions apply:

(A)One (1) vendor in the first one hundred feet (100 ft.) of 6th Street NW south of the Fairmont Street, NW curb;

(B)Two (2) vendors in the next fifty feet (50 ft.) of 6th Street, NW; and

(C)One (1) vendor in the next 25 feet (25 ft) of 6th Street, NW .

(5)14th Street, NW from S Street, NW to Florida Avenue, NW (ZonesCR and C-3-A);

(6)Columbia Road, NW from Belmont Road, NW to Mozart Place, NW (Zone C-2-B);

(7)Georgia Avenue, NW from Euclid Street, NW to Rock Creek Church Road, NW (Zone C-2-A);

(8)Rhode Island Avenue, NW from T Street, NW to 1st Street, NW (Zone C-2-A); and

(9)Florida Avenue, NW from Rhode Island Avenue, NW to North Capitol Street.

(e)Near Northwest area:

(1)Florida Avenue, NW from Rhode Island Avenue, NW to North Capitol Street (Zone C-2-A);

(2)P Street, NW from 23rd Street, NW to Dupont Circle, NW (Zones C-2-A, C-2-C, and C-2-B);

(3)20th Street, NW from R Street, NW to S Street, NW (Zone C-3-B). The following restriction applies:

(A) Only the west side of 20th Street, NW shall be included in the Neighborhood Vending Zone.

(4)17th Street, NW from Q Street, NW to Riggs Place, NW (Zone C-2-A);

(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);

(6) 7th Street, NW from M Street, NW to N Street, NW (Zone C-2-B);and

(7) 7th Street, NW from O Street, NW to Q Street, NW (Zone C-2-A).

(f)Rock Creek East area:

(1)Georgia Avenue, NW from Rock Creek Church, NW to Varnum Street, NW (Zones C-2-A and C-3-A);

(2)Blair Road, NW from Whittier Street, NW to 5th Street, NW (Zones C- M-1 and C-2-A);

(3)Georgia Avenue, NW from Fern Place, NW to Eastern Avenue, NW (Zone C-2-A);

(4)Georgia Avenue, NW from Gallatin Street, NW to Van BurenStreet, NW (Zones C-2-A and C-3-A);

(5)Riggs Road, NE from South Dakota Avenue, NE to Chillum Place, NE (Zone C-2-A);

(6)Upshur Street, NW from 3rd Street, NW to Rock Creek Church Road, NW (Zone C-1);
and

(7)14th Street, NW from Buchanan Street, NW to Decatur Street, NW (Zones C-1 and C-M-1).

(g)Rock Creek West area:

- (1)Connecticut Avenue, NW from Fessenden Street, NW to Nebraska Avenue, NW (Zone C-1);
- (2)Connecticut Avenue, NW from Livingston Street, NW to Oliver Street, NW (Zone C-1);
- (3)Connecticut Avenue, NW from Macomb Street, NW to Porter Street, NW (Zone C-2-A);
- (4)Connecticut Avenue, NW from Van Ness Street, NW to Albemarle Street, NW (Zone C-3-A);
- (5)Connecticut Avenue, NW from Calvert Street, NW to 24th Street, NW (Zones C-2-A and C-2-B);
- (6)Connecticut Avenue, NW from Hawthorne Street, NW to Jewett Street, NW (Zone C-2-A);
- (7)MacArthur Boulevard, NW at Cathedral Avenue, NW (Zone C-1);
- (8)MacArthur Boulevard, NW from Arizona Avenue, NW to Dana Place, NW (Zone C-2-A);
- (9)MacArthur Boulevard, NW from V Street, NW to U Street, NW (Zone C-2-A);
- (10)Massachusetts Avenue, NW from 48th Street, NW to 49th Street,NW (Zone C-2-A);
- (11)New Mexico Avenue, NW from Embassy Park Drive, NW to Lowell Street, NW (Zone C-1);
- (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.

(13)Wisconsin Avenue, NW from Albemarle Street, NW to Brandywine Street, NW;

(14)Wisconsin Avenue, NW from Harrison Street, NW to Western Avenue, NW (Zones C-2-A, C-2-B, and C-3-A);

(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.

(16)Wisconsin Avenue, NW from Rodman Street, NW to 40th Street, NW (Zones C-1, C-2-A, and C-2-B); and

(17)24th Street, NW from Calvert Street, NW to Connecticut Avenue, NW (Zone C-2-A).

(h)Upper Northeast area:

(1)Allison Street, NE from Michigan Avenue, NE to Eastern Avenue, NE (Zone C-1);

(2)Bladensburg Road, NE from L Street, NE to Mount Olivet Road, NE (Zone C-2-A);

(3)Florida Avenue, NE from West Virginia Avenue, NE to Montello Avenue, NW (Zone C-2-A);

(4)Mount Olivet Road, NE from West Virginia Avenue, NE to Trinidad Avenue, NE (Zone C-2-A);

(5)Rhode Island Avenue, NE from Monroe Street, NE to Eastern Avenue, NE (Zone C-2-A);

(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);

(7)Rhode Island Avenue, NE from 13th Street, NE to 18th Street, NE (Zone C-2-A);

	<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	VENDING LOCATIONS: NATIONALS PARK VENDING ZONE		
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.
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?
525.3	The 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.
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		Telephone notification is not

	mail, or by being listed on the DCRA website (dcra.dc.gov).		appropriate. There must be a documentary trail.
525.6	Legally licensed vendors at the Robert F. Kennedy Memorial Stadium shall receive a preference in the 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.		This system was developed by DCRA Vending Coordinator Sam Williams. We do not believe that it complies with the original intent of the legislation introduced by Councilmember Barry when the Ballpark first opened.
	<u>PART 3: ROADWAY VENDING LOCATIONS</u>		
526	VENDING LOCATIONS: ROADWAY VENDING LOCATIONS: GENERAL		Why the change in punctuation?
526.1	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.		
526.2	A roadway Vendor shall be subject to the provisions of § 556.		
527	VENDING LOCATIONS: ROADWAY VENDING LOCATIONS: AUTHORIZED LOCATIONS		
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 & Space Museum) - Numbers one (1) through six (6);</p> <p>(b)600 Independence Avenue, SW (National Air & Space Museum) - Numbers seven (7) through twelve (12);</p> <p>(c)700 Independence Avenue, SW (Hirshhorn Museum) - Numbers thirteen (13) through eighteen (18);</p> <p>(d) 1400 Constitution Avenue, NW (National Museum of American History) - Numbers nineteen (19) and twenty (20);</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 roadway vending lobby, and proposes to keep a bad system going.</p>	Same comment. The level of regulatory capture here is breathtaking.

	<p>(e) 1200 Independence Avenue, SW (Freer and Sackler Gallery) - Numbers twenty-one (21) and twenty-two (22);</p> <p>(f) 600 Constitution Avenue, NW (National Gallery of Art) - Numbers twenty-three (23) through twenty-six (26);</p> <p>(g) 700 Constitution Avenue, NW (National Gallery of Art) - Numbers twenty-seven (27) through thirty (30);</p> <p>(h) 900 Constitution Avenue, NW (National Museum of Natural History) - Numbers thirty-one (31) through thirty-five (35);</p> <p>(i) 1200 Constitution Avenue, NW (National Museum of American History) - Numbers thirty-six (36) through forty-one (41);</p> <p>(j) 200 15th Street, NW (Ellipse East) - Numbers forty-two (42) through fifty (50);</p> <p>(k) 400 15th Street, NW (Ellipse East) - Numbers fifty-one (51) through fifty-nine (59);</p> <p>(l) 200 17th Street, NW (Ellipse West) - Numbers sixty (60) through sixty-seven (67);</p> <p>(m) 400 17th Street, NW (Ellipse West) - Numbers sixty-eight (68) and sixty-nine (69); and</p> <p>(n) 500 17th Street, NW (State Place) - Numbers seventy (70) through seventy-two (72).</p> <p>(o) 1500 Constitution Avenue, NW - Numbers seventy-three (73) through seventy-four (74).</p> <p>(p) 2100 H Street NW – Numbers seventy-five (75) and seventy-six (76).</p>		
527.2	<p>The DDOT Director shall designate specific portions of the streets listed in § 527.1, in the numbers set forth in § 527.1, as authorized roadway Vending Locations.</p>	<p>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.</p>	<p>Same comment</p>

528	VENDING LOCATIONS: ROADWAY VENDING LOCATIONS: ADDITIONAL LOCATIONS		
528.1	<p>The DDOT Director, in consultation with the DCRA Director, may designate additional roadway Vending Locations to those authorized in § 527.1; provided, that no additional roadway 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>(b) Within a marked loading zone, entrance zone, parking space designated for diplomatic parking, or other curbside zone specifically designated and demarcated as being for transit use or restricted for certain vehicles or uses;</p> <p>(c) On a snow emergency route designated under section 4024 of title 18 of the District of Columbia Municipal Regulations;</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,</p>	<p>See our prior comment, where technically ALL of DC is under the jurisdiction of the US government.</p> <p>This is draconian. Just prohibit roadway vendors from operating during snow emergencies...</p> <p>This should be 20 feet.</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 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>.</p>

	<p>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>(i) Between the south side of Independence Avenue and the north side of Constitution Avenue, bounded by Rock Creek Parkway on the west and 4th Street SE/SW on the east.</p>		<p>Actually, the purpose is clear. Make it impossible for food trucks to compete with Mall Vendors</p> <p>Same comment</p> <p>Same comment</p> <p>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 vendors goal, to keep food trucks out of their territory, is a worthy one. And DCRA delivered! It cannot be more explicit than this.</p>
528.2	<p>Upon the designation of additional roadway Vending Locations, a lottery shall be conducted by the Director to assign these roadway 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 roadway Vending Locations not assigned during this lottery shall be included in the lottery conducted pursuant to § 530.</p> <p>.</p>	<p>We understand the desire to improve food options in DC, but this is not the right way to do it.</p>	<p>This language is appropriate in a licensing regulation?</p>
	<p><u>PART 4: ASSIGNMENT OF VENDING LOCATIONS</u></p>		
529	<p>ASSIGNMENT OF SIDEWALK VENDING LOCATIONS</p>		
529.1	<p>Unoccupied sidewalk Vending Locations shall be assigned to licensed sidewalk vendors through a lottery conducted by the Director.</p>	<p>Lotteries are not the right way to assign specific vendors to specific sites.</p>	<p>First, there is no database of unoccupied 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</p>

			licensed vendors out of business.
529.2	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.		
529.3	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.
529.4	No more than one (1) vendor may occupy an assigned Vending Location, unless the 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.
529.5	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.
529.6	The 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	It appears that our suspicions two years ago that the lottery contractor can't be FOIA'ed are

		FOIA requests?	indeed true.
529.7	No Vending Site Permit shall be distributed until full payment is received from the vendor or person.		
529.8	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 Director to rescind the Vending Site Permit offer.		The language here is at best “odd” for a regulation.
529.9	The 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?	
530	ASSIGNMENT OF ROADWAY VENDING LOCATIONS		
530.1	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 roadway Vending Locations. Upon the expiration of the yearlong period, the 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.
530.2	<p>Roadway Vending Locations shall be assigned as follows:</p> <p>(a)All roadway 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;</p> <p>(1) Mondays;</p> <p>(2) Tuesdays</p> <p>(3) Wednesdays;</p> <p>(4) Thursdays;</p> <p>(5)Fridays;</p> <p>(6) Saturdays; or</p> <p>(7) Sundays.</p> <p>(c)There shall be equal allocation in the lottery of Class A and Class B licenses; and</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

	(d)No vendor shall be issued roadway Vending Site Permits for more than two (2) roadway Vending Sites at any one time.		
530.3	No roadway Vending Site Permit shall be distributed until full payment is received from the roadway vendor or person.		
530.4	A vendor shall have thirty-five (35) calendar days from the billing date to remit payment for the roadway Vending Locations the vendor has won. Failure to remit payment shall allow the 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
530.5	The Director may lottery off unclaimed roadway Vending Locations until all roadway Vending Locations are awarded.		
530.6	The 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. Just sayin'
530.7	No vendor may participate in the lottery for roadway Vending Locations unless the vendor holds a valid Vending Business License for roadway vending and is registered for the lottery.		
530.8	No vendor may operate on more than one (1) roadway Vending Location per day, and only one (1) vendor may occupy an assigned roadway Vending Location as described on the roadway Vending Site Permit, unless otherwise specified by the Director on the Roadway Vending Site Permit.		
530.9	No lottery registration or roadway 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	Same comment

		good result on the street.	
530.1	The Director may contract out the function of performing the lottery for roadway 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.
	<u>PART 5: MISCELLANEOUS</u>		
531	PUBLIC MARKETS		
531.1	No person shall operate or vend from a public market unless the public market is located on: (a)Public space approved by the DDOT Director; (b)Private space; or (c)A combination of both public space approved by the DDOT Director and private space.		
531.2	No person shall manage a public market on public or private space without holding a Class C Vending Business License.		
531.3	No Class C Vending Business License holder shall operate a market on public space without first obtaining a Public Space Permit from the DDOT Director.		
531.4	Each person operating at a public 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?
531.5	Each public 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 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?
531.6	A person who is authorized by the Class C Vending Business License holder to operate at a public 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

	<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!
531.7	A Class C Vending Business License holder shall maintain records of all persons operating at each public 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.
532	TEMPORARY RELOCATION OF VENDORS		
532.1	The 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 other situations where the Vending Location is either unavailable or creates a threat to the public health, safety, or welfare.		
532.2	Any temporary relocation shall last only until such time as the original Vending Location is determined by the Director, the DDOT Director, or MPD to be useable again.		
532.3	A vendor subject to a temporary relocation shall be relocated by the Director to the closest available location that is deemed allowable for vending.		
532.4	In any situation where a temporary relocation will be for at least twenty-one (21) days, the Director shall issue the affected vendor a new Vending Site Permit for the new Vending Location.		
	<u>SUBCHAPTER D: DESIGN STANDARDS, OPERATIONAL STANDARDS, AND INSPECTIONS</u>		
	<u>PART 1: DESIGN STANDARDS</u>		
533	DESIGN STANDARDS: GENERAL		
533.1	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.
533.2	The provisions of sections 534, 535, 536, 537, 538, 542, 543 and 548 shall not apply to activities licensed and permitted under § 503.1(c).		
534	DESIGN STANDARDS: VENDING CARTS		
534.1	<p>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 Director on the Vending Site Permit:</p> <p>(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;</p> <p>(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</p> <p>(c)Eight feet six inches (8 ft. 6 in.) in height, measured from the bottom of the tire.</p>	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.	<p>The new draft has slightly modified these size standards, which are arbitrary at best.</p> <p>To the top of what? The umbrella? The cart?</p>
534.2	<p>A vending cart shall be covered by either:</p> <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>	First, it should be “may be covered”; second, these diminsions are completely non-functional, as DCRA well knows.	Same comment. We should note that the definitions that DCRA has established to not describe what a “cart” is. So we are not sure what kind of vending operation these regulations refer to.
534.3	<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 § 538.</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.
534.4	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	The new language is a step in the right direction. But prohibiting vendors-especially merchandise

		<p>vendor from displaying product (which they are required to carry) in the only available display areas. (the side and back of a stand).</p>	<p>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.</p>
534.5	<p>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.</p>	<p>See prior comment.</p>	<p>See prior comment from 2010 in 534.4</p>
534.6	<p>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)).</p>	<p>See prior comment.</p>	<p>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.</p>
534.7	<p>The cart shall be placed on one (1) or more wheels; provided, that:</p> <p>(a)The wheels shall not exceed two feet eight inches (2 ft. 8 in.) in diameter;</p> <p>(b)The wheels shall be a wood or metal frame with rubber trim for tires; and</p> <p>(c)The cart may include stabilizing legs in addition to the wheel or wheels.</p>	<p>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...</p>	<p>See prior comment. (As an aside, we've always admired the "one or more wheels" language).</p> <p>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</p>

			unnecessary.
534.8	The vending cart shall be equipped with a chock to be used to prevent the cart from rolling or moving.		
535	DESIGN STANDARDS: VENDING VEHICLES		
535.1	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 Director: (a)Eighteen feet six inches (18 ft. 6 in.) in length; (b)Eight feet (8 ft.) in width; and (c)Ten feet six inches (10 ft. 6 in.) in height, measured from bottom of the tire.		Extension of the size requested by the roadway vendors is ok with us.
535.2		This requires umbrellas or a canopy on top of a white truck. What is the purpose?	Thank you for deleting.
535.3		The truck can be 10 feet high, but the umbrella has to be between 7 and 8 feet from the ground. We don't quite understand how that works.	Thank you for deleting.
535.2	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....
535.3	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".
535.7	All vending vehicles shall rest on inflated tires.		Or what!?
536	DESIGN STANDARDS: VENDING STANDS		
536.1	<p>The design and operation of all vending stands shall conform with the following requirements, unless otherwise authorized by the Director on the Vending Site Permit:</p> <p>(a)The stand shall consist of a wood, plastic, or metal table with attached folding legs, a stair-stepped structure approved by the Director, or a shoe- shine stand structure approved by the 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>Again, DCRA is grandfathering in—actually requiring-- a vending stand design that almost everyone agrees can and should be improved.</p> <p>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 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>Same comment</p> <p>Same comment. This all comes from the PADC regs which are obsolete.</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>(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 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>	<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>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> <p>Should this always be true?</p>
537	DESIGN STANDARDS: FOOD VENDING CARTS AND VEHICLES		
537.1	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
537.2	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:	The actual requirements should be based on the use of the unit. This regulation appears to give	Same comment.

	<p>(a)A fresh water tank with at least a five gallon (5 gal.) capacity or more;</p> <p>(b)A waste water tank with a capacity fifteen percent (15%) or larger than the required fresh water tank;</p> <p>(c)A three (3) compartment sink with hot and cold running water;</p> <p>(d)A separate hand washing sink with mixing faucet;</p> <p>(e)Walls, ceiling, and floors that are smooth and easily cleanable;</p> <p>(f)Natural or electrical lighting to provide a minimum of fifty (50) candles of light on work surfaces;</p> <p>(g)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 (1) day of operation;</p> <p>(h)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</p> <p>(i)Adequate ventilation.</p>	<p>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>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>Most vending units will not need to hold food at freezing temperatures.</p>
538	DESIGN STANDARDS: ADVERTISING		
538.1	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	This was fixed. Thank you.

		vehicle. Surely this is a mistake.	
538.2	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.		
538.3	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?
538.4			
539	DESIGN STANDARDS: PHASE-IN PERIOD		
539.1	Any vendor issued a Vending Business License prior to the date of publication in the <i>District of Columbia 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: (a) Subsection 534.2; and Subsection 534.5.		
	<u>PART 2: OPERATIONAL STANDARDS</u>		
540	OPERATIONAL STANDARDS: GENERAL		
540.1	A vendor shall comply with, all District and federal laws and regulations applicable to the operation of a vending business.		
540.2	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.		
541	OPERATIONAL STANDARDS: AUTHORIZED HOURS OF OPERATIONS		
541.1	<p>Vendors may operate only during the following hours:</p> <p>(a) Sunday through Thursday, from 5:00 a.m. to 10:00 p.m.; and</p> <p>(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.</p>	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.	
541.2	Notwithstanding § 541.1, the Vending Site Permit for each Vending Location in a Vending Development Zone shall establish the hours of operation for that Vending Location.		
542	OPERATIONAL STANDARDS: PLACEMENT OF VENDING VEHICLES, VENDING CARTS, AND VENDING STANDS		
542.1	No vendor shall vend in a location that is not a Vending Location assigned to the vendor by the Director.		Redundant
542.2	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.	
542.3	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	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.

		therefore be “authorized”.	
542.4	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.		
542.5	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.
543	OPERATIONAL STANDARDS: PLACEMENT OF EQUIPMENT AND RELATED ITEMS		
543.1	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.
543.2	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
543.3	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 § 542.3.		
543.4	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.		
544	OPERATIONAL STANDARDS: FOOD PREPARATION AND HANDLING		
544.1	All preparation, handling, transportation, and storage of food vended under this chapter		

	<p>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. & 2011 Supp.));</p> <p>(b)Title 25 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>		
544.2	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?
544.3	No food may be vended from a vending vehicle, cart, or stand unless there is a person who holds a valid food protection manager certificate and a DOH-issued certified food protection manager identification card on site at the time of the preparation, handling, and sale of the food.		Hold this thought. This is not obvious elsewhere in these regulations.
545	OPERATIONAL STANDARDS: FIRE SAFETY		
545.1	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.		
545.2	<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>		
546	OPERATIONAL STANDARDS: USE OF AMPLIFICATION SYSTEMS		

546.1	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 District of Columbia Municipal Regulations.		
546.2	Activities open to the public and provided for in subsection 2805.2 of title 20 of the District of Columbia Municipal Regulations are exempt from the limitations set forth in this section.		
	<u>PART 3: INSPECTIONS</u>		
547	INSPECTIONS: FOOD PREPARATION AND HANDLING		
547.1	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 the Food Code and any conditions imposed by the health inspection certificate.		
547.2	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.		
548	INSPECTIONS: DESIGN STANDARDS		
548.1	A vendor's vending vehicle, vending stand, or vending cart shall be subject to inspection at any time by the Director to verify compliance with applicable design standards required by this chapter.		
548.2	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	Same comment

		over their heads.	
549	INSPECTIONS: FIRE SAFETY		
549.1	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.		
549.2	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.		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.
	<u>PART 4: OTHER STANDARDS OF OPERATION</u>		
550	MAINTENANCE STANDARDS		
550.1	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.		
550.2	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.
551	DISPLAY OF LICENSES, PERMITS, AND CERTIFICATES		
551.1	A vendor shall conspicuously display on the vendor’s vending vehicle, vending cart, or vending stand, his or her: (a)Vending Business License; (b)Vending Site Permit; (c)Health inspection certificate; (d)Food protection manager certificate; (e)DCRA-issued vendor identification card; (f)DOH-issued certified food protection manager identification card; and	How about “all applicable certifications of authority”...	And you are forgetting the Authorized Employee Badge...

	(g)A propane or open flame permit, if the vendor uses propane or open flames in his or her operations.		“as required by applicable law or regulation.”???
551.2	The items required by § 551.1 shall be considered to be properly displayed when they are firmly attached to the vending vehicle or stand and are clearly visible to the public.		This is un-workable for a lot of vending businesses, especially sidewalk merchandise vendors. This provision needs to be changed.
551.3	No person shall alter, mutilate, forge, or illegally display any license, permit, or other certificate of authority issued pursuant to this chapter.		
551.4	If a Vending Business License, Vending Site Permit, or health inspection certificate is displayed by a vendor on a vending vehicle, vending stand, or vending cart other than the vending vehicle, vending stand, or vending cart for which the Vending Business License, Vending Site Permit, or health inspection certificate was issued, the Director or MPD may summarily 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.	This would technically be “vending without a license” and Under Section 504.3 and 504.4, this requires that the license be seized and the vendor to be ineligible for re-licensing for one year following the issuance of the ticket.	See prior comment. Who is guilty? The guy with the (legitimately or illegitimately) stolen identity, the guy who put it up, both, or does the guy whose stolen identity is used get a pass?
551.5	If a summary impounding or immobilization occurs pursuant to § 551.4, the 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 Director.	Same comment as before....	Same comment as before
551.6	Failure to display, or to provide to an authorized District government representative, any required certificates of authority 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 providing of the required certificates of authority.	At least this clarifies the meaning of 507.2(c)...	Same comment as before
552	MOTOR VEHICLE REGISTRATION AND INSPECTION OF VENDING VEHICLES AND CARTS		
552.1	All vending vehicles and vending carts:	Why does DC not require that	Same comment as before

	<p>(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;</p> <p>(b) Shall display all current tags on the vehicle or cart; and</p> <p>(c) Shall not vend any food, merchandise, or services if the vehicle has temporary tags.</p>	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?	
552.2	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.		
553	EMPLOYEES OF LICENSED VENDORS		
553.1	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.
553.2	The employing vendor shall follow all applicable District and federal employment laws and regulations.		How, possibly, can this be enforced under this regulation?
553.3	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 DOH-issued food protection manager certificate and a DOH-issued certified food protection manager identification card.	Can Class B vendors have employees? This is unclear.	Earlier, this was unclear. We presume that Class B vendors can have employees as well
553.4	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 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	Same comment.

		different from those a business owner owes to his or her “independent contractor”.	
553.5	<p>A person shall apply for a Vendor Employee Identification Badge by submitting an application to the Director, on a form prescribed by the 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 Director.</p>	<p>No photograph?</p> <p>Vendor employees are required to have telephones, and that information then becomes public record controlled by DCRA?</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>Notarized? Why?</p> <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 futher?</p>	<p>See prior comments about the differences between employees and “independent contractors.</p> <p>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.</p> <p>Same comment</p> <p>Same comment</p> <p>All these people 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>
553.6	The Vendor Employee Identification Badge shall include the name of the		It should NOT include 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.		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 TTh &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.
553.7	<p>An employee or independent contractor:</p> <p>(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</p> <p>(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.</p>	And yet, Licensed Vendors themselves are not required to wear District authorized identification badges.	Same comment
553.8	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 Badge, and health inspection certificate of the vendor may be suspended or revoked based on those actions.	We'd agree with this provision and in fact would like to see it strengthened....	
554	LITTERING AND CUSTOMER LINES		
554.1	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.		
554.2	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

554.3	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?
555	DISPLAY OF SAMPLE ITEMS		
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.
556	ROADWAY VENDING		
556.1	Deleted	We applaud the new food vendors who have entered the vending scene. We encourage their success.	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”. 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...
556.2	Deleted	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.	
556.1	Vending vehicles, other than those assigned to the designated vending locations in § 527.1, shall operate pursuant to the provisions of this section.	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.
556.2	Vending vehicles that sell predominantly ice cream, confectionary treats, coffee or tea, or other prepared desserts 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; (b) Remain at the location so long as there is a line of customers waiting to be served; and (c) Remain at the location for no more than ten (10) minutes when there is no line of customers waiting to be served.		That seems workable!
556.3	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.		This seems workable, too! Except when the food truck is directly in front of an in-line competitor.
556.4	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;		

	<p>(d) 15th Street, NW, between Independence Avenue, NW, and H Street, NW;</p> <p>(e) 14th Street, NW, between Constitution Avenue, NW, and Independence Avenue, NW;</p> <p>(f) 7th Street, NW, between Constitution Avenue, NW, and Independence Avenue, NW;</p> <p>(g) 4th Street, NW, between Constitution Avenue, NW, and Independence Avenue, NW;</p> <p>(h) 3rd Street, NW, between Constitution Avenue, NW, and Independence Avenue, NW;</p> <p>(i) 1st Street, NE, between Constitution Avenue, NE, and Independence Avenue, NE;</p> <p>(j) East Capitol Street, NE, between 1st Street, NE, and 2nd Street, NE;</p> <p>(k) Madison Drive, NW, between 15th Street, NW, and 3rd Street, NW;</p> <p>(l) Jefferson Drive, NW, between 15th Street, NW, and 3rd Street, NW;</p> <p>(m) Pennsylvania Avenue, NW, between 15th Street, NW, and 1st Street, NW;</p> <p>(n) Maryland Avenue, SW, between Independence Avenue, SW, and 3rd Street, SW; and</p> <p>(o) Within a Vending Development Zone created pursuant to § 560, unless specifically authorized by the Vending Site Permit.</p>		
556.5	<p>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:</p> <p>(a) Within one hundred feet (100 ft.) of a traffic circle.</p> <p>(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.</p> <p>(c) Any of the locations enumerated in §556.4;</p> <p>(d) Any location that is not a legal parking space.</p>		<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 don’t exist, and never will;</p>

			<p>permits that don’t exist, and never will—but <i>other</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>get</i> a site permit, provided they don’t vend here, here, and here, while sidewalk vendors CANNOT 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	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.		Actually, the vending unit should be required to have somebody with a Food-handler’s permit on-board.
556.7	Vending vehicles shall be subject to the design standards of § 535.	Discriminatory on its face against Class B vendors, and it	We kept our old comment here because, on face value, there is

		also is confusing when considered against other provisions of this regulation which allow employees or “independent contractors”...	no reason that a merchandise vendor shouldn’t have the same “roaming” rights as a food truck vendor.
556.8			
557	PURCHASE OR RECEIPT OF STOCK		
557.1	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 park in a loading Zone or on a parking meter and Make a delivery, does this regulation apply?
557.2	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?
558	PLACING VENDING BUSINESS LICENSES ON HOLD		
558.1	The Director shall create a process by which a vending business may voluntarily put its Vending Business License on hold and subsequently retrieve it from hold status to avoid	We understand the purpose of this provision, but it is poorly	See prior comment

	<p>suspension or revocation of a Vending Site Permit.</p>	<p>drafted. It's 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>	
558.2	<p>A Vending Business License may be placed on hold and in the possession of the 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>		
558.3	<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>		
558.4	<p>A vendor, or any employee or independent contractor employed by the vendor, who vends any products, food, merchandise, or services while his or her Vending Business License is</p>		

	placed on hold shall be subject to the revocation of his or her Vending Business License.		
559	REQUIREMENT TO UPDATE INFORMATION		
559.1	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
	<u>SUBCHAPTER E: VENDING DEVELOPMENT ZONES AND SPECIAL EVENTS</u>		
560	VENDING DEVELOPMENT ZONES		
560.1	<p>The Director may establish Vending Development Zones (VDZ) to promote new and innovative vending practices designed to achieve the following objectives:</p> <ul style="list-style-type: none"> (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. 		<p>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”.</p> <p>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.</p>
560.2	<p>Notwithstanding other provisions of this chapter, and of chapter 13 of title 19 of the District of Columbia Municipal Regulations, the 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>		A meaningless provision...

	<p>(b)Method for assigning Vending Locations including the exclusion of any roadway vending vehicle operating pursuant to § 556 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 Chapter 13 of Title 19 of the District of Columbia Municipal Regulations.</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>
560.3	<p>The 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>
560.4	<p>The Director shall administer the process for reviewing applications in consultation with the following Coordinating Agencies:</p> <p>(a)Department of Small and Local Business Development;</p>	<p>Good. This is the first mention of inter-agency consultation within this regulation.</p>	<p>See prior comment.</p>

	<p>(b)Department of Health;</p> <p>(c)District Department of Transportation; and</p> <p>(d)Office of Planning.</p>		
560.5	<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 Director who shall forward a copy to each Coordinating Agency. The pre-application shall include the following information:</p> <p class="list-item-l1">(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 class="list-item-l1">(2) The purpose and intent of establishing a VDZ, including aspects of placemaking and creative economy planning;</p> <p class="list-item-l1">(3) A map delineating the proposed boundaries of the VDZ and all current Vending Locations; and</p> <p class="list-item-l1">(4) The partner organizations collaborating on the application.</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 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 Director. The application shall demonstrate how the purpose and intent of the proposed VDZ will be realized and include the following:</p> <p class="list-item-l1">(1) A description of the proposed innovative vending strategy or expanded management opportunity;</p> <p class="list-item-l1">(2) A map showing proposed vending and public market locations;</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 be eliminated, potential vendors will be turned down, and almost certainly promises will be broken.</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>In theory, this could work. But there needs to be checks and balances.</p>
560.6	<p>The Director and Coordinating 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 Director shall forward each VDZ application to the Coordinating Agencies for evaluation based upon:</p> <p>(1)Compliance with objectives defined in § 560.1; 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 Director.</p> <p>(c)The 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>
560.7	<p>Within forty-five (45) days of receiving favorable reports from all coordinating agencies,</p>		<p>But of course, now that it’s all</p>

	DCRA shall hold a public hearing to solicit public comments on the VDZ application. The 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 application on the DCRA website at least fifteen (15) calendar days before the hearing.		
560.8	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....
560.9	The 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 Director shall manage the site delegation and distribution of Vendor Locations to vendor site applicants.		
560.10	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.		
560.11	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.
560.12	<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> <p>(3)Failure to follow or maintain the vending plan contained in the VDZ application.</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?
560.	Before the Director discontinues a VDZ, the Director shall provide notice to the		Actually, this notice should be

13	businesses, organizations, or agencies administering the VDZ of the intent to discontinue the VDZ and the reasons for the discontinuance		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.
560.14	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.
560.15	<p>The 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>		<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 application process that other VDZ’ are required to undertake.</p> <p>We do know that, even though</p>

			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 incorporationto lapse.
561	SPECIAL EVENTS		
561.1	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.		
561.2	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.		
	<u>SUBCHAPTER F: STREET PHOTOGRAPHY</u>		
562	STREET PHOTOGRAPHY: REQUIREMENTS AND RESTRICTIONS		
562.1	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.		
562.2	The card required by § 562.1 shall contain the following: (a)The name of the vendor; (b)The name of the employee or independent contractor (if any) taking the photograph; (c)The vendor’s Vending Business License Number; (d)The employee’s or independent contractor’s Vendor Employee Identification Badge number; (e)The telephone number of the vendor; and (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.		
562.3	Each finished photograph shall be clear and sharp, and shall show no blur of focus or camera movement which affects the principal subject.		
	<u>SUBCHAPTER G: SOLICITING</u>		
563	SOLICITING: GENERAL PROVISIONS		
563.1	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: (a)Buy any merchandise, food, or service; (b)Patronize any hotel, motel, inn, or boarding house; or (c)Patronize any place of entertainment or amusement.		
563.2	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?	
563.3	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 District of Columbia Municipal Regulations.	OK.	
563.4	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.	
563.5	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, except in locations specifically designated for that purpose.	???	
	<u>SUBCHAPTER H: MISCELLANEOUS PROVISIONS</u>		

564	VENDING DEPOTS		
564.1	Vending depots servicing vending vehicles or carts with Class A Vending Business Licenses shall provide all of the following services to the vendor: (a)Storage of the vending vehicle or cart; (b)Food preparation; (c)Basic maintenance and cleaning; and (d)Proper disposal of trash and food waste.	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. The definition of “storage” should be defined, as should basic maintainence and cleaning. The current “vending depots” would improve if there were real competition.	Same comment
564.2	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.		
564.3	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 § 564.1.	Good	
564.4	The operator of a vending depot shall: (a) Comply with all applicable laws and regulations regarding registration of the person’s business with the Office of Tax and Revenue and DCRA; (b) Obtain all necessary business licenses from DCRA; and (c) Comply with the Food Code and all applicable standards imposed by DOH or other relevant agencies.		
565	PENALTIES		
565.1	A person violating any provision of this chapter may be issued a civil infraction pursuant to Chapter 33 of Title 16 of the District of Columbia Municipal Regulations.		
565.2	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.
565.3	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.
565.4			
566	SEVERABILITY I		
566.1	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.		
599	DEFINITIONS	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
	Central Vending Zone –the area delineated by the boundaries listed in § 522.1.		
	Clean Hands Certification –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>).		
	Coordinating Agencies –the several District agencies identified in § 560.4.		
	Coordinating Agency –any of the Coordinating Agencies.		
	Director –the Director of the Department of Consumer and Regulatory Affairs.		
	DCRA –the Department of Consumer and Regulatory Affairs.		

	DCRA Business Licensing Center –the Department of Consumer and Regulatory Affairs, 1100 Fourth Street, SW, Second Floor.		
	DDOT –the District Department of Transportation.		
	DDOT Director –the Director of the District Department of Transportation.		
	DOH –the Department of Health.		
	DOH Director –the Director of the District Department of Health.		
	FEMS –the District of Columbia Fire and Emergency Medical Services Department.		
	Fire Chief –the Chief of the District of Columbia Fire and Emergency Medical Services Department.		
	Fire Marshal –the Fire Marshal of the District of Columbia Fire and Emergency Medical Services Department.		
	Fixture –any District government-authorized furniture or equipment that is secured or permanently affixed to the public right-of-way or other public space.		
	Food –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.		
	Food Code –Title 25 of the District of Columbia Municipal Regulations.		
	Metrobus Stop Zone –that area of the public roadway specifically designated for the exclusive use of Metrobus in loading and unloading passengers.		
	Mobile Roadway Vendor - deleted		
	MPD –the Metropolitan Police Department.		
	MPD Chief –the Chief of the Metropolitan Police Department.		
	Nationals Park Vending Zone –the Vending Locations designated in § 525.1.		
	Neighborhood Vending Zones –any of the several areas delineated by the boundaries in § 524.1.		
	Old Georgetown –the area delineated by the boundaries in § 523.1.		

	Old Georgetown Vending Zone –the area designated by § 523.2.		
	Person –any individual or business entity.		
	Public market –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.		
	Public space –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.		
	Receipts for purchases – deleted		
	Records of sales – deleted		
	Registered agent –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.		
	Roadway vendor –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.		
	School day –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.		
	Sidewalk vendor –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.		
	Special Event –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.).		
	Street photography –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.		
	VDZ – shall have the same meaning as a Vending Development Zone.		
	Vending business –a business venue for the vending of food, products, services, or merchandise and operated by a licensed vendor.		
	Vending Business License –the basic business license with a vending endorsement issued by the Department of Consumer and Regulatory Affairs.		
	Vending cart –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.		
	Vending depot –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.		
	Vending Development Zone –a specific vending area created pursuant to § 560.		
	Vendor Employee Identification Badge –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.		
	Vending establishment –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.		
	Vending Location –any of the locations in the public space identified by the Director of the District Department of Transportation as being suitable for vending.		
	Vending Site Permit –the permit issued by the Director of the Department of Consumer and Regulatory Affairs allowing for vending from the public space.		
	Vending stand –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.		
	Vending vehicle –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.		
	Vendor –any person engaged in selling goods and services exclusively from the public		

	space and for the immediate delivery upon purchase.		
--	---	--	--