A' Lo Cubano
AZN Eats
Basil Thyme!
BBQ Bus
Best Mexican Burritos and Tortas
Big Cheese
Borinquen Lunch Box
Cajunators
CapMac
Captain Cookie and the Milk Man
Carnivore BBQ
Chef Driven
Chupacabra
Crepe Love Truck
Curbside Cupcakes
Dangerously Delicious Pies
DC Ballers
DC Empanadas
DC Kabob and Grill
DC Slices
Dorothy Moon's Gourmet Burgers
Doug the Food Dude
El Floridano
Feelin' Crabby
Fojol Bros.
Goode's Mobile Kitchen
Goodies Frozen Custard & Treats
Halal Grill
Hala Gyro Plus
Hula Girl Truck
Kababji Grill
Kabob Bites
Lemongrass
Mojo Truck
Orange Cow
Pepe
PhoWheels
Pleasant Pops
Popped! Republic
PORC
Red Hook Lobster Pound-DC
Rolling Ficelle
Rolls on Rolls
Sang on Wheels
Seoul Food
Sinplicity Ice Cream
Sol Mexican Grill
Something Stuffed
Stella's PopKern
Stix
Sweetbites Desserts
TaKorean
Tapas Truck
Tasty Fried
Tasty Kabob
That Cheesecake Truck
TOPS American Food Co

Nov. 13, 2012

Mr. Helder Gil
Legislative Affairs Specialist
Department of Consumer and Regulatory Affairs
1100 Fourth Street, SW
Room 5164
Washington, D.C. 20024

RE: Third Proposed Rulemaking to Amend Chapter 5 (Vendors) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations

Dear Mr. Gil:

The Food Truck Association of Metropolitan Washington (FTA) appreciates the opportunity to comment on the Third Proposed Rulemaking to Amend Chapter 5 (Vendors) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (the "Proposed Rules"). We also appreciate the opportunity that the District Department of Transportation (DDOT) extended to our industry to meet with Department officials last month to seek helpful clarifications on the Proposed Rules.

As you know, we offered extensive comments on the Second Proposed Rulemaking published earlier this year. While the FTA expressed concerns about specific provisions of that particular rulemaking, those rules reflected a number of fair and meaningful compromises that represented a significant improvement over current vending regulations. Thus, we supported the Second Proposed Rulemaking and asked that those rules be submitted to the District Council for their review and ultimate approval. More than 3,500 comments were submitted at that time to the Department of Consumer and Regulatory Affairs in support of the FTA's position. By our count, fewer than 100 commenters expressed opposition to that earlier proposal. Nonetheless, the Gray administration declined to finalize their proposal and instead moved to take it "back to the drawing board," just as a minority of commenters had advocated.

The FTA continues to support vending regulations that promote food safety, provide effective mobile vending consumer protections and establish appropriate vending licensure, within a modern regulatory regime designed for an increasingly vibrant and diverse industry that has long outgrown the so-called "ice cream truck" rules that now govern it. Further, we recognize the Office of the City Administrator's objective "to achieve the safe, efficient and effective management of vending throughout the District of Columbia," including fair and balanced management of finite public space within the District.

We support specific sections of these rules, and in particular we are appreciative that the elimination of the "ice cream truck rule" and creation of Employee Identification Badges have been carried over from the previous rule making.

However, we strongly oppose the substantial discretionary authority the Proposed Rules grant to DDOT over the newly created designation of Mobile Roadway Vending ("MRV") and that threaten the livelihood of our young industry. This provision (§ 530.1) would appear to ban mobile food vendors from vending in ANY public space in the District, other than those spaces that may be set aside by DDOT in a designated MRV location. The Proposed Rules would give DDOT new sole powers to decide how many MRV locations would be created, when they would be created and where they would be located. In addition, the Proposed Rules grant DDOT equally broad authority to decide how many MRV location parking spaces would be designated for mobile vending purposes, and where they would be located in each and every MRV location. This provision would appear to ban mobile food vendors from vending in ANY public space in the District, other than those spaces that may be set aside by DDOT in a designated MRV location.

While we know that the Proposed Rules make exceptions to the 10-foot requirement by creating MRV locations, again, spaces created by regulators in those locations could be very limited, and the Proposed Rules are silent on the process for selecting those locations and spaces.

In addition, it is troubling that DDOT staff have advised the FTA that even though their own Proposed Rule provisions fail to say so, their intent (verbally expressed at its Oct. 15 street vendors meeting) is to ban all mobile vending within a MRV location that is not confined to the limited number of spaces that DDOT designates for a given MRV location. In addition, § 530.1 and § 531.1 appear on their face to conflict with one another.

Additionally, DDOT would be responsible for enforcing strict and, we believe, unduly restrictive minimum sidewalk width lengths for mobile vending (both within the Central Business District and beyond) that we believe would place excessive, anti-competitive and wholly unnecessary limitations on the ability of mobile food vendors to serve customers in some of the most attractive vending locations in the District. The current proposal to restrict vending where there is less than 10 feet of "unobstructed" sidewalk in the Central Business District and less than 7 feet of "unobstructed" sidewalk in other parts of the city would severely restrict mobile vending in many locations throughout the District. We also question the notion that such restrictions are both consistent with and formed on the basis of rules that DDOT has established for other industries and practices. For example, construction companies are required to maintain only 8 feet of unobstructed sidewalk clearance when building a covered sidewalk outside a construction area, and brick-and-mortar restaurant sidewalk cafes are able to operate with as little of 6 feet of unobstructed sidewalk. However, perhaps the clearest evidence that the proposed sidewalk width restriction would treat mobile vendors very differently than others in comparable situations is the fact that there are no existing or proposed sidewalk width restrictions applicable to Stationary Roadway Vendors. There is no reason to single out food trucks from all other commercial vehicles and impose special burdens on them that the rest do not share.

Unlike sidewalk vendors or brick-and-mortar businesses with café seating – both of whom physically encroach on public sidewalks – mobile food vendors do not park on sidewalks, and therefore create no such physical encroachments. We have nonetheless been advised by DDOT staff that our customers can create obstructions to pedestrian traffic while they wait in line for service. We note that this issue is simply not addressed in the Proposed Rules, raising concerns within our industry as to the basis for, and the terms of, our customers as obstructions or impediments to other pedestrian traffic. Accordingly, we believe that there is no valid safety or other reason for any sidewalk width restrictions to apply to Mobile Roadway Vendors and the restrictions should be deleted from the Proposed Rules.

Good food truck regulations are clear, straightforward and narrowly tailored to address specific, legitimate concerns for consumer health and safety. The current proposed rules fall short of that.

In response, the FTA in these comments has submitted its own proposal to meet the District's stated objectives. Our proposal consists of three primary concepts:

- A Citywide Mobile Roadway Vending Parking Permit
- A Fair and Transparent Process to Determine Mobile Roadway Vending Locations that is based on clear and demonstrable criteria
- The Creation of a Vending Improvement Detail (VID)

The Mobile Roadway Vending Parking Permit (MRVPP) would be available to Mobile Roadway Vendors and allow them to park at any metered location in the District for a period of up to four hours. Among its benefits, the MVPP offers the District a better method than the current to collect parking fees from vendors, enforce parking limits and facilitate appropriate parking space turnover and maximizes the window to collect revenue for the District via sales tax.

Again, the FTA strongly opposes the proposal to create MRV locations because the Proposed Rules would give DDOT new, unfettered powers to decide when, where and how many MRV locations would be created and equally broad authority to decide how many parking spaces would comprise each and every MRV location.

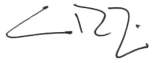
Nevertheless, if the District feels compelled to limit the number of Mobile Roadway Vendors in an areas with high demand for food trucks, then the FTA proposes creating an MRV location after a fair, transparent process based on clear, demonstrable criteria, including a 60-day study period and input from an advisory board comprised of stakeholders.

MRV locations will require management on a number of levels, including allocating the dedicated spaces among multiple Mobile Roadway Vendors, monitoring the effectiveness of the MRV locations, and providing a two-way communications channel among interested stakeholders. To assist with this management and avoid placing a burden on public resources, we propose the creation of a Vending Improvement Detail (VID). The VID, comparable to a BID but without a geographic component, would be a private, non-profit, entity established to work in partnership with DDOT to manage Mobile Vending in MRV locations and in other areas of the city and to undertake other activities to improve mobile vending in public spaces.

We believe that a Mobile Roadway Vending program structured in this way would help satisfy the many goals of DDOT in managing the public space in general and as it relates to mobile vending in particular, and would identify the District as the nationwide leader in mobile vending regulations that effectively balance the needs of all stakeholders. We discuss our proposal in greater detail at the conclusion of our comments.

We look forward to continuing to work with you to improve on the Proposed Rules. Once again, we appreciate the opportunity to provide comments.

Sincerely,



Che Ruddell-Tabisola
Executive Director
Food Truck Association of Metropolitan Washington

- **Comments in Response to Third Proposed Rulemaking to Amend Chapter 5 (Vendors) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations**

§ 501 Agency Responsibilities

- The FTA supports the proposed continuing roles and responsibilities outlined for the several agencies that currently regulate food trucks, with one exception. We strongly oppose the substantial discretionary authority the Proposed Rules grant to the District of Columbia Department of Transportation (DDOT) over the newly created designation of Mobile Roadway Vending ("MRV") outlined in Part 4 of the Proposed Rules. As we describe in more detail below, Part 4 would give DDOT new sole powers to decide how many MRV locations would be created, when they would be created and where they would be located. In addition, the Proposed Rules grant DDOT equally broad authority to decide how many MRV location parking spaces would be designated for mobile vending purposes, and where they would be located in each and every MRV location.

- Additionally, DDOT would be responsible for enforcing strict and, we believe, unduly restrictive minimum sidewalk width lengths for mobile vending (both within the Central Business District and beyond) that we believe would place excessive, anti-competitive and wholly unnecessary limitations on the ability of mobile food vendors to serve customers in some of the most attractive vending locations in the District.

§§ 502-519 Vending Licenses, Permits and Authorizations

- The FTA supports vending licensure, site permitting and health inspection certificate regulations that promote food safety and consumer health. In particular, we appreciate the efforts of the Office of the City Administrator and other Executive agencies to embrace the creation of a Vending Business License for employees of licensed vendors (§ 502.4), as we discuss in greater detail in our comments to § 558.

- In regard to the proposed quarterly fee for Mobile Roadway Vending parking permits (§ 508.10), the FTA supports the proposal to offer a four-hour Mobile Roadway Vendor parking permit. The proposed $480 fee is the equivalent of paying to access a metered space for up to four hours a day, five days a week for three months. However, it should be noted that the vast majority of vendors do not typically vend in the District every business day over a given three-month period; reasons why include (but are not limited to) the desire to vend in jurisdictions outside the District, inclement weather and the need for administrative downtime and designated food preparation days. Thus, the $480 fee reflects a premium price for vendors' use of a parking space.

- The four-hour permit offers benefits for a number of stakeholders in the District, which we discuss in detail further in our comments. However, these benefits are diminished by limiting the use of parking permits to a limited number of locations as proposed. However, the far more serious concern is that the Proposed Rules fail to

provide adequate assurances that there will be sufficient designated MRV location spaces available to mobile vendors who purchase an MRV parking permit. If there is ultimately an insufficient supply of designated spaces from which to vend under the MRV parking permit, the fee could hardly be justified.

- A solution to this problem is to make available to vendors a Mobile Roadway Parking Permit (MVPP) that allows parking at any metered location in the city for a period of up to four hours, which we discuss in greater detail further in our comments.

§ 520 Vending Locations: General

- As noted in our comments to § 501 Agency Responsibilities the FTA strongly opposes the proposal to grant DDOT the broad authority to "approve" what it deems as acceptable locations for all types and varieties of vending throughout the District, as well as to "eliminate" all such locations that it may deem as inconsistent with "the interests of the District." We have particular concerns about § 520.2 (c), which would allow DDOT to designate a Vending Location for an alternative use, with no defined regulatory standards or criteria to govern the process by which a vending location would be re-designated for that other use.

§§ 529 –531 VENDING LOCATIONS

- The FTA strongly opposes the proposal to create specifically designated MRV locations, which appear to place unnecessary and anti-competitive restrictions on the ability of mobile food vendors to serve customers in some of the District's most popular food vending locations, both within and even outside of the Central Business District.

- This provision would appear to ban mobile food vendors from vending in ANY public space in the District, other than those spaces that may be set aside by DDOT in a designated MRV location. In addition, § 530.1 and § 531.1 appear on their face to be conflicted.

- This believe this is likely to result in a severe diminution in the number of food trucks serve customers, adversely impacting District residents and workers who now enjoy the convenience, quality and value that mobile food vendors provide these consumers on a daily basis.

- The provision also threatens to greatly reduce the food choices currently available to these consumers, while also undercutting a growing, vibrant and innovative mobile food vending industry.

- -If the Gray Administration were to adopt this heavily regulated, top-down approach for deciding where, when and how robustly food trucks may serve District residents and workers, the Office of the City Administrator may be sending the unintentional

signal to all newly emerging, entrepreneur District-based businesses that this jurisdiction is less than supportive of their enterprises.

- We hope to have the opportunity to work with the Administration to find alternative approaches to public space management that don't rely exclusively on the government to pick and choose where our businesses can legally operate in the District. Rather, we support reasonable and fair-minded public space management that creates space for mobile food vendors to be able to make some of their own independent decisions about where and for how often they can vend.

- First, and perhaps most troubling of all, DDOT staff have advised the FTA that even though their own Proposed Rule provisions fail to say so, their intent (verbally expressed at its Oct. 15 street vendors meeting) is to ban all mobile vending within a MRV location that is not confined to the limited number of spaces that DDOT designates for a given MRV location.

- Second, the Proposed Rules grant DDOT overly broad discretion to determine where and how many MRV locations can be established, with no apparent standards or process for public input to do so. Also, the finite number of spaces DDOT would make available to Mobile Roadway Vendors in an MRV location – the Proposed Rules merely stipulate "three or more" in each MRV location – would be secured on a first-come, first-serve basis, seemingly exacerbating issues surrounding competition for the far more robust supply of existing legal parking spaces.

- Further, setting a limited number of spaces in an MRV location and restricting other food trucks from vending on that block adversely affects the diversity of food available in that location. Some food trucks, such as sweets trucks, vend in a particular location for short, one- to two-hour periods then move to another location (therefore serving several locations a day). This mix of different foods available is in part what makes vending locations popular and attracts customers seeking diverse options. Banning vending from regularly metered locations in an MRV location would prohibit these vendors' ability to do business.

- Third, the Proposed rules fail to establish a process or even any objective criteria for determining how MRV locations would be chosen, no less the specific areas of the District that would be subject to such designation.

- Fourth, the proposal to limit MRV locations to one per block on any one side of the street (§ 530.3) is vague and unclear. Specifically, would section § 530.3 ban mobile vending within all other street spaces on the same block? If so, it would, for example, eliminate half of the food trucks on Virginia Avenue between 20th and 21st St. NW, where food trucks currently vend on both the north and south sides of the street. Further, would the designation of an MRV location on a given block prohibit vending on multiple sides of that entire block, thereby banning the use by mobile vendors of non-MRV location spaces at Franklin and Farragut Squares?

- Additionally, limiting the number of spaces available to food trucks in an MRV location also creates unnecessary confusion for food trucks that are not vending but need to park in an MRV location. Being small businesses, our food trucks are also catering and delivery vehicles. Would a food truck providing a delivery be

prohibited from parking in an MRV location, despite that there might be an available and otherwise valid parking spot?

- Fifth, the current proposal to restrict vending where there is less than 10 feet of "unobstructed" sidewalk in the Central Business District and less than 7 feet of "unobstructed" sidewalk in other parts of the city would severely restrict mobile vending in many locations throughout the District. We also question the notion that such restrictions are both consistent with and formed on the basis of rules that DDOT has established for other industries and practices. For example, construction companies are required to maintain only 8 feet of unobstructed sidewalk clearance when building a covered sidewalk outside a construction area, and brick-and-mortar restaurant sidewalk cafes are able to operate with as little of 6 feet of unobstructed sidewalk. However, perhaps the clearest evidence that the proposed sidewalk width restriction would treat mobile vendors very differently than others in comparable situations is the fact that there are no existing or proposed sidewalk width restrictions applicable to Stationary Roadway Vendors.

- In our view, the solution does not lie in adding yet more restrictions on Stationary Roadway Vending. Rather, we urge the Office of the City Administrator to strike a fair and reasonable balance between the safe and effective management of public space and the ability of mobile food vendors to continue to serve customers in the most popular locations both within and outside the Central Business District.

- Unlike sidewalk vendors or brick-and-mortar businesses with café seating – both of whom physically encroach on public sidewalks – mobile food vendors do not park on sidewalks, and therefore create no such physical encroachments. We have nonetheless been advised by DDOT staff that our customers can create obstructions to pedestrian traffic while they wait in line for service. We note that this issue is simply not addressed in the Proposed Rules, raising concerns within our industry as to the basis for, and the terms of, our customers as obstructions or impediments to other pedestrian traffic.. Furthermore, we have found no specific regulatory definition of what constitutes the creation of customer-related obstructions. Downtown brick-and-mortar businesses sometimes spur lines of waiting customers outside their perimeter that can and do reduce the unobstructed sidewalk width adjoining their businesses to less than 10 feet. In order for the proposed sidewalk width rule to be evenly and fairly applied to all providers, brick-and-mortar businesses would need to be strictly held to the 10-foot rule as well.

- Our comprehensive survey of sidewalks in the Central Business District found that eight of the 10 most popular mobile food vending locations could be deemed off-limits for our industry, with the sole exception of the designated mobile roadway vending location spaces. The survey measured sidewalk widths in 10 of the highest-demand areas for food trucks: Capitol South, Chinatown, Farragut and Franklin Squares, George Washington University, L St. NW, L'Enfant Plaza, Metro Station, Union Station and Virginia Ave. NW and compared those measurements against the § 531.2 of the proposal to require at least 10 feet of unobstructed sidewalk in order for a food truck to be able to serve customers. By our measure in the 10 locations surveyed, only Metro Center and L St. NW provide 10 feet or more of unobstructed sidewalk space.

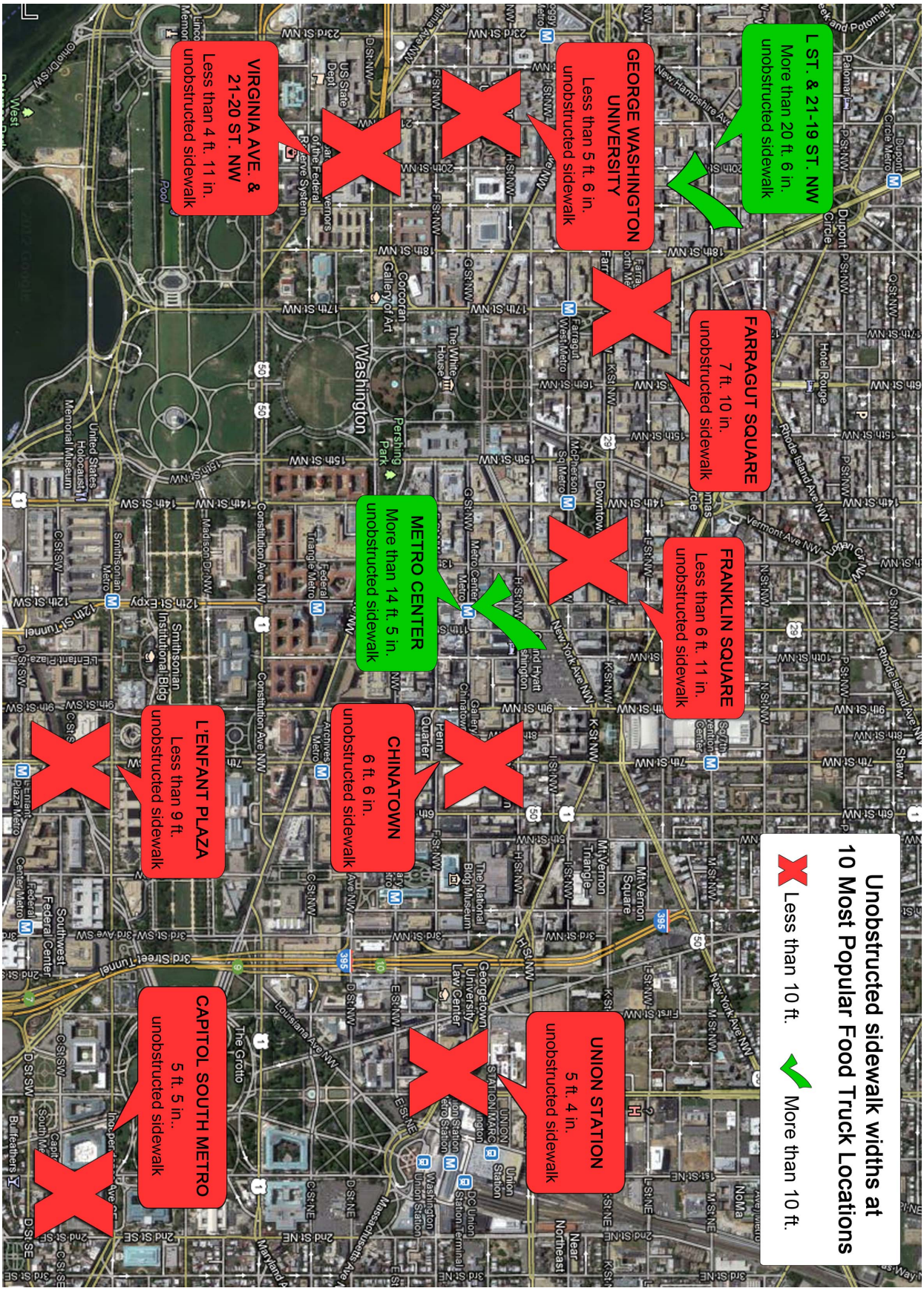
- Once again, we know that the Proposed Rules make exceptions to the 10-foot requirement by creating MRV locations, but again, spaces created by regulators in those locations could be very limited, and the Proposed Rules are silent on the process for selecting those locations and spaces. There frankly appear to be no guarantees in the proposed regulatory framework for our industry that our voices or those of other stakeholders will be heard or seriously considered once the all-important process of choosing MRV locations and spaces commences. Moreover, there are no regulatory criteria offered in the Proposed Rules for how these locations or spaces will be selected.

- What follows is our survey of the 10 most popular mobile food vending locations and the likely impact of the Proposed Rules on unrestricted mobile food vending in those locations.

Chart and map on following pages

SIDEWALK SURVEY OF TOP 10 FOOD TRUCK LOCATIONS				
Food Truck Location	**Total Length of Sidewalk**	**Length of Curb to Obstruction**	**Unobstructed Sidewalk Length**	**More than 10 feet of unobstructed sidewalk?**
Capitol South North side of D St. between 1St. and 2nd St. SE	10 ft.	4 ft. 7 in. (Tree boxes)	5 ft. 5 in.	**NO**
Chinatown West side of 7th St. between F and G St. NW	13 ft.	6 ft. 6 in. (Tree boxes)	6 ft. 6 in.	**NO**
Farragut Square East side of 17th St. between I and K St. NW	10 ft.	2 ft. 2 in. (Parking meters)	7 ft. 10 in.	**NO**
Farragut Square West side of 17th St. between I and K St. NW	10 ft.	2 ft. 2 in. (Parking meters)	7 ft. 10 in.	**NO**
Franklin Square South side of K St. between 14th and 15th St. NW	9 ft. 11 in.	3 ft. (Parkmobile kiosk)	6 ft. 11 in.	**NO**
Franklin Square 13th St. between I and K St. NW	10 ft.	3 ft. 9 in. (Lamp post)	6 ft. 3 in.	**NO**
George Washington University North side H St. between 21St. and 22nd St.	12 ft. 2 in.	6 ft. 9 in. (Tree boxes)	5 ft. 5 in.	**NO**
George Washington University South side H St. between 21St. and 22nd St.	12 ft. 2 in.	5 ft. 8 in. (Tree boxes)	5 ft. 6 in.	**NO**
L St. NW Between 19th and 20th St.	27 ft. 7 in.	4 ft. 7 in. (Tree boxes)	23 ft.	**YES**
L St. NW Between 20th and 21St. St.	24 ft.	4 ft. 6 in. (Tree boxes)	20 ft. 6 in.	**YES**

SIDEWALK SURVEY OF TOP 10 FOOD TRUCK LOCATIONS				
Food Truck Location	**Total Length of Sidewalk**	**Length of Curb to Obstruction**	**Unobstructed Sidewalk Length**	**More than 10 feet of unobstructed sidewalk?**
L'Enfant Plaza Maryland Ave. between 6th and 7th St SW	15 ft.	6 ft. (Tree boxes)	9 ft.	**NO**
L'Enfant Plaza 7th St. between Independence and Maryland Ave. SW	10 ft. (From edge of tree box to concrete barrier)	2 ft. (Concrete barrier)	8 ft.	**NO**
Metro Center 12th Street between F and G St. NW	17 ft. 8 in.	3 ft. 2 in. (Trashcan)	14 ft. 6 in.	**YES**
Metro Center 12th Street between G and H St. NW	20 ft. 8 in.	4 ft. 8 in. (Tree boxes)	16 ft.	**YES**
Union Station South side of Massachusetts Ave. at North Capitol St.	11 Feet, 4 Inches	6 ft. (Tree boxes)	5 ft. 4 in.	**NO**
Virginia Ave North side between 20th and 21St. St. NW	10 Feet 9 inches	6 ft. (Tree boxes)	4 ft.	**NO**
Virginia Ave South side between20th and 21St. St. NW	12 Feet	7 ft. 1 in. (Tree boxes)	4 ft. 11 in.	**NO**


Unobstructed sidewalk widths at 10 Most Popular Food Truck Locations
Less than 10 ft.
More than 10 ft.
L ST. & 21-19 ST. NW
More than 20 ft. 6 in.
unobstructed sidewalk
GEORGE WASHINGTON UNIVERSITY
Less than 5 ft. 6 in.
unobstructed sidewalk
FARRAGUT SQUARE
7 ft. 10 in.
unobstructed sidewalk
FRANKLIN SQUARE
Less than 6 ft. 11 in.
unobstructed sidewalk
VIRGINIA AVE. & 21-20 ST. NW
Less than 4 ft. 11 in.
unobstructed sidewalk
METRO CENTER
More than 14 ft. 5 in.
unobstructed sidewalk
CHINATOWN
6 ft. 6 in.
unobstructed sidewalk
UNION STATION
5 ft. 4 in.
unobstructed sidewalk
L'ENFANT PLAZA
Less than 9 ft.
unobstructed sidewalk
CAPITOL SOUTH METRO
5 ft. 5 in..
unobstructed sidewalk

As one can glean from the above surveys, nearly all of the most popular mobile food vending locations spread across much of the District fail to meet the proposed 10-foot rule.

We urge you to establish clear, demonstrable criteria by regulation to determine the number of Mobile Roadway Vendor spaces that are sustainable and appropriate for a given MRV location. By contrast, merely offering at least three Mobile Roadway Vending spaces in a given MRV location – and otherwise providing no regulatory guidance on the issues of where either those locations or those spaces will be designated -- is not, in our view, the best way to tailor the existing supply of spaces to both mobile food vending demand and public space management needs and priorities.

When you strip the Proposed Rules down to their essence, they appear to us to simply say, "We will give you at least a few spaces that we will establish in locations that we alone select, but otherwise we will decide for you how and where you will carry out your mobile food vending operations in the most popular mobile vending locations throughout the District."

We propose, alternatively, that the Office of the City Administrator consider a more circumspect regulatory regime. Such determinations should be made based on all the facts on the ground and we believe this requires a process for thorough input from all interested parties -- regulators and otherwise. Additionally, we propose the creation of a food truck counterpart to a Business Improvement District called a Vending Improvement Detail (VID). We discuss in greater detail further in our comments a fairer method to determine MRV locations as well as the VID.

§ 532 Application for New Locations

Once again, the Proposed Rules do not provide any meaningful guidance or process for determining whether, where and when to create new MRV locations. There should be a transparent process through our proposed VID, along with demonstrable criteria established by rule and an opportunity for meaningful public input. Also, the Proposed Rules should specify that all valid licensed food truck owner-operators may apply under this section. Applications should be determined within a reasonable and specific time period. Finally, applicants should have a full and fair opportunity to appeal these MRV determinations, both informally by filing an internal appeal with DDOT and then formally through an independent administrative hearing process.

§ 533 Directors Discretion

This blanket MRV provision reinforces a concern we raised above about the extent to which the Proposed Rules concentrate an enormous amount of broad, discretionary authority in the hands of one public agency to decide where our members can and cannot vend across the District. At minimum, mobile food vendors should have a full and fair opportunity to appeal these MRV determinations, both informally by filing an internal appeal with DDOT and then formally through an independent administrative hearing process.

§ 546 Authorized Hours of Operation

As we noted in our comments submitted on March 1, 2012 in response to the Second Proposed Rulemaking, the FTA does not believe that mobile food vendors should be subject to restrictions on their hours of operation that do not apply to brick-and-mortar restaurants. Rather, we support mobile food vending regulations that are designed to promote food safety and consumer health, regardless of a given vendor's hours of operation.

We are not aware of any basis for distinguishing between our two industries when determining the times and durations when our retail businesses can offer food to customers – particularly in light of the fact that food trucks, unlike many restaurants, are strictly prohibited by law from serving alcohol.

§ 558 Employees of Licensed Vendors

The FTA supports this section of the Proposed Rule to the extent it would eliminate the need for mobile food vendors to purchase multiple vending licenses for periods when the owner-operator is not on site. However, the proposed Employee Identification Badge should be transferable from one business to another (not restricted to individual businesses, as proposed in § 558.7 (b)), which is a similar manner to how employees' Certified Food Protection Manager Identification Cards is treated.

§ 564 Vending Development Zones

As also stated in our comments submitted in response to the Second Proposed Rulemaking, the FTA fully supports the idea of Vending Development Zones ("VDZs") as a means to increase competition and consumer choice by creating innovative vending opportunities. However, we remain deeply concerned over the language in § 564.1 (b), which states that one of the objectives of the VDZs is: "For communities to have expanded capability to manage vending and public markets in unique high-density hospitality zones." The FTA is of the opinion that this objective is fundamentally in conflict and wholly inconsistent with the other stated objectives of the VDZs, namely the stated goals to "promote new and innovative vending practices … provide opportunities for vendors to expand their creativity and entrepreneurship … and to expand vending and public market opportunities for small and local businesses." The language of § 560.1(b) is clearly targeted to achieve the exact opposite of these other stated objectives – it is drafted to allow VDZs the ability to restrict or eliminate vending opportunities all together.

The FTA interprets this language as a threat for food trucks, and consequently on consumer choice, competition, economic freedom, and small and local businesses. We reiterate and reincorporate the comments we previously submitted on this section on March 1, 2012.

Food Truck Association Proposal in Response to Third Proposed Rulemaking

The FTA reiterates its strong opposition to the substantial discretionary authority the Proposed Rules grant to DDOT under §§ 530 and 533. The FTA understands and accepts DDOT's authority over management of public space in the city but does not agree that such authority should be wielded without input from affected stakeholders. As set forth in detail below, we submit therefore that the Proposed Rules be amended to include specific criteria that DDOT will use in creating, modifying or removing MRV locations and a public comment period and an appeal process.

Additionally, DDOT apparently would be responsible for enforcing strict and, we believe, unduly restrictive minimum sidewalk widths for mobile vending (both within the Central Business District and beyond) that we believe would place excessive, anti-competitive and wholly unnecessary limitations on the ability of mobile food vendors to serve customers in some of the most attractive vending locations in the District. As clearly demonstrated in our section-by-section comments above and in our sidewalk survey, such minimum sidewalk width restrictions are wholly inapplicable to food trucks (as compared to sidewalk vendors, covered sidewalks for construction or sidewalk cafes) because food trucks place absolutely no physical barriers or obstructions on the sidewalk. If a sidewalk is currently wide enough for unobstructed passage, the presence of a food truck will not somehow make it obstructed. Accordingly, we believe that there is no valid safety or other reason for any sidewalk width restrictions to apply to Mobile Roadway Vendors and the restrictions in §§ 530.8 (c) and 531.2 (c) should be deleted from the Proposed Rules.

The FTA puts forward the following proposal to address the stated goals of the District to achieve the safe, efficient and effective management of vending that advance the paramount interests of public health and safety, enhance consumer choice and healthy competition, promote innovative small businesses and enhance city life through creative and dynamic streetscapes. Our proposal consists of three primary concepts:

- A Citywide Mobile Roadway Vending Parking Permit
- A Fair and Transparent Process to Determine Mobile Roadway Vending Locations that is based on clear and demonstrable criteria
- The Creation of a Vending Improvement Detail

Mobile Vending Parking Permit (MRVPP)

Mobile Roadway Vendors would have the option of applying for a Mobile Roadway Vending Parking Permit (MRVPP) that allows parking at any metered location in the city for a period of up to 4 hours. The MRVPP would not extend the posted time of day limits. The fee for such a permit would be $480, which is the equivalent of paying to access a metered space for up to four hours a day, five days a week for three months and as noted before reflects a premium price for vendors' use of a parking space. The permit should be offered quarterly because many vendors may operate seasonally. In addition to allowing mobile vendors to park for up to 4 hours at any legal parking spot, this permit would also be required to park in MRV Locations. Mobile Vendors choosing not to obtain a permit would be subject to the standard posted time limits and would be subject to increased fines for violation of those limits.

The goals of the MRVPP are to:

- Offer the District a better method to collect parking fees from vendors, enforce parking limits and facilitate appropriate parking space turnover.

- By making the permit valid in any metered location, the MVPP incentivizes Mobile Roadway Vendors to serve in outside MRV locations and in communities across the District.

- Maximize the vending window to collect revenue for the District via sales tax;

- Allow Mobile Roadway Vendors to better and more efficiently operate without having to leave a location while there is still a line of waiting customers or else face a parking ticket.

- Maximize one of the greatest benefits that food trucks provide – our ability to draw people to into public space, making the space more vibrant and exposing surrounding brick-and-mortar businesses to potential new customers, thereby stimulating economic development and revitalization throughout the District.

- Ensure reasonable and appropriate reimbursement for private use of public space.

As an alternative to a 4-hour MRVPP, the FTA would support the concept of a time limit doubling parking permit that would allow the Mobile Roadway Vendor purchaser to park at any metered location for double the allowed time period (while still respecting any time of day restrictions). Such a permit would not eliminate the need to pay meter fees. This approach would generate yet additional revenues for the city while at the same time satisfying the above listed goals.

Mobile Roadway Vendor Locations (MRV Locations)

As noted in our section-by-section comments, the FTA strongly opposes the proposal to create MRV locations. The Proposed Rules would give DDOT new, unfettered powers to decide when, where and how many MRV locations would be created. In addition, the Proposed Rules grant DDOT equally broad authority to decide how many parking spaces would comprise each and every MRV location.

Nevertheless, if the District feels compelled to limit the number of Mobile Roadway Vendors in an areas with high demand for food trucks, then the FTA proposes creating an MRV location after a fair, transparent process based on clear, demonstrable criteria:

Step 1 – Defining an MRV location:

- (§ 530.4) Parking within MRV locations shall be limited to MVPP permitted vehicles during the hours of 10:30AM to 2:30PM on weekdays. Additionally, where applicable, an MRV location can be established using different hours if the needs of that area are different. For example, it may be relevant to establish an MRV location

for Mobile Roadway Vendors who wish to vend in the evening hours in specific locations.

- (§ 530.5) A Mobile Roadway Vendor may park within an MRV location for no more than four hours and must be actively preparing to vend, actively vending, or preparing to depart the MRV location during this period of time.

- (§ 530.6) MRV vehicles parked in a designated MRV location shall be subject to the design standards of § 538.

Step 2 – Criteria for the Establishment of an MRV Location:

- There have been multiple, documented and continuing complaints of blocked entrances to buildings, impaired pedestrian or vehicular passage, or instances of unsafe conditions as a result of mobile vending operations.

- More than 80% of metered spaces are occupied by Mobile Vendors on a regular (daily) basis over a 60-day study period.

- The Block in question has no offsetting or unique characteristics (such as less commercial density, a larger geographic area, less pedestrian or roadway congestion, a need for revitalization, etc.) that would merit an exception to an MRV location designation.

The process for qualifying the establishment of an MRV location would be as follows:

- DDOT or other agencies would document all complaints they receive regarding blocked entrances to buildings, impaired pedestrian or vehicular passage, or instances of unsafe conditions as a result of mobile vending operations on a particular Block where an MRV location is being proposed and submit those complaints to the Mobile Roadway Vending community, either through the FTA or through the VID, which is a private, non-profit entity established for this purpose further described below. Mobile Vendors would then have the opportunity to address the complaints before they become chronic.

- If the complaints continue unresolved, DDOT would notify the Mobile Vending community that it is initiating a 60-day study to determine whether the block meets the qualification of a MRV location. This study would document the number of Mobile Roadway Vendors operating on the block on a daily basis and identify whether there are any offsetting or unique characteristics that would merit an exception. The public would have an opportunity to comment on the proposal to create the MRV location.

- After reviewing the public comments, DOT would issue a final determination regarding the creation of the MRV location.

- Parties disagreeing with the final determination would have the ability to appeal the decision based on the criteria described above.

- The same procedures would apply if DDOT chose to modify or remove an MRV location.

Stakeholders Can Apply for an MRV Location:

- DDOT will establish an application process by which vendors or non-profit associations that support the vending community can apply to establish an MRV location.

- An advisory board comprised of stakeholders including mobile vendors, restaurants, BIDs, and industry associations will be in place to apply and review the process of establishing MRV locations.

- DDOT will respond to applications to consider creating new MRV locations within 60 days.

- Parties disagreeing with the final determination would have the ability to appeal the decision.

- The same procedures would apply if a stakeholder applied to modify or remove an MRV location.

Step 3 - Establishing a Mobile Vending Roadway Location:

- Upon a final determination that a particular block satisfies the criteria, DDOT would then establish the block as an MRV Location.

- An MRV location can reduce the amount of parking space presently available to Mobile Roadway Vendors by no more than 20 percent.

- Once an MRV location is created, DDOT would install signage identifying the appropriate number spaces at the MRV location.

Vending Improvement Detail (VID)

MRV locations will require management on a number of levels, including allocating the dedicated spaces among multiple Mobile Roadway Vendors, monitoring the effectiveness of the MRV locations, and providing a two-way communications channel among interested stakeholders. To assist DCRA/DDOT with this management and avoid placing a burden on public resources, we propose that DCRA/DDOT consider entering into a form of public-private partnership with a private, non-profit entity established for the purpose of helping to manage the MRV location establishment and management process.

Specifically, we propose the creation of a Vending Improvement Detail (VID). The VID, comparable to a BID but without a geographic component, would be a private, non-profit, entity established to work in partnership with DDOT to manage Mobile Vending in MRV locations and in other areas of the city and to undertake other activities to improve mobile vending in public spaces.

Specifically, VID services would include:

- Serving as a liaison with DCRA/DDOT by:
    - Assisting with stakeholder outreach, answering inquiries and investigating and resolving Mobile Vending complaints from the public on a real-time basis (perhaps through social media), as passed on to the VID by DCRA/DDOT.
    - Assisting DDOT with respect to the identification and study of potential MRV locations as described above.
    - Providing feedback to DDOT regarding existing MRVs and the establishment of future MRVs.
- Managing the allocation of designated parking spaces in the MRV location among MVPP holders in a fair and equitable manner. The VID would develop and implement a methodology whereby MVPP holders interested in vending in the MRV location would be assigned spaces in the MVZ, perhaps on a daily, rotating basis. Such an online technology is currently used in Los Angeles.
- Deploying VID employees in MRV locations and other areas of the city to help ensure that:
    - Customer lines are managed such that sidewalks, building entrances and driveways remain unobstructed.
    - Mobile Vendors do not park in no parking areas such as bus and loading zones.
    - Trash generated from Mobile Vendors is removed from the MRV locations and disposed of properly.
    - Complaints involving Mobile Vendors are documented and communicated to the Mobile Vending community and are resolved in a timely and satisfactory manner.
    - As part of the MRVPP application process, all Mobile Vendors seeking MRVPPs would agree to abide by the rules and policies of the VID as described above, including the requirement to pay fees to the VID to cover the costs of VID services.

The VID would be funded through VID fees, which would be assessed on mobile vendors who chose to vend at MRV locations. For example, mobile vendors would be charged a flat fee for parking at an MRV location on the day they are chosen to park in that location through the rotation process.

We believe that a Mobile Roadway Vending program structured in this way would help satisfy the many goals of DDOT in managing the public space in general and as it relates to mobile vending in particular, and would identify the District as the nationwide leader in mobile vending regulations that effectively balance the needs of all stakeholders.

My name is Stephen Adelson and I own Carnivore BBQ. We currently have two DC Food Trucks with a third to be inspected by DCRA and Health Dept this week. We expect the third truck to be serving by the end of this week.

I will address your specific provisions but wanted to give you a little background on me and my business. I employ approximately twelve full time people in this start-up business. I started this business because I researched the opportunity and decided to invest.

Before putting more than $150,000 of my own money on the line, I analyzed the size of the customer base, the available locations, the competition, the costs, and my competitive strengths and weaknesses.

I moved forward and finally have succeed to the point where I pay my employees a living wage (where they had little or none before), have a loyal following of satisfied customers, and am just starting to make enough money to pay back my debts and help support my family.

What you are proposing is an exogenous variable that I could not foresee and amounts to a "taking" of my business by legislative fiat.

While your goals to create more equitable use of the roads and sidewalks are laudable, your methods are flawed.

521.1 (d) (1). 10 Foot Side Walk Rule.

You said that this rule is consistent with Brick & Mortar Rules for sidewalk seating. Food Trucks do not set permanent seating/ obstructions and therefore are not comparable to outdoor cafés. We serve lunch primarily between the hours of noon and 2pm. Between the cops on the beat and the threat of shutting us down if we cause obstructions to side walk pedestrians; you don't need any more rules on this issue. Moreover, limiting the number of available spaces will actually do more to block existing sidewalks because the same number of customers will visit fewer trucks on a block and cause more congestion then simply leaving the existing rules in place.

Part 4

529.2. Obtain the 3 month Temp MRV permit. I serve from noon to 2 pm. I work when I choose to make money and I go where the money is. Often times due to weather and other business commitments, I choose to not use parking.

Why should I be forced to purchase a 4 hour permit? I should pay for parking when I need parking.

530.2 MRV. You are putting my livelihood in your hands. It should be in the public (customers') hands. MRV with the right to park in meter spaces would be appropriate. MRV is simply a back-handed way of putting Food Trucks out of business. During our discussions with your staff, you stated that you would create enough MRV's for all food trucks. The food trucks would simply search Washington DC to find the open MRV space. This isn't free enterprise. What you are suggesting is communism.

There is a reason why Food Trucks want to park in certain areas—that's called capitalism. Here is a perspective on what you are suggesting. I have a parking garage, it's 25 miles square (the size of Washington DC). I'm going to sell you a parking space and one hundred of your friends parking spaces (food truck operators). You can park anywhere within the 25,000 parking spaces that I have dispersed throughout the garage as long as it is a space designated as MRV. It's first come, first serve. Good Luck locating your parking space. It should only take 24 hours to locate your available parking spot.

While the above sounds ridiculous to anyone who wants to pay for parking so they can go to work, it is, in fact, exactly what you are trying to put into law. It doesn't do what you intend the rule to do, unless your intent is to put me out of business.

Rule 531.1

This rule (the existing rule) is sufficient for Food Trucks. It's the rule I was given when I made my financial decision to start a food truck business in DC.

If you want to address the over-crowding issue of food trucks, do what they do in NYC for cabs. Put a temporary moratorium on the number of Food Truck permits. This would be fair. It would ensure that there would be no more food trucks on the road. It would give the public the options they desire. It would protect my investment. It would allow existing operators to sell their permit to a business with a better plan (that's called free enterprise).

If you really must do the MRV, then do what the public clearly wants: Make all the zones you designated as MRV zones be used solely for Food Truck Parking from 11:30 to 2pm. Make it a no parking zone from 11-11:30. That way, you won't have runners (people that save parking for food trucks), you will have food trucks being able to do what they do and compete fairly for parking, and you will give the public what it wants—Food Truck Choices. Combine this idea with the Moratorium and you might have a equitable plan.

Anything less than the idea of making whole sections of the city open only to food trucks with a Temporary Moratorium on New Trucks amounts to a "Taking" and is in direct opposition to the will of the public.

Young, educated professionals are creating “The Renaissance of the District.” Food Trucks appeal to this demographic. This is the demographic that spends money in the District and creates the tax base the District needs to thrive.

Your proposed rules will put me out of business, will put off that demographic that keeps the city alive and growing, and will have a chilling effect on the creative spirit that makes DC great.

Sincerely,

Stephen Adelson

Carnivore BBQ (carnbbq.com)

November 13, 2012

COMMENTS OF THE APARTMENT AND OFFICE BUILDING ASSOCIATION OF METROPOLITAN WASHINGTON ON THE

OFFICE OF THE CITY ADMINISTRATOR'S OCTOBER 5, 2012

NOTICE OF THIRD PROPOSED RULEMAKING ON VENDING

SUBCHAPTER A: GENERAL PROVISIONS

500 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 No. 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.

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 *et seq.* (2008 Repl.)).

501 AGENCY RESPONSIBILITIES

501.1 The Director of the Department of Consumer and Regulatory Affairs (DCRA Director) shall be responsible for:

Deleted:

(a) Coordinating all vending activities in the District of Columbia;

(b) Reviewing applications for, and issuing, Vending Business Licenses to vendors in the District;

(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;

(d) Enforcing this chapter's provisions, including the requirement that vendors vend only from their assigned Vending Locations; provided, that the Department of Health (DOH) Director shall be responsible only for the application and enforcement of subtitle A (Food and Food Operations) of Title 25 of the District of Columbia Municipal Regulations (DCMR) to food vendors holding Class A and Class C Vending Business Licenses;

(e) Creating and maintaining a database of all vendors issued Vending Business Licenses, including any specific Vending Location assigned to each vendor;

(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;

(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

(h) Establishing standards regarding the design, maintenance, and operations of vendors and vending equipment.

501.2 The DDOT Director shall be responsible for:

(a) Designating, modifying, and waiving, as appropriate, the standards for Vending Locations, pursuant to § 520, § 528, and §§ 529 through 533;

(b) Approving locations on public space where public markets may be located and issuing public space permits for public markets on public space;

(c) Issuing Mobile Roadway Vending parking permits pursuant to § 530; and

(d) Assisting, as appropriate, with the enforcement of the provisions of this chapter.

501.3 The Metropolitan Police Department (MPD) shall be responsible for:

(a) Enforcing District laws and regulations prohibiting unlicensed vending activities;

(b) Enforcing any criminal laws, including laws regarding assault, harassment, and intimidation, in connection with vending; and

(c) Assisting, as appropriate, with the enforcement of the provisions of this chapter.

501.4 The DOH Director shall be responsible for:

(a) Designating the categories of food that may be vended in accordance with subtitle A (Food and Food Operations) of Title 25 of the District of Columbia Municipal Regulations (DCMR);

(b) Reviewing and either approving or denying applications for food vendors holding Class A and Class C Vending Business Licenses or other certificates of authority required in accordance with chapter 37, subtitle A (Food and Food Operations) of Title 25 of the DCMR for the vending of food from public or private spaces;

(c) Inspecting food vending operations and vending depots in accordance with subtitle A (Food and Food Operations) of Title 25 of the DCMR; and

(d) Enforcing the application of subtitle A (Food and Food Operations) of Title 25 of the DCMR to food vendors.

501.5 The Fire and Emergency Medical Services Department (FEMS) shall be responsible for:

(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

(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.

SUBCHAPTER B: VENDING LICENSES, PERMITS, AND OTHER AUTHORIZATIONS

502 GENERAL LICENSURE REQUIREMENTS

502.1 No person shall vend any product, service, or merchandise from public space in the District of Columbia without obtaining and maintaining a valid:

(a) Basic business license for vending (Vending Business License) issued by the DCRA Director, except as provided by § 502.3;

(b) Vending Site Permit assigned pursuant to § 508, or pursuant to §§ 526 if the vendor is a Roadway Vendor.

502.2 In addition to the requirements specified in § 501, no person shall vend food from public or private space in the District of Columbia without obtaining and maintaining a valid:

(a) Health inspection certificate issued by the DOH Director;

(b) Food Protection Manager Certificate issued by the Conference of Food Protection Standards for Accreditation of Food Protection Manager Certification Programs in accordance with § 203.1 of subtitle A (Food and Food Operations) of Title 25 of the District of Columbia Municipal Regulations (DCMR);

(c) Certified Food Protection Manager Identification Card issued by DOH in accordance with § 203 of subtitle A (Food and Food Operations) of Title 25 of the DCMR; provided, that a vendor without such certification may employ a person who holds a valid:

(1) Food Protection Manager Certificate issued by the Conference of Food Protection Standards for Accreditation of Food Protection Manager Certification Programs in accordance with § 203.3 of subtitle A (Food and Food Operations) of Title 25 of the DCMR; and

(2) Certified Food Protection Manager Identification Card issued by DOH in accordance with § 203 of subtitle A (Food and Food Operations) of Title 25 of the DCMR;

(d) Required food safety analyses and plans in accordance with § 3701 of subtitle A (Food and Food Operations) of Title 25 of the DCMR; and

(e) Permit from FEMS, if the vendor uses propane gas, open flames, or solid fuels such as wood pellets or charcoal.

502.3 The licenses and permits required under §§ 502.1 and 502.2 shall be subject to any conditions imposed by the District agency issuing or assigning the license, permit, or certificate.

502.4 A Vending Business License shall not be required for:

(a) Employees of licensed vendors;

(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 farmer's market licensed under § 536;

(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;

(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 *et seq*. (2008 Repl.)); or

(e) Persons authorized to sell products, merchandise, food, or services at a licensed or permitted Special Event, as that term is defined in § 599.

502.5 A Vending Business License is issued only to the licensee and may not be sold, transferred, conveyed, or otherwise assigned to any other person.

503 VENDING BUSINESS LICENSE: CLASSES OF LICENSES

503.1 The DCRA Director shall issue the following classes of Vending Business Licenses:

(a) Class A Licenses – A Class A Vending Business License shall authorize a person to vend food, other than food prohibited from public or private space under § 503.3(a) or (m); provided, that the vendor holds any food licenses and certificates required under subtitle A (Food and Food Operations) of title 25 of the District of Columbia Municipal Regulations (DCMR);

(b) Class B Licenses – A Class B Vending Business License shall authorize a person to vend merchandise, other than food and 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;

(c) Class C Licenses – A Class C Vending Business License shall authorize a person to manage farmers markets on public or private space for the sale of agricultural goods and other farm products, or other food as designated by the DOH Director, and other non-food merchandise or services as designated by the DCRA Director; and

(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 as the DCRA Director designates.

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 No vendor shall sell the following categories of merchandise or food:

(a) Live animals;

(b) Power tools;

(c) Luggage exceeding six inches by eighteen inches by twenty inches (6 in. x 18 in. x 20 in.);

(d) Rugs and carpets exceeding the surface area of the vendor's vending cart or stand;

(e) Household appliances, including refrigerators, microwave ovens, dishwashers, stoves, and televisions with screen sizes greater than seven inches (7 in.);

(f) Alcoholic beverages or other alcoholic items for consumption;

(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 *et seq.* (2005 Repl.));

(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.));

(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 § 48-1101(3) (2011 Supp.));

(j) Any offensive merchandise, including pornographic or obscene materials;

(k) Any counterfeit merchandise;

(l) Any adulterated food, as the term is defined in section 9901 of subtitle A (Food and Food Operations) of Title 25 of the DCMR;

(m) Categories of foods that are determined by DOH to be not "generally recognized as safe" (gras) as interpreted by the United States Food and Drug Administration (FDA); and

(n) Any plants, other than non-controlled and non-hazardous cut flowers, dried flowers, and potted plants.

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 Application for a Vending Business License shall be made on a form prescribed by DCRA and shall include the following information:

(a) The name and address of the owner of the vending business;

(b) The class of Vending Business License being sought;

(c) A description of the type of merchandise or service to be offered for sale;

(d) A description of the vending vehicle, vending cart, or vending stand to be used (not applicable to Class C license applicants)**, including a 8x10 color photograph of such vehicle, cart, or stand, if available at the time of the application, or when approved pursuant to § 564 as part of a vending development zone**;

AOBA COMMENT: Amend subsection (d) to add the language above. This is a standard request for use of public space and will enhance efforts to ensure compliance with design standards set forth in the rules.

(e) An indication of the Vending Locations the applicant wishes to occupy, in their order of preference (not applicable to Class C license applicants);

(f) A Clean Hands Certification;

(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;

(h) If the applicant is not a resident of the District of Columbia:

(1) The name and address of a registered agent upon whom service of process and other legal notices may be delivered; or

(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;

(i) If the applicant is applying for a Class A or Class C license, the applicant shall complete all forms required by:

(1) DCRA, as specified in §§ 504.1 and 504.2; and

(2) DOH, as specified in §502.2;

(j) A working telephone where the applicant can be reached directly at all times during vending operations; and

AOBA Comment: Above language is incorporated from Oakland § 5.5.090 B (Requiring the Applicant to provide a working telephone where he or she can be reached directly at all times during Food vending Group Site Operations).

Deleted: and

(k) Any additional information required by the DCRA Director or by the DOH Director for Class A or Class C licenses.

Deleted: j

504.3 The DCRA Director shall not issue a Vending Business License if:

(a) The applicant's Vending Business License has been revoked previously;

(b) The application for renewal of a Vending Business License has been denied under § 507; or

(c) The applicant has been:

(1) Arrested, cited, or ticketed by MPD for vending without a license;

(2) Issued a notice of infraction by DCRA for vending without a license;

(3) Arrested and convicted for a criminal offense committed while vending with a license;

(4) Issued a notice of infraction by DOH for vending without a food vending license; or

(5) Failed to pay fines for violations of subtitle A (Food and Food Operations) of Title 25 of the DCMR issued by DOH.

504.4 An applicant whose license application is rejected pursuant to §§ 504.3(a), (b), or (c)(1) through (c)(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.

504.5 An applicant must be at least eighteen (18) years of age to be eligible to be issued a Vending Business License.

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 (Basic Business License Schedule of Fees) of Title 17 of the DCMR.

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 DCRA Director of the issuance or denial of the license.

505.2 If the application is approved, the DCRA Director shall issue a Vending Business License to the applicant; provided, that if the applicant has applied for a Class A or Class C Vending Business License, no license shall be issued by the DCRA

Director until the applicant has received all necessary licenses, permits, and authorizations from DOH and any other District agency.

505.3 The Vending Business License shall include the vendor's name, the class of license, and the date of expiration.

505.4 Except for Class A and Class C Food Vending Licenses, all Vending Business Licenses shall be valid for two (2) years from the date of issuance, unless the DCRA Director designates a shorter time period in writing.

505.5 If the application is denied, the DCRA Director shall follow the procedures set forth in § 507.

505.6 The DCRA Director and DOH 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 or Mobile Roadway Vending Parking Permit, has been designated for that license.

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.

506.2 Not less than forty-five (45) days before the expiration of a Vending Business License, the licensee shall submit a renewal application to DCRA on a form prescribed by the DCRA Director, and the DOH Director if vending food, as specified in §504.2(i).

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 DCRA Director shall follow the procedures set forth in § 507.

506.5 Upon the expiration of a person's Vending Business License, the DCRA Director may seize that person's Vending Business License, Vending Site Permit, health inspection certificate, and FEMS propane and open flame permit.

507 VENDING BUSINESS LICENSE: DENIAL, SUSPENSION, REVOCATION, AND SEIZURE

507.1 The DCRA 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:

(a) Fraud, misrepresentation, or false statements contained in the license application;

(b) Fraud, misrepresentation, or false statements made in connection with the selling of any product, service, or merchandise, as determined by the DCRA Director, or the misrepresentation or adulteration of food, as determined by the DOH Director;

(c) Violation of any District law or regulation governing the operation of the vending business, including, but not limited to:

(1) The possession or sale of counterfeit merchandise; or

(2) The offering for sale of illegal goods, substances, or services;

(d) The vendor is vending at a location other than the vendor's assigned Vending Location;

(e) Violations of the Clean Hands Certification requirements;

(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 in violation of § 502.5 and § 510.4, respectively;

(g) The vendor is found to have committed a violation of the following sections of this chapter six (6) or more times in a continuous twelve (12) month period:

(1) §§ 538 through 548;

(2) §§ 550 through 562;

(3) Nonconformance with the requirements of an approved vending development zone under § 564; or

(4) § 565.

AOBA Comment: A new section is added to include nonconformance with the requirements of a vending development zone. The word "same" is deleted so that the total number of violations (whether or not of the same section) will trigger DCRA's ability to exercise its enforcement powers under this section.

(h) The vendor is found to have violated § 549 of this chapter.

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507.2 The DCRA Director may summarily suspend and seize a Vending Business License, without prior notice to the vendor or an opportunity to be heard, for:

(a) The possession, sale, or offering for sale of counterfeit merchandise;

(b) The sale of adulterated food, as the term is defined in section 9901 of subtitle A of Title 25 of the DCMR, when a determination is made by the DOH Director that the food is adulterated;

(c) Failure to provide all required certificates of authority upon demand by an authorized District government official;

(d) Any activity or condition that constitutes a threat to the public health or safety, including the health or safety of the vendor; or

(e) Failure to pay fines assessed by the Office of Administrative Hearings for violations of subtitle A of Title 25 of the DCMR issued by DOH.

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 DCRA 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.

507.4 If a person's Vending Business License is summarily suspended pursuant to § 507.2, or pursuant to section 4409 by the DOH Director for Food Code violations of subtitle A of Title 25 of the DCMR, 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.

507.5 A notice issued by the DCRA 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 DCRA Director may immediately seize the person's Vending Business License and Vending Site Permit.

507.7 A vendor shall surrender his or her Vending Business License and Vending Site Permit promptly to the DCRA Director upon revocation or suspension, including summary suspension, of the person's Vending Business License.

<u>AOBA COMMENT</u>: What does promptly mean? This is vague and open-ended. The District should strike "promptly" and insert "immediately." Alternatively, the District should specify the time period for surrendering the Vending Business License and Vending Site Permit. For example, the vendor

shall surrender the Vending Business License and Vending Site Permit within seven days.

RECOMMENDATION: A vendor shall surrender his or her Vending Business License and Vending Site Permit ~~**promptly**~~ **seven days from the date of the receipt of the notice in 507.5 from** the Director ~~upon~~ **notifying the vendor of the** revocation or suspension, including summary suspension, of the person's Vending Business License.

507.8 If a person's Vending Business License is revoked or suspended (including summarily suspended) under this section, the DCRA Director shall provide notice of the revocation or suspension to the Office of Tax and Revenue, DDOT, MPD, and, if the business holds a Class A License, to DOH.

507.9 If a person's Class A or Class C Vending Business License is summarily suspended or seized pursuant to § 507.2(e) and in accordance with § 4714 of subtitle A of Title 25 of the DCMR, the DOH Director shall provide notice of the summary suspension or seizure to DCRA, the Office of Tax and Revenue, DDOT, and MPD.

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 DCRA Director pursuant to this chapter, except that: a holder of a Class C Farmers' Market Vending License may manage vendors from public space upon the issuance of a Public Space Permit to the holder by DDOT; and Mobile Roadway Vending vehicles may operate pursuant to §§ 529 – 533.

508.2 A Vending Site Permit shall not be required for:

(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 pursuant to this Chapter; or

(b) Persons authorized to sell products, merchandise, food, or services at a licensed or permitted Special Event.

508.3 The Vending Site Permit shall authorize the permittee to occupy a specific Vending Location for the purpose of vending.

508.4 A vendor may vend only at the assigned Vending Location stated on his or her Vending Site Permit.

508.5 In addition to the authorities cited in § 520, the DCRA 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.

508.6 The DCRA 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.

508.7 The annual fee for a Vending Site Permit shall be five hundred eighty-seven dollars ($587).

508.8 The fee for a monthly Vending Site Permit for stationary roadway vending at locations designated by § 526 shall be three hundred and twenty dollars ($320) per monthly lottery.

508.9 The fee for a monthly Vending Site Permit in the Nationals Park Vending Zone shall be one hundred twenty-three dollars ($123) per monthly lottery.

508.10 The fee for a quarterly Mobile Roadway Vending parking permit issued by DDOT shall be four hundred and eighty dollars ($480).

509 VENDING SITE PERMIT: APPLICATION

509.1 A person shall submit an application for a Vending Site Permit to the DCRA 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 DCRA Director separately from an application for a Vending Business License if:

(a) The vendor is seeking to change his or her Vending Location; or

(b) The vendor is seeking to add an additional Vending Location.

509.3 The application for a Vending Site Permit shall be made on a form prescribed by the DCRA Director and shall include such information and documents as may be required by the DCRA Director and the District agency issuing or assigning the license, permit, or certificate.

510 VENDING SITE PERMIT: ISSUANCE

510.1 Upon the submission of a completed application, the DCRA Director shall issue a Vending Site Permit if:

(a) The applicant holds:

(1) A valid Vending Business License; or

(2) A current receipt for payment of all relevant Vending Business License fees;

(b) The applicant has applied for a Vending Site Permit for an available Vending Location;

(c) The applicant has been selected for the available Vending Location pursuant to a lottery or such other method for such selection authorized under this chapter, including through the creation of a Vending Development Zone; provided, that a vendor shall have a right of preference for the issuance of a Vending Site Permit for a Vending Location if:

(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);

(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 else of value; and

(3) The vendor is vending in a location that is in compliance with this chapter;

(d) The merchandise, food, or services is authorized to be vended at the available Vending Location;

(e) The applicant provides a Clean Hands Certification; and

(f) The applicant has paid all the required fees.

510.2 No more than one (1) vendor may occupy an assigned Vending Location, unless the DCRA Director specifies on the Vending Site Permit that the Vending Location is subject to a shared site agreement between several licensed vendors.

510.3 The Vending Site Permit shall delineate the specific site, zone, dates and times of validity.

510.4 A Vending Site Permit is issued only to the permittee and may not be sold, transferred, conveyed, or otherwise assigned to any other person.

511 VENDING SITE PERMIT: EXPIRATION AND RENEWAL

511.1 A Vending Site Permit, other than for stationary 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 DCRA Director.

511.2 A vendor shall apply for renewal of the vendor's annual Vending Site Permit, other than for stationary roadway vending or Nationals Park Vending Zone vending sites, at least forty-five (45) days prior to the expiration date on the permit.

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 shall no longer be valid and the vendor shall immediately surrender the Vending Site Permit to the DCRA Director. If the Vending Site Permit is not immediately surrendered, the DCRA Director shall 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 § 561.

Deleted: may

AOBA Comment: The Director should be required to seize the license and permit. Change "may" to "shall."

512 VENDING SITE PERMIT: DENIAL, SUSPENSION, REVOCATION, AND SEIZURE

512.1 The DCRA 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:

(a) The Vending Location associated with the Vending Site Permit is not eligible for authorization as a Vending Location under this chapter or any other applicable law or regulation;

(b) The DDOT Director has eliminated the Vending Location associated with the Vending Site Permit;

(c) The Vending Location, or the vending-related activities at the Vending Location, constitute a threat to public safety; or

(d) The vendor is operating in a manner that is in violation of the terms or conditions of the Vending Site Permit or in violation of this chapter, including an attempt to transfer, convey, or sell the Vending Site Permit to another person.

512.2 In situations other than those enumerated in § 512.1, upon the suspension or revocation of a vendor's Vending Site Permit, the DCRA 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.

512.3 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 § 562.

Comment [n1]: Wrong cite. 562 - - Placing Vending Business Licenses on Hold.

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512.4 If a vendor's Vending Site Permit is summarily suspended or revoked by the DCRA Director under this section, the vendor may appeal the summary suspension or revocation to the Office of Administrative Hearings.

512.5 A notice issued by the DCRA 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 § 562.

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.

512.8 If a person's Vending Site Permit is revoked or suspended (including summarily suspended) under this section, the DCRA 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 unless DOH has issued a valid health inspection certificate for the vending vehicle, cart, or stand, or farmer's market 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.

513.4 A person shall not be issued a Class A or Class C Vending Business License, or a Vending Site Permit for a Class A or Class C Vending Business License, until the person receives a health inspection certificate from DOH.

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 as required in chapter 37, subtitle A (Food and Food Operations) of Title 25 of the DCMR.

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 A health inspection certificate shall not be granted until after:

(a) An inspection of the vending vehicle, cart, or stand, or farmer's market, and all equipment and utensils used in the food vending operation;

(b) An inspection of the storage facilities for the vehicle, cart, or stand, or farmer's market, all equipment and utensils, and the food supplies;

(c) A review and approval of the preparation and holding procedures for the food, including overnight refrigeration and overall compliance with chapter 37, subtitle A of Title 25 of the DCMR; and

(d) DOH has issued its approval of any plans for food safety code compliance in accordance with subtitle A of Title 25 of the DCMR.

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 and Class C Vending Business License, may be summarily suspended by the DOH Director for Food Code violations pursuant to section 4409 of subtitle A of Title 25 of the DCMR.

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:

(a) Food Protection Manager Certificate issued by the Conference of Food Protection Standards for Accreditation of Food Protection Manager Certification Programs, in accordance with § 203.1, subtitle A of Title 25 of the DCMR; and

(b) DOH-issued a Certified Food Protection Manager Identification Card, in accordance with § 203.3, subtitle A of Title 25 of the DCMR.

517.2 Application for a food protection manager certificate and certified food manager identification card shall be made to DOH on forms and in the manner prescribed by the DOH Director.

518 PROPANE AND OPEN FLAME PERMIT

518.1 No person shall operate a vending vehicle, cart, or stand that uses propane, open flames, or solid fuels such as wood pellets or charcoal, without meeting the following standards:

(a) The person shall hold a valid propane or open flame permit from FEMS; and

(b) A vending vehicle, cart, or stand that uses propane cylinders in excess of sixty pounds (60 lbs.) shall have received the approval of the Fire Marshal.

518.2 Application for a propane or open flame permit shall be made to FEMS on a form and in the 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.

SUBCHAPTER C: VENDING LOCATIONS

PART 1: GENERAL

520 VENDING LOCATIONS: GENERAL

520.1 The DDOT Director shall approve Vending Locations that meet the standards for locations on streets, sidewalks, and other public spaces where vending may be permitted pursuant to §§ 521, 528, 529 and 531.

520.2 The DDOT Director may eliminate a previously designated Vending Location if:

(a) The DDOT Director determines that the designated Vending Location is no longer in compliance with District law or regulations;

(b) The DDOT Director determines that the operation of a vending business at the location constitutes a threat to the public safety;

(c) The use of the real property in the immediate vicinity of the vending location changes and the DDOT director determines, in his or her reasonable discretion, that the vending location is incompatible with such use; or

(d) 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.

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AOBA Comment: Proposed section 520.2 is amended to incorporate language from DC Official Code 37-131.03(b)(2).

DC Official Code 37-131.03 (a) The Mayor shall designate the specific vending locations on sidewalks, roadways, and other public spaces where a person may vend.

(b) A person shall not vend from a location on a sidewalk, roadway, or other public space other than a vending location designated by the Mayor unless the person is vending at a special event or public market that has been issued a valid license or permit by the Mayor; provided, that notwithstanding any other provision of this chapter**, vending locations established** pursuant to section 6(c-1)(3) of the Vending Regulation Temporary Act of 2008, effective June 5, 2008 (D.C. Law 17-172; 55 DCR 9144), and 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 631), **shall remain designated vending locations unless:**

(1) The space is to be used for a public purpose, including a roadway or public transportation needs, or to protect public safety; or
(2) The use of the real property in the immediate vicinity of the vending location changes and the Mayor determines, in his or her reasonable discretion, that the vending location is incompatible with such use.

(c) No more than 350 vending locations shall be established in Ward 2 at any time; provided, that vending locations on the National Mall shall not be included in this limitation.

(d) An authorization from the Mayor shall not be required for vending activities subject to § 5-331.05(h).

520.3 The DDOT Director shall re-evaluate a Vending Location ; (1) when a vendor applies for a vending site permit pursuant to § 510; (2)when a vendor issued a Vending Site Permit under § 510.1(c) ceases to vend at that Vending Location; (3) upon expiration of a vending site permit; and (4) prior to granting a renewal pursuant to § 511. In its re-evaluation, the DDOT Director shall utilize the provisions of § 520.2.

Deleted: when a vendor

AOBA Comment: The DDOT Director should conduct periodic reviews of existing vending locations, including, for example, upon the expiration of a vending site permit and prior to granting an extension of such permit. Periodic evaluation of vending locations will ensure that the location remains compliant

with the applicable vending regulations, and DDOT is aware of any changing conditions at the location which may or may not render that location suitable for continued vending.

PART 2: SIDEWALK VENDING LOCATIONS

521 VENDING LOCATIONS: SIDEWALK VENDING

521.1 All sidewalk Vending Locations shall be in accordance with the following standards:

(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.

(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;

(2) On the median strip of a divided roadway, unless the strip is intended for use as a pedestrian mall or plaza;

(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;

(4) In a location that is on or that impedes free access to service or ventilation grates or covers;

(5) On a restricted street designated in § 522.3; or

(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;

(d) Within the Central Vending Zone, sidewalk vending shall be prohibited on sidewalks unless:

(1) A ten foot (10 ft.) clear passageway is maintained;

(2) The street is specifically exempted in § 522; or

(3) The DDOT Director waives this restriction pursuant to § 521.2;

(e) Outside the Central Vending Zone, sidewalk vending shall be prohibited on sidewalks unless:

(1) A seven foot (7 ft.) clear passageway is maintained;

(2) The sidewalk is specifically exempted in §§ 523, 524, or 525; or

(3) The DDOT Director waives this restriction pursuant to § 521.2;

(f) No sidewalk Vending Location shall be designated within:

(1) Twenty feet (20 ft.) of the driveway entrance to a police or fire station;

(2) Ten feet (10 ft.) of any other driveway;

(3) Ten feet (10 ft.) of an alley;

(4) Ten feet (10 ft.) of another sidewalk Vending Location;

(5) Twenty feet (20 ft.) of the street-level entry to a Metrorail escalator;

(6) Ten (10 ft.) of the street-level door to a Metrorail elevator;

(7) A marked loading zone, entrance zone, or parking space designated for diplomatic parking, or other curbside location restricted for certain vehicles or uses;

(8) One hundred feet (100 ft.) of the entrance to a District or federal courthouse, or within such greater distance as may be designated by the DDOT Director upon the written request of the courthouse administrator;

(9) Five feet (5 ft.) of a fire hydrant;

(10) One hundred feet (100 ft.) of the main entrance to a building that is predominantly used for a primary or secondary school, unless operations at the Vending Location are restricted to non-school days and time periods on school days that begin at least thirty (30) minutes after school has been dismissed at the end of the school day. 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 that school;

(11) Twelve feet (12 ft.) of any crosswalk when on the vehicle approach side of the Vending Location and crosswalk;

Deleted: and

(12) Five feet (5 ft.) from any crosswalk when not on the vehicle approach side of the Vending Location and crosswalk; and

(13) Five feet (5 ft) from a fire control room.

AOBA Comment: The proposed change is necessary to address a life safety concern by ensuring that fire control rooms which are located adjacent to the building entrance or visible to and accessible by emergency personnel responding to an emergency.

(g) Within sixty feet of a business with a fixed address that sells the same type of food or product. A vendor may be exempt from this subsection if written,, notarized permission is given by the owner of the business with a fixed address operating within sixty (60) feet of the establishment. The mobile roadway vendor shall maintain a copy of the written authorization at the vehicle at all times when the vendor is located within sixty (60) feet of such business.

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AOBA COMMENT: New subsection (g) is added based on best practices in other jurisdictions.

Examples of Best Practices:

Jacksonville, Florida: Rules and regulations governing downtown sidewalk vendors - (Vending unit must be minimum of ***one-hundred (100) feet*** from establishment of vending like goods, except where separated by a public street.) http://www.coj.net/departments/office-of-economic-evelopment/docs/downtown development/downtown-sidewalk-vending-permit.aspx ,

St. Louis City Rev. Code 8.108A.150 F. (No licensed vendor shall conduct a vending business ***within 150 feet from*** another licensed vendor ***or an existing business which sells or offers for sale comparable goods or merchandise***.)

San Antonio Code, TX § 13.63. Operation requirements and restrictions. (10) (Mobile food vending operations shall not be carried on within three hundred (300) feet of any permitted food establishment as defined under article I. A mobile food establishment may be exempt from this provision if written, notarized permission is given by the food establishment owner with regards to a mobile food establishment operating within three hundred (300) feet of his establishment. The written permission shall be kept with the mobile food establishment unit at all times as the unit is located within three hundred (300) feet of said food establishment.)

521.2 Upon the request of the DCRA 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 DCRA Director shall note on the Vending Site Permit the issuance of the waiver by the DDOT Director.

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.

522 VENDING LOCATIONS: CENTRAL VENDING ZONE

522.1 The Central Vending Zone shall have the following boundaries:

(a) Beginning at the northeast corner of Massachusetts Avenue, NW, at 11th Street, NW;

(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;

(c) North along the center of the alley to the south curb of M Street, NW;

(d) East along the south curb of M Street, NW, to the west curb of 9th Street, NW;

(e) North along the west curb of 9th Street, NW, to the north curb of N Street, NW;

(f) East along the north curb of N Street, NW, to the east curb of 6th Street, NW;

(g) South along the east curb of 6th Street, NW, to the north curb of Massachusetts Avenue, NW;

(h) East along the north curb of Massachusetts Avenue, NW, to the west curb of North Capitol Street, NW;

(i) North along the west curb of North Capitol Street, NW, to the north curb of Q Street, NW;

(j) East along the north curb of Q Street, NE, to the west curb of Eckington Place, NE;

(k) North along the west curb of Eckington Place, NE, to the north curb of R Street, NE;

(l) East along the north curb of R Street, NE, in a straight line to the north curb of New York Avenue, NE;

(m) East along the north curb of New York Avenue, NE, to the east curb of 9th Street, NE;

(n) South along the east curb of 9th Street, NE, to the east curb of Brentwood Parkway, NE;

(o) South along the east curb of Brentwood Parkway, NE, to the east curb of 6th Street, NE;

(p) South along the east curb of 6th Street, NE, to the south curb of M Street, NE;

(q) West along the south curb of M Street, NE, to the east curb of 5th Street, NE;

(r) South along the east curb of 5th Street, NE, to the south curb of H Street, NE;

(s) West along the south curb of H Street, NE, to the east curb of 3rd Street, NE;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(hh) South along the west bank of the Anacostia River, SE, to the east bank of the Potomac River, SW;

(ii) North along the east bank of the Potomac River, SW, to the west curb of the Potomac Parkway to Rock Creek Parkway;

(jj) North along Rock Creek Parkway in a straight line to the north curb of N Street, NW;

(kk) East along the north curb of N Street, NW, to the west curb of New Hampshire Avenue, NW;

(ll) Northeast along the west curb of New Hampshire Avenue, NW, to the west curb of 20th Street, NW;

(mm) North along the west curb of 20th Street, NW, to the north curb of P Street, NW;

(nn) East along the north curb of P Street, NW, to west curb of Dupont Circle, NW;

(oo) North along the west curb of Dupont Circle, NW, to the north curb of Massachusetts Avenue, NW; and

(pp) East along the north curb of Massachusetts Avenue, NW, to the northeast corner of Massachusetts Avenue, NW and 11th Street, NW.

522.2 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:

(a) East and west sides of 19th Street, NW, between Constitution Avenue, NW and C Street, NW;

(b) East and west sides of 20th Street, NW, between Constitution Avenue, NW and C Street, NW; and

(c) East and west sides of 21st Street, NW, between Constitution Avenue, NW and C Street, NW.

522.3 Except for Vending Locations approved as part of a Vending Development Zone under § 564, no sidewalk Vending Locations shall be designated on the following streets in the Central Vending Zone:

(a) East side of 2nd Street, SW, between East Capitol Street and M Street, SE;

(b) East side of 2nd Street, NE, between K Street, NE, and East Capitol Street;

(c) East side of 10th Street, NW, between E Street, NW, and Pennsylvania Avenue, NW (Federal Bureau of Investigation building);

(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));

(e) East side of 12th Street, NW, between I Street, NW, and K Street, NW;

(f) East side of 12th Street, NW, between New York Avenue, NW, and G Street, NW;

(g) East side of 13th Street, NW, between L Street, NW, and Massachusetts Avenue, NW;

(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);

(i) East side of 22nd Street, NW, between F Street, NW, and G Street, NW;

(j) East side of 24th Street, NW, between Pennsylvania Avenue, NW, and L Street, NW;

(k) East side of 24th Street, NW, between Virginia Avenue, NW, and G Street, NW;

(l) East side of 25th Street, NW, between H Street, NW, and I Street, NW;

(m) East side of 26th Street, NW, between I Street, NW, and K Street, NW;

(n) East and west sides of Delaware Avenue, SW, between M Street, SW, and H Street, SW;

(o) East and west sides of Half Street, SE, between M Street, SE, and I Street, SE;

(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;

(ee) East and west sides of 6th Street, NW, between F Street, NW, and H Street, NW;

(ff) East and west sides of 7th Street, NW, between F Street, NW, and H Street, NW;

(gg) East and west sides of 3rd Street, NW, between F Street, NW, and G Street, NW;

(hh) East and west sides of 4th Street, NW, between F Street, NW, and G Street, NW;

(ii) North side of D Street, NW, between 3rd Street, NW, and 4th Street, NW;

(jj) North side of D Street, NW, between 5th Street, NW, and 9th Street, NW;

(kk) North side of E Street, NW, between 1st Street, NW, and 2nd Street, NW;

(ll) North side of E Street, NW, between 3rd Street, NW, and 4th Street, NW;

(mm) North side of F Street, NW, between 21st Street, NW, and 22nd Street, NW;

(nn) North side of N Street, NW, between 21st Street, NW, and New Hampshire Avenue, NW;

(oo) North side of Pennsylvania Avenue, NW, between 9th Street, NW, and 10th Street, NW;

(pp) North side of Virginia Avenue, NW, between 23rd Street, NW, and 24th Street, NW;

(qq) North and south sides of C Street, SE, between South Capitol Street, SE, and 3rd Street, SE;

(rr) North and south sides of C Street, SW, between 6th Street, SW, and South Capitol Street, SW;

(ss) North and south sides of C Street, NW, between 21st Street, NW, and 23rd Street, NW;

(tt) North and south sides of Connecticut Avenue, NW, between N Street, NW, and Dupont Circle, NW;

(uu) North and south sides of D Street between 4th Street, SW, and 3rd Street, SE;

(vv) North and south sides of E Street, SW, between South Capitol Street and Interstate 395;

(ww) North and south sides of E Street, SW, between 2nd Street, SW, and 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 3rd Street, SE, and South Capitol 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;

(iii) North and south sides of K Street, SW, between Wesley Place, SW, and Delaware Avenue, SW;

(jjj) North and south sides of K Street, NW, between 25th Street, NW, and 26th Street, NW;

(kkk) North and south sides of L Street in a straight line between 3rd Street, SW, and 3rd Street, SE;

(lll) North and south sides of L Street, NW, between 24th Street, NW, and 25th Street, NW;

(mmm) North and south sides of M Street, NW, between 21st Street, NW, and Connecticut Avenue, NW;

(nnn) North and south sides of M Street, NW, between 23rd Street, NW, and 28th Street, NW;

(ooo) North and south sides of Massachusetts Avenue, NW, between Thomas Circle, NW, and 11th Street, NW;

(ppp) North and south sides of N Street, NW, between 18th Street, NW, and Bataan Street, NW;

(qqq) North and south sides of N Street, NW, between 21st Street, NW, and 25th Street, NW;

(rrr) North and south sides of Sunderland Place, NW, between 19th Street, NW, and 20th Street, NW;

(sss) North and south sides of F Street, NW, between 6th Street, NW, and 7th Street, NW (Verizon Center);

(ttt) North and south sides of H Street, NW, between 6th Street, NW, and 7th Street, NW (Verizon Center);

(uuu) North and south sides of G Street, NW, between 3rd and 4th Streets, NW;

(vvv) North and south sides of F Street, NW, between 3rd Street, NW, and 4th Street, NW;

(www) South side of C Street, SW, between 12th Street, SW, and 14th Street, SW;

(xxx) South side of E Street, NW, between 9th Street, NW, and 10th Street, NW;

(yyy) South side of G Street, NW, between 7th Street, NW, and 9th Street, NW;

(zzz) South side of G Street, NW, between 23rd Street, NW, and 24th Street, NW;

(aaaa) South side of H Street, NW, between 23rd Street, NW, and 24th Street, NW;

(bbbb) South side of K Street, NW, between 24th Street, NW, and 25th Street, NW;

(cccc) West side of 5th Street, NW, between D Street, NW, and E Street, NW;

(dddd) West side of 9th Street, NW, between E Street, NW, and Pennsylvania Avenue, NW;

(eeee) West side of 17th Street, NW, between Constitution Avenue, NW, and C Street, NW;

(ffff) West side of 17th Street, NW, between D Street, NW, and E Street, NW;

(gggg) West side of 21st Street, NW, between New Hampshire Avenue, NW, and N Street, NW; and

(hhhh) West side of 23rd Street, NW, between Virginia Avenue, NW, and G Street, NW.

523 VENDING LOCATIONS: OLD GEORGETOWN VENDING ZONE

523.1 No vendor shall vend on any sidewalk on public space within the area known as Old Georgetown enclosed by the following continuous boundary, except as specifically provided in § 523.2:

(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 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:

(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:

(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 of Prospect Street, NW, west of Wisconsin Avenue, NW; and

(11) Southern sidewalk of Prospect Street, NW, west of Wisconsin Avenue, NW.

524 VENDING LOCATIONS: NEIGHBORHOOD VENDING ZONES

524.1 The Neighborhood Vending Zones shall consist of the following streets:

(a) Capitol Hill area:

(1) H Street, NE, from 3rd Street, NE, to 15th Street, NE (Zones C-2-A, C-2-B, and C-3-A);

(2) Pennsylvania Avenue, SE, from 2nd Street, SE, to Potomac Avenue, SE (Zones C-2-A and C-2-B);

(3) 8th Street, SE, from D Street, SE, to I Street, SE (Zone C-2-A);

(4) 15th Street, NE, from A Street, NE, to East Capitol Street (Zone C-2-A);

(5) Benning Road, NE, from Bladensburg Road, NE, to Oklahoma Avenue, NE (Zones C-2-A and C-2-B); and

(6) East Capitol Street from 19th Street, SE, to 22nd Street, SE (Zone GOV): The following restriction applies:

(A) Only the south side of East Capitol Street shall be included in the Neighborhood Vending Zone;

(b) Far Northeast and Southeast area:

(1) Benning Road, SE, from 44th Street, SE, to A Street, SE (Zone C-3-A);

(2) Branch Avenue, SE, from Q Street, SE, to S Street, SE (Zone C-1);

(3) Central Avenue, SE, from 56th Street, SE, to Southern Avenue, SE (Zone C-1);

(4) Dix Street, NE, from 60th Street, NE, to Eastern Avenue, NE (Zone C-2-A);

(5) Minnesota Avenue, NE, from Blaine Street, NE, to Grant Street, NE (Zone C-3-A);

(6) Nannie Helen Burroughs Avenue, NE, from 51st Street, NE, to Division Avenue, NE (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 (Zone C-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 twenty-five feet (25 ft.) of 6th Street, NW.

(5) 14th Street, NW from S Street, NW, to Florida Avenue, NW (Zones CR 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);

(6) 9th Street, NW, from M Street, NW, to P Street, NW (Zone C-2-A);

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

(8) 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 Buren Street, 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); and

(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);

(8) 12th Street, NE, from Irving Street, NE, to Randolph Street, NE (Zones C-1 and C-2-A); and

(9) Benning Road, NE, from Bladensburg Road, NE, to Oklahoma Avenue, NE (Zones C-2-A and C-2-B).

525 VENDING LOCATIONS: NATIONALS PARK VENDING ZONE

525.1 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:

(a) East side of First Street, SE, between N Street, SE, and N Place, SE – two (2) Vending Locations;

(b) East side of First Street, SE, between N Place, SE, and O Street, SE – two (2) Vending Locations;

(c) West side of Half Street, SE, between M Street, SE, and N Street, SE – seven (7) Vending Locations; and

(d) North side of N Street, SE, between Half Street, SE, and Van Street, SE – three (3) Vending Locations.

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.

525.3 The DCRA Director shall assign the Vending Locations in the Nationals Park Vending Zone by lottery.

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.

525.5 Winners of each monthly lottery shall be notified by phone, first-class mail, electronic mail, or by being listed on the DCRA website (dcra.dc.gov).

PART 3: STATIONARY ROADWAY VENDING LOCATIONS

526 VENDING LOCATIONS: STATIONARY ROADWAY VENDING LOCATIONS: GENERAL

526.1 A Stationary Roadway Vendor must vend from a fixed location with a valid vending site permit in an assigned roadway vending location as designated in § 527;

526.2 A Stationary Roadway Vendor may not vend in any roadway location other than an authorized Roadway Vending Location for which the Stationary Roadway Vendor holds a valid Vending Site Permit.

527 VENDING LOCATIONS: STATIONARY ROADWAY VENDING LOCATIONS: AUTHORIZED LOCATIONS

527.1 The authorized Stationary Roadway Vending Locations shall be on the streets and in the numbers set forth as follows:

(a) 400 Independence Avenue, SW (National Air & Space Museum) – Location numbers one (1) through six (6);

(b) 600 Independence Avenue, SW (National Air & Space Museum) – Location numbers seven (7) through twelve (12);

(c) 700 Independence Avenue, SW (Hirshhorn Museum) – Location numbers thirteen (13) through eighteen (18);

(d) 1400 Constitution Avenue, NW (National Museum of American History) – Location numbers nineteen (19) and twenty (20);

(e) 1200 Independence Avenue, SW (Freer and Sackler Gallery) – Location numbers twenty-one (21) through twenty-two (22);

(f) 600 Constitution Avenue, NW (National Gallery of Art) – Location numbers twenty-three (23) through twenty-six (26);

(g) 700 Constitution Avenue, NW (National Gallery of Art) – Location numbers twenty-seven (27) through thirty (30);

(h) 900 Constitution Avenue, NW (National Museum of Natural History) – Location numbers thirty-one (31) through thirty-five (35);

(i) 1200 Constitution Avenue, NW (National Museum of American History) – Location numbers thirty-six (36) through forty-one (41);

(j) 200 15th Street, NW (Ellipse East) – Location numbers forty-two (42) through fifty (50);

(k) 400 15th Street, NW (Ellipse East) – Location numbers fifty-one (51) through fifty-nine (59);

(l) 200 17th Street, NW (Ellipse West) – Location numbers sixty (60) through sixty-seven (67);

(m) 400 17th Street, NW (Ellipse West) – Location numbers sixty-eight (68) through sixty-nine (69);

(n) 500 17th Street, NW (State Place) – Location numbers seventy (70) through seventy-two (72);

(o) 1500 Constitution Avenue, NW – Location numbers seventy-three (73) through seventy-four (74); and

(p) 2100 H Street, NW – Location numbers seventy-five (75) through seventy-six (76).

527.2 The DDOT Director shall designate specific portions of the streets listed in § 527.1, in the numbers set forth in § 527.1, as authorized Stationary Roadway Vending Locations.

528 VENDING LOCATIONS: STATIONARY ROADWAY VENDING LOCATIONS: ADDITIONAL LOCATIONS

528.1 The DDOT Director, in consultation with the DCRA Director, may designate Stationary Roadway Vending Locations in addition to those authorized in § 527.1; provided, that no additional Stationary Roadway Vending Location shall be designated:

(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;

(b) Within a loading zone, entrance zone, parking space designated for diplomatic parking, or other curbside zone restricted for certain vehicles or uses;

(c) On a snow emergency route designated under section 4024 of Title 18 of the DCMR;

(d) Within forty feet (40 ft.) of an intersection;

(e) Along the length of a Metrobus Stop Zone, a commuter bus zone, an intercity bus zone, or other curbside zone specifically designated and demarcated as being for transit use;

(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;

(g) Within twenty feet (20 ft.) of an alley;

(h) Within forty feet (40 ft.) of any crosswalk;

Deleted: or

(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; or

(j) Five feet (5 ft) from in front of a fire control room.

AOBA Comment: The proposed change is necessary to address a life safety concern by ensuring that fire control rooms which are located adjacent to the building entrance or visible to and accessible by emergency personnel responding to an emergency.

528.2 Upon the designation of additional Stationary Roadway Vending locations, a lottery shall be conducted by the DCRA Director to assign these Stationary Roadway Vending locations, but this lottery shall be open only to roadway vendors whose vending is limited to fruits, vegetables, or other healthy, nutritional food options. Any stationary roadway Vending Locations not assigned during this lottery shall be included in the lottery conducted pursuant to § 534.

PART 4: MOBILE ROADWAY VENDING

529 VENDING LOCATIONS: MOBILE ROADWAY VENDING LOCATIONS: GENERAL

529.1 Mobile Roadway Vending (hereinafter MRV) vehicles operating in public space under this section shall have either a person holding a valid Class A, Class B, or Class D Vending Business License or a person holding a valid Vendor Employee Identification Badge issued pursuant to § 558 inside the vehicle at all times while the vehicle is in operation.

529.2 To vend in designated MRV locations in the District during designated hours, MRV vehicles operating in public space under this section shall be required to obtain a three-month temporary MRV parking permit from the DDOT Director.

5293 A Mobile Roadway Vendor may not vend on any block designated as Residential Permit Parking unless specifically authorized by a special event permit.

529.4 MRV vehicles shall not include ice cream vending vehicles as defined in § 599.

529.5 MRV vehicles must be legally parked in order to vend from public space.

530 VENDING LOCATIONS: MOBILE ROADWAY VENDING LOCATIONS: AUTHORIZED LOCATIONS

530.1 The DDOT Director shall designate MRV locations where Mobile Roadway Vendors, with valid MRV parking permits, may park in order to legally vend from public space.

530.2 Each MRV location shall contain sufficient space for at least three Mobile Vending Vehicles and shall be designated by appropriate signage.

530.3 There shall be no more than one MRV location per block on any one side of a street.

530.4 Parking within MRV locations shall be limited to MRV vehicles during the hours of 11 AM to 3 PM on weekdays.

AOBA Comments: It is unclear whether the stated intent of proposed section 530.4 is to prohibit parking by all other vehicles. What about, for example, the ability of customers/patrons of other businesses to park in those areas? The language is drafted is unclear and should be revised to reflect the agency's intent.

DDOT designated MRV locations precludes citizens (customers, visitors, employees, etc.) from utilizing public parking spaces in an MRV location and also allows mobile roadway vendors to park in *any* legal parking spot outside of an MRV location *including those adjacent to or across from ay MRV location*. This means, for example, an MRV could be established on the portion of a block and additional MRV vehicles could occupy public parking spaces adjacent to this MRV location, around the corner from the MRV location, across the street from this MRV location, etc.

-In this scenario MRV vehicles receive special resources with regards to public space compared to a citizen in an independent car. If designated MRV locations preclude independent citizens from parking in those locations, than should mobile roadway vehicle parking in non-DDOT designated MRV locations (other public parking spaces) be limited and therefore left open for regular car parking?

530.5 A Mobile Roadway Vendor may park within an MRV location for no more than four (4) hours and must be actively preparing to vend, actively vending, or preparing to depart the MRV location during this period of time.

530.6 MRV vehicles parked in a designated MRV location shall be subject to the design standards of § 538.

530.7 Notwithstanding any standards created pursuant to § 538.1, an MRV vehicle may not exceed:

(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.

530.8 An MRV location shall not be established:

(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;

(b) Within a designated loading zone, entrance zone, parking space designated for diplomatic parking, or other curbside zone restricted for certain vehicles or uses;

(c) Where the adjacent unobstructed sidewalk is less than ten feet (10 ft.) wide in the Central Business District or seven feet (7 ft.) wide outside the Central Business District;

(d) Along the length of a Metrobus Stop Zone, a commuter bus zone, an intercity bus zone, or other curbside zone specifically designated and demarcated as being for transit use;

(e) Within forty feet (40 ft.) of the driveway entrance to a police or fire station, or within twenty feet (20 ft.) of any other driveway;

(f) Within twenty feet (20 ft.) of an alley;

(g) Within forty feet (40 ft.) of any crosswalk;

(h) Any of the locations enumerated in § 531.3; or

(i) Any location that is not a legal parking space.

531 VENDING LOCATIONS: MOBILE ROADWAY VENDING LOCATIONS: ADDITIONAL LOCATIONS

531.1 A Mobile Roadway Vending vehicle operating outside of a designated Mobile Roadway Vending location established pursuant to § 530 must:

(a) Vend in a legal parking space that meets the requirements of § 531.2;

(b) Pay all parking meter fees; and

(c) Obey all posted time restrictions.

531.2 A Mobile Roadway Vending vehicle operating outside of a designated Mobile Roadway Vending location shall not park and vend:

(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;

(b) Within a designated loading zone, entrance zone, parking space designated for diplomatic parking, or other curbside zone restricted for certain vehicles or uses;

(c) Where the adjacent unobstructed sidewalk is less than ten feet (10 ft.) wide in the Central Business District or seven feet (7 ft.) wide outside the Central Business District;

(d) Along the length of a Metrobus Stop Zone, a commuter bus zone, an intercity bus zone, or other curbside zone specifically designated and demarcated as being for transit use;

(e) Within forty feet (40 ft.) of the driveway entrance to a police or fire station, or within twenty feet (20 ft.) of any other driveway;

(f) Within twenty feet (20 ft.) of an alley;

(g) Within forty feet (40 ft.) of any crosswalk;

(h) Any of the locations enumerated in § 531.3;

Deleted: or

(i) Any location that is not a legal parking space;

(j) Five feet (5 ft) from in front of a fire control room;

AOBA Comment: The proposed change is necessary to address a life safety concern by ensuring that fire control rooms which are located adjacent to the building entrance or visible to and accessible by emergency personnel responding to an emergency.

(k) On a block or street facing a designated MRV; or

(l) On the same block or street as a designated MRV.

AOBA Comment: See comments on proposed 530.4

531.3 Mobile Roadway Vending vehicles operating under this section shall not vend at the following locations:

(a) Constitution Avenue between 23rd Street, NW, and 2nd Street, NE;

(b) Independence Avenue between 23rd Street, NW, and 2nd Street, NE;

(c) 17th Street, NW, between Independence Avenue, NW, and H Street, NW;

(d) 15th Street, NW, between Independence Avenue, NW, and H Street, NW;

(e) 14th Street, NW, between Constitution Avenue, NW, and Independence Avenue, NW;

(f) 7th Street, NW, between Constitution Avenue, NW, and Independence Avenue, NW;

(g) 4th Street, NW, between Constitution Avenue, NW, and Independence Avenue, NW;

(h) 3rd Street, NW, between Constitution Avenue, NW, and Independence Avenue, NW;

(i) 1st Street, NE, between Constitution Avenue, NE, and Independence Avenue, NE;

(j) East Capitol Street, NE, between 1st Street, NE, and 2nd Street, NE;

(k) Madison Drive, NW, between 15th Street, NW, and 3rd Street, NW;

(l) Jefferson Drive, NW, between 15th Street, NW, and 3rd Street, NW;

(m) Pennsylvania Avenue, NW, between 15th Street, NW, and 1st Street, NW; and

(n) Maryland Avenue, SW, between Independence Avenue, SW, and 3rd Street, SW.

532 VENDING LOCATIONS: MOBILE ROADWAY VENDING LOCATIONS: APPLICATION FOR NEW LOCATIONS

532.1 An applicant may submit an application to DDOT to create a new Mobile Roadway Vending location, provided that the applicant specifies a location that is not in conflict with the above standards. All applications are subject to DDOT review and approval.

533 DIRECTOR'S DISCRETION

533.1 The DDOT Director has the discretion to add, modify or remove a Mobile Roadway Vending location at any time.

PART 5: ASSIGNMENT OF VENDING LOCATIONS

534 ASSIGNMENT OF SIDEWALK VENDING LOCATIONS

534.1 Unoccupied sidewalk Vending Locations shall be assigned to licensed sidewalk vendors through a lottery conducted by the DCRA Director.

534.2 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.

534.3 No holder of a Vending Business License shall be assigned more than five (5) sidewalk Vending Locations.

534.4 No more than one (1) vendor may occupy an assigned Vending Location, unless the DCRA Director specifies on the Vending Site Permit that the Vending Location is subject to a shared site agreement between several licensed vendors.

534.5 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.

534.6 The DCRA Director may contract out the function of performing the lotteries for sidewalk Vending Locations.

534.7 No Vending Site Permit shall be distributed until full payment is received from the vendor or person.

534.8 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 DCRA Director to rescind the Vending Site Permit offer.

534.9 The DCRA Director may lottery off unclaimed sidewalk Vending Locations until all sidewalk Vending Locations are claimed.

535 ASSIGNMENT OF STATIONARY ROADWAY VENDING LOCATIONS

535.1 For a period of one (1) year from the publication in the *District of Columbia Register* of a notice of final rulemaking adopting this chapter, MPD shall oversee the lottery for stationary roadway Vending Locations. Upon the expiration of the yearlong period, the DCRA Director shall oversee the lottery.

535.2 Stationary Roadway Vending Locations shall be assigned as follows:

(a) All Stationary Roadway Vending Locations shall be allocated by lottery;

(b) The lottery shall be conducted monthly, with Vending Locations allocated to a vendor by the following days of the week:

(1) Mondays;

(2) Tuesdays;

(3) Wednesdays;

(4) Thursdays;

(5) Fridays;

(6) Saturdays; or

(7) Sundays.

(c) There shall be equal allocation in the lottery of Class A and Class B licenses; and

(d) No vendor shall be issued Stationary Roadway Vending Site Permits for more than two (2) Stationary Roadway Vending Sites at any one time.

535.3 No Stationary Roadway Vending Site Permit shall be distributed until full payment is received from the roadway vendor or person.

535.4 A vendor shall have thirty-five (35) calendar days from the billing date to remit payment for the Stationary Roadway Vending Locations the vendor has won. Failure to remit payment shall allow the DCRA Director to rescind the offer to the winning vendor.

535.5 The DCRA Director may lottery off unclaimed Stationary Roadway Vending Locations until all Stationary Roadway Vending Locations are awarded.

535.6 The DCRA Director shall register licensed roadway vendors for participation in the lottery by assigning each vendor a registration number.

535.7 No vendor may participate in the lottery for Stationary Roadway Vending Locations unless the vendor holds a valid Vending Business License for roadway vending and is registered for the lottery.

535.8 No vendor may operate on more than one (1) Stationary Roadway Vending Location per day, and only one (1) vendor may occupy an assigned Stationary Roadway Vending Location as described on the Stationary Roadway Vending Site Permit, unless otherwise specified by the DCRA Director on the Stationary Roadway Vending Site Permit.

535.9 No lottery registration or Stationary Roadway Vending Location assignment or permits may be transferred from a vendor to any other person.

535.10 The DCRA Director may contract out the function of performing the lottery for Stationary Roadway Vending Locations; provided, that the lottery may be subject to any government-required audit or review.

PART 5: MISCELLANEOUS

536 FARMERS' MARKETS

536.1 No person shall operate or vend from a farmer's market unless the public or private 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.

536.2 No person shall manage a farmer's market on public or private space without holding a Class C Vending Business License.

536.3 No Class C Vending Business License holder shall operate a farmer's market on public space without first obtaining a Public Space Permit from the DDOT Director.

536.4 Each person operating at a farmer's market managed by the holder of a Class C Vending Business License on public or private space shall be subject to all applicable license and health laws and regulations.

536.5 No Class C Vending Business License holder shall operate a farmer's market on public or private space without first obtaining a DOH health inspection certificate and food safety compliance inspection in accordance with subtitle A of Title 25 of the DCMR.

536.6 Each farmer's market operated by the holder of a Class C Vending Business License that is operating on private space shall obtain a certificate of occupancy from the DCRA Director.

536.7 A person who is authorized by the Class C Vending Business License holder to operate at a farmer's market may operate without a Vending Business License or Vending Site Permit; provided, that the person shall:

(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

(b) Comply with any standards imposed by DOH or other relevant agencies.

536.8 A Class C Vending Business License holder shall maintain records of all persons operating at each farmer's market managed by the licensee.

537 TEMPORARY RELOCATION OF VENDORS

537.1 The DCRA 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 any other situations where the Vending Location is either unavailable or creates a threat to the public health, safety, or welfare.

537.2 Any temporary relocation shall last only until such time as the original Vending Location is determined by the DCRA Director, the DDOT Director, or MPD to be useable again.

537.3 A vendor subject to a temporary relocation shall be relocated by the DCRA Director to the closest available location that is deemed allowable for vending.

537.4 In any situation where a temporary relocation will be for at least twenty-one (21) calendar days, the DCRA Director shall issue the affected vendor a new Vending Site Permit for the new Vending Location.

SUBCHAPTER D: DESIGN STANDARDS, OPERATIONAL STANDARDS, AND INSPECTIONS

PART 1: DESIGN STANDARDS

538 DESIGN STANDARDS: GENERAL

538.1 The DCRA Director may develop design standards for vending vehicles, vending stands, and vending carts in addition to those set forth in this chapter.

538.2 The provisions of sections 539, 540, 541, 542, 543, 547, 548, and 553 shall not apply to activities licensed and permitted under § 503.1(c).

539 DESIGN STANDARDS: VENDING CARTS

539.1 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 DCRA Director on the Vending Site Permit:

(a) Four feet six inches (4 ft. 6 in.) in width, unless the vendor vends food from the vending cart, in which case the vending cart shall not exceed five feet (5 ft.) in width;

(b) Seven feet (7 ft.) in length, unless the vendor vends food from the vending cart, in which case the cart shall not exceed eight feet (8 ft.) in length; and

(c) Eight feet six inches (8 ft. 6 in.) in height, measured from the bottom of the tire.

539.2 A vending cart shall be covered by either:

(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

(b) One (1) canopy which shall not overhang more than six inches (6 in.) in any direction from the body of the cart.

539.3 Any umbrella or canopy used to cover a vending cart:

(a) Shall be made of water-resistant canvas with wood or metal frames; and

(b) Shall not contain any advertising other than advertising allowed under § 543.

539.4 No food or merchandise shall be hung or otherwise displayed from back of the vending cart.

539.5 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.

539.6 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 (4 in.) off the ground, and in compliance with DOH food storage regulations; and

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.)).

539.7 The cart shall be placed on one (1) or more wheels; provided, that:

(a) The wheels shall not exceed two feet eight inches (2 ft. 8 in.) in diameter;

(b) The wheels shall be a wood or metal frame with rubber trim for tires; and

(c) The cart may include stabilizing legs in addition to the wheel or wheels.

539.8 The vending cart shall be equipped with a chock to be used to prevent the cart from rolling or moving.

540 DESIGN STANDARDS: VENDING VEHICLES

540.1 No vending vehicle, including any display on or attachments to the vehicle allowed by this section, shall exceed the followings dimensions unless otherwise authorized by the DCRA 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.

540.2 No food, merchandise, or equipment shall be hung or otherwise displayed from the non-serving side or back of the vending vehicle.

540.3 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.

540.4 All vending vehicles shall rest on inflated tires.

541 DESIGN STANDARDS: VENDING STANDS

541.1 The design and operation of all vending stands shall conform with the following requirements, unless otherwise authorized by the DCRA Director on the Vending Site Permit:

(a) The stand shall consist of a wood, plastic, or metal table with attached folding legs, a stair-stepped structure approved by the DCRA Director, or a shoe-shine stand structure approved by the DCRA 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;

(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.);

(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.);

(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 material covering a metal or wood frame mounted above the stand. 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;

(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

(f) No free standing racks or other free-standing forms of display shall be allowed around the stand.

542 DESIGN STANDARDS: FOOD VENDING CARTS AND VEHICLES

542.1 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.

542.2 If DCRA waives any design standard for a food vending cart or vehicle that is not in compliance with §§ 539, 540, 541, or 542, a written waiver approving the non-compliant cart or vehicle shall be issued by DCRA, MPD, and DDOT to the DOH Director prior to DOH either conducting a food safety code compliance inspection pursuant to subtitle A of Title 25 of the DCMR or issuing a health inspection certificate.

542.2 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:

(a) A fresh water tank with at least a five gallon (5 gal.) capacity or more for food vending carts;

(b) A fresh water tank with at least a thirty-eight gallon (38 gal.) capacity or more for food vending vehicles;

(c) A waste water tank with a capacity fifteen percent (15%) or larger than the required fresh water tank;

(d) A three (3) compartment sink with hot and cold running water;

(e) A separate hand washing sink with mixing faucet;

(f) Walls, ceiling, and floors that are smooth and easily cleanable;

(g) Natural or electrical lighting to provide a minimum of fifty (50) candles of light on work surfaces;

(h) 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;

(i) A generator-powered freezer that will hold stored foods at zero degrees Fahrenheit (0° F) or below and that has sufficient holding capacity for one (1) day of operation; and

(j) Adequate ventilation.

543 DESIGN STANDARDS: ADVERTISING

543.1 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.

543.2 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.

543.3 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.

544 DESIGN STANDARDS: PHASE-IN PERIOD

544.1 Any vendor issued a Vending Business License prior to the date of publication in the *District of Columbia Register* 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 539.2; and

(b) Subsection 539.5.

PART 2: OPERATIONAL STANDARDS

545 OPERATIONAL STANDARDS: GENERAL

545.1 A vendor shall comply with all District and federal laws and regulations applicable to the operation of a vending business.

545.2 No vendor shall vend in public space:

(a) 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.

545.3 A vendor shall, at all times, obey posted traffic and parking signs.

546 OPERATIONAL STANDARDS: AUTHORIZED HOURS OF OPERATIONS

546.1 Vendors may operate only during the following hours:

(a) Sunday through Thursday, from 5:00 a.m. to 10:00 p.m.; and

(b) Friday and Saturday from 5:00 a.m. to 1:00 a.m. the next day; provided, that vendors operating in Residential Zones, as specified in the District of Columbia Zoning Regulations, shall not vend past 10:00 p.m. on any night of the week.

546.2 Notwithstanding § 546.1, the Vending Site Permit for each Vending Location in a Vending Development Zone shall establish the hours of operation for that Vending Location.

547 OPERATIONAL STANDARDS: PLACEMENT OF VENDING VEHICLES, VENDING CARTS, AND VENDING STANDS

547.1 No vendor shall vend in a location that is not a Vending Location assigned to the vendor by the DCRA Director.

547.2 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 DCRA Director on the Vending Site Permit.

547.3 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 DCRA Director or the DDOT Director or as part of a Vending Development Zone.

547.4 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.

547.5 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.

548 OPERATIONAL STANDARDS: PLACEMENT OF EQUIPMENT AND RELATED ITEMS

548.1 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.

548.2 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.

548.3 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 § 547.3.

548.4 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.

549 OPERATIONAL STANDARDS: FOOD PREPARATION AND HANDLING

549.1 All preparation, handling, transportation, and storage of food vended under this chapter shall be in compliance with:

(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 *et seq.* (2009 Repl. & 2011 Supp.));

(b) Subtitle A (Food and Food Operations) of Title 25 (Food Operations and Community Hygiene) of the District of Columbia Municipal Regulations;

(c) Any other applicable law or regulation related to the preparation, handling, transportation, or storage of food;

(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

(d) Any applicable standards established by DOH.

549.2 No food vending equipment shall be used for purposes other than those authorized by the DOH Director.

549.3 No food may be vended from a vending vehicle, cart, or stand unless there is a person in charge on site at the time of the preparation, handling, and sale of the food who holds a valid:

(a) Food Protection Manager Certificate issued by the Conference of Food Protection Standards for Accreditation of Food Protection Manager Certification Programs in accordance with § 203 of subtitle A (Food and Food Operations) of Title 25 of the DCMR; and

(b) DOH-issued a Certified Food Protection Manager Identification Card in accordance with § 203 of subtitle A (Food and Food Operations) of Title 25 of the DCMR;

550 OPERATIONAL STANDARDS: FIRE SAFETY

550.1 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.

550.2 All vending vehicles operating with propane or open flames shall meet the following standards:

(a) All propane compartments shall be secured and placarded;

(b) “No Smoking” signs shall be posted on the vehicle; and

(c) Propane or open flame permits shall be clearly posted on the vehicle.

551 OPERATIONAL STANDARDS: USE OF AMPLIFICATION SYSTEMS

551.1 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 DCMR. The conduct and behavior of all licensed vendors shall comply in all respects with the applicable noise provisions in Title 20 DCMR Chapters 27-29.

Deleted: .

AOBA Comment: The above section is amended to incorporate by reference the noise controls standards set forth in Title 20 of the DCMR.

> ***See*** St. Louis City Rev. Code 8.108A.150 E. (The conduct and behavior of all licensed vendors shall comply in all respects with existing noise ordinances.")

551.2 Activities open to the public and provided for in subsection 2805.2 of Title 20 of the DCMR are exempt from the limitations set forth in this section.

PART 3: INSPECTIONS

552 INSPECTIONS: FOOD PREPARATION AND HANDLING

552.1 The vendor's food preparation, handling, transportation, and storage operations shall be subject to routine, unannounced inspection at any time to verify compliance with applicable provisions of subtitle A of Title 25 of the DCMR and any conditions imposed by the health inspection certificate.

AOBA Comment: New language added per San Antonio Code § 13.62 Permit requirements (k)(The director shall make routine, unannounced inspections of mobile food courts, mobile food establishments, and commissaries when applicable, to determine whether or not the vending operation is being conducted in such a manner as to comply with the conditions of the permit, the provisions of this article, other applicable city ordinances and state and federal statutes, regulations and rules.)

552.2 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.

553 INSPECTIONS: DESIGN STANDARDS

553.1 A vendor's vending vehicle, vending stand, or vending cart shall be subject to routine, unannounced inspection at any time by the DCRA Director to verify compliance with applicable design standards required by this chapter.

AOBA Comment: New language added per San Antonio Code § 13.62 Permit requirements (k)(The director shall make routine, unannounced inspections of mobile food courts, mobile food establishments, and commissaries when applicable, to determine whether or not the vending operation is being conducted

in such a manner as to comply with the conditions of the permit, the provisions of this article, other applicable city ordinances and state and federal statutes, regulations and rules.)

553.2 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.

554 INSPECTIONS: FIRE SAFETY

554.1 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 regularly as the Fire Marshal prescribes.

554.2 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 DCRA Director. The DCRA Director shall return the seized Vending Business License or Vending Site Permit to the licensee only upon the licensee's vending vehicle, vending cart, or vending stand passing FEMS inspection.

PART 4: OTHER STANDARDS OF OPERATION

555 MAINTENANCE STANDARDS

555.1 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.

555.2 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.

556 DISPLAY OF LICENSES, PERMITS, AND CERTIFICATES

556.1 A vendor shall conspicuously display on the vendor's vending vehicle, vending cart, or vending stand, or farmer's market, as required, in chapter 37, subtitle A of Title 25 of the DCMR, 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

(g) A propane or open flame permit, if the vendor uses propane or open flames in his or her operations.

556.2 The items required by § 556.1 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.

556.3 No person shall alter, mutilate, forge, or illegally display any license, permit, or other certificate of authority issued pursuant to this chapter.

556.4 If a Vending Business License, Vending Site Permit, or health inspection certificate is displayed by a vendor or on a vending vehicle, vending cart, or vending stand other than that of the vendor, vending vehicle, vending stand, or vending cart for which the Vending Business License, Vending Site Permit, or health inspection certificate was issued, the DCRA 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.

556.5 If a summary impounding or immobilization occurs pursuant to § 556.4, the DCRA 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 DCRA Director.

556.6 Failure to display any required certificates of authority, or to provide those certificates to an authorized District government representative, 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 provision of the required certificates of authority.

557 MOTOR VEHICLE REGISTRATION AND INSPECTION OF VENDING VEHICLES AND CARTS

557.1 All vending vehicles and vending carts:

(a) Shall be registered and inspected by the District of Columbia Department of Motor Vehicles or by the motor vehicle department of another state or municipality with appropriate jurisdiction;

(b) Shall display all current tags on the vehicle or cart; and

(c) Shall not vend any food, merchandise, or services if the vehicle has temporary tags.

557.2 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.

558 EMPLOYEES OF LICENSED VENDORS

558.1 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.

558.2 The employing vendor shall follow all applicable District and federal employment laws and regulations.

558.3 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:

(a) Food Protection Manager Certificate issued by the Conference of Food Protection Standards for Accreditation of Food Protection Manager Certification Programs in accordance with § 203 of subtitle A (Food and Food Operations) of Title 25 of the DCMR; and

(b) DOH-issued a Certified Food Protection Manager Identification Card in accordance with § 203 of subtitle A (Food and Food Operations) of Title 25 of the DCMR.

558.4 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 DCRA Director.

558.5 A person shall apply for a Vendor Employee Identification Badge by submitting an application to the DCRA Director, on a form prescribed by the DCRA Director, which shall include:

(a) The name, address, and telephone number of the person;

(b) The name and license number of the vendor for whom the person will act as an employee or independent contractor;

(c) The signature of the person;

(d) The notarized signature of the vendor;

(e) The application fee, which shall be fifty-five dollars ($55); and

(f) Any additional information or documentation required by the DCRA Director.

558.6 The Vendor Employee Identification Badge shall include the name of the employee or independent contractor of the vendor, a badge number, the name of the licensed vendor, and the Vending Business License number of the vendor.

558.7 An employee or independent contractor:

(a) Shall conspicuously wear his or her Vendor Employee Identification Badge when the employee or independent contractor is operating the vendor's vending business; and

(b) Shall not represent any licensed vendor other than the vendor whose name appears on the employee's or independent contractor's Vendor Employee Identification Badge.

558.8 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.

559 LITTERING AND CUSTOMER LINES

559.1 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. All trash or debris accumulating within twenty-five (25) feet of any vending location shall be collected by the vendor and deposited in the vendor's trash containers each day of operation.

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AOBA Comment: The proposed 559.1 is amended to incorporate language from other cities governing trash pickup by vendors. Trash from customers patronizing vendors, continues to be a problem throughout the city, with too much of the burden falling on the National Park Service or other entities to remove the trash and other debris left behind by vending customers. It is not sufficient for a vendor to affix a litter container to their truck especially since most are too small to hold much trash. The proposed change is necessary to establish a reasonable zone around a vendor in which such vendor shall be responsible for the removal of trash.

Redondo Beach CA Municipal Code 3-7.2012 General regulations. The following regulations are applicable to vendors with vending permits: (c)

Removal of trash***. All trash or debris accumulating within fifty (50) feet of any vending stand shall be collected by the vendor and deposited in a trash container.*** All vendors selling food or beverages must provide trash receptacles adjacent to a part of their stands.

St. Louis City Rev. Code § 8.108A.150 H. (Licensed vendors shall keep the sidewalks, street and other spaces adjacent to their vending sites or locations clean and free of paper, peelings and refuse of any kind. ***All trash or debris accumulating within fifteen (15) feet of any vending stand shall be collected and disposed of by the vendor each day of operation.)***

Pittsburgh, PA § 719.05C Use of Streets, Parks And Trails. (d)(All vendors and vehicular vendors shall be accompanied by a thirty-gallon minimum capacity metal or rigid plastic trash container if the vendor is selling a product that generates trash. In **addition, vendors shall also be responsible for maintaining and cleaning a twenty-five (25) feet perimeter surrounding the designated location of the vending unit or vehicle.)**

Salt Lake City, UT: 5.65.170: OPERATIONAL REGULATIONS: A. All persons operating under a sidewalk vendor revocable land use permit issued by the city shall comply with the following regulations: … 2. Pick up any paper, cardboard, wood or plastic containers, wrappers, or any litter in any form which is ***deposited by any person within a fifty foot (50') radius of the place of conducting business;*** and clean up all residue from any liquids spilled upon the sidewalk within said fifty foot (50') radius. Each person conducting business on a public sidewalk under the provisions of this chapter shall carry a suitable container for the placement of such litter by customers or other persons;

559.2 (a) All vendors and vehicular vendors shall be accompanied by thirty-gallon minimum capacity metal or rigid plastic trash containers for the collection of solid waste and recyclable materials. Public trash receptacles shall not be used for compliance with this section.

AOBA Comment: Proposed § 559.2 is revised to require a large trash container to address concerns about trash in the vicinity of vending locations.

Pittsburgh, PA § 719.05C Use of Streets, Parks and Trails. (d)(All vendors and vehicular vendors shall be accompanied by a thirty-gallon minimum capacity metal or rigid plastic trash container if the vendor is selling a product that generates trash. In addition, vendors shall also be responsible for maintaining and cleaning a twenty-five (25) feet perimeter surrounding the designated location of the vending unit or vehicle.)

(b) Employees of the vendor shall walk a 100-foot radius from the approved vendor location within 30 minutes after closing and shall pick up and dispose of any discarded beverage containers or other trash left by patrons.

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AOBA Comment: New subsection (b) incorporates language from San Francisco DPW Order No: 179,044. K. Operational Requirements. 4. Good Neighbor Policies. The Permittee shall manage their MFF with the following good neighbor policies:… **e. Employees of the MFF shall walk a 100-foot radius from the approved MFF location within 30 minutes after closing and shall pick up and dispose of any discarded beverage containers or other trash left by patrons.**

559.3 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.

559.4 Vendors shall comply with the District's recycling regulations, including the requirement to separate solid waste from recyclable materials as set forth in the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988, effective March 16, 1989 (D.C. Law 7-226; D.C. Official Code § 8-1018), section 8(b)(3) of the District of Columbia Litter Control Administration Act of 1986, and 21 DCMR Chapter 20.

AOBA Comment: The District has historically failed to meet the statutorily mandated waste diversion date. The proposed 559.4 is necessary to ensure that all businesses are complying with the District's recycling laws. Widening the net of those businesses required to recycle will help improve the District's waste diversion rate and achieve the many environmental benefits associated with recycling.

560 DISPLAY OF SAMPLE ITEMS

560.1 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.

561 PURCHASE OR RECEIPT OF STOCK

561.1 No vendor shall purchase any inventory stock from public space.

561.2 No vendor shall take delivery of any inventory stock in public space, with the exception of perishable food items for consumption and ice.

562 PLACING VENDING BUSINESS LICENSES ON HOLD

562.1 The DCRA 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 suspension or revocation of a Vending Site Permit.

562.2 A Vending Business License may be placed on hold and in the possession of the DCRA 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.

562.3 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.

562.4 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 placed on hold shall be subject to the revocation of his or her Vending Business License.

563 REQUIREMENT TO UPDATE INFORMATION

563.1 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.

SUBCHAPTER E: VENDING DEVELOPMENT ZONES AND SPECIAL EVENTS

564 VENDING DEVELOPMENT ZONES

564.1 The DCRA Director may establish Vending Development Zones (VDZ) to promote new and innovative vending practices designed to achieve the following objectives:

(a) For communities to utilize vending and public markets to create unique and attractive destinations and increase foot traffic in commercial corridors;

(b) For communities to have expanded capability to manage vending and public markets in unique high-density hospitality zones;

(c) Provide opportunities for vendors to expand their creativity and entrepreneurship in both their products and their carts, stands, or vehicles;

(d) Expand vending and public market opportunities for small and local businesses;

(e) Improve the safety, appearance, and use of public space;

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(f) Allow for greater expansion of the creative economy through the addition of entertainment and artistic business ventures in public space;

(g) Attract retail to emerging corridors by bringing new retail energy to neighborhoods; or[1]

(h) To strengthen the retail base and create opportunities for vibrant retail streets and corridors and ensure shoppers have a greater selection of products and services.

AOBA Comment: Consistent with a key initiative of the Deputy Mayor for Economic Development, the creation of a vending development zone should also be to create vibrant retail corridors and increase the selection of goods available to customers.

See DC Vibrant Retail Streets Toolkit: ("The DC Vibrant Retail Streets Toolkit provides a framework for retail streets in the District to truly thrive by stimulating greater and more innovative collaboration among retail stakeholders, supporting retail entrepreneurs, and ensuring shoppers have a greater selection of products and services. The Vibrant Retail Streets Toolkit is designed to take advantage of renewed interest in urban markets by retailers as well as District assets such as walkability, sustainability and urban form.")

See also Retail Action Strategy: (" The Retail Action Strategy is the first ever citywide assessment of the District's retail potential. It examines ways to strengthen the city's retail base at both the citywide and local scale, to promote vibrant commercial districts with a broad range of retail businesses in all neighborhoods, and to create expanded opportunities for small and local retailers.")

564.2 Notwithstanding other provisions of this chapter and of chapter 13 of Title 19 of the DCMR, the DCRA Director shall allow a VDZ greater flexibility in complying with regulations governing the:

(a) Location of vendors in public space, provided, that no category of Vending Business License is specifically excluded;

(b) Method for assigning Vending Locations, including the exclusion of any roadway vending vehicle that is not expressly included by Vending Site Permit in the VDZ;

[1] Retail Action Roadmap, The Future of the District of Columbia's Retail Markets, Office of Planning, May 2010, introductory comments by OP Director (Many retailers are successfully investing in emerging corridors and bringing new retail energy to neighborhoods. The Retail Action Roadmap illustrates that traditionally underserved areas continue to have significant unfulfilled retail potential. The City hopes the Retail Action Roadmap will stimulate city agencies, non-profit and private partners to work together to ensure retail businesses grow and thrive in our neighborhoods.")(http://planning.dc.gov/DC/Planning/Across+the+City/Other+Citywide+Initiatives/Retail+Action+Strategy/Retail+Action+Roadmap)

(c) Design standards for vending vehicles, vending carts, roadway vending vehicles, and vending stands;

(d) Hours of operation;

(e) Length of time for which a Vending Site Permit shall be issued; and

(f) Special performance and entertainment requirements of chapter 13 of Title 19 of the DCMR.

564.3 The DCRA Director may establish a VDZ upon the approval of an application submitted by a business association, community organization, or District government agency.

564.4 The DCRA Director shall administer the process for reviewing applications in consultation with the following Coordinating Agencies:

(a) Department of Small and Local Business Development;

(b) Department of Health;

(c) District Department of Transportation; and

(d) Office of Planning.

564.5 A VDZ application shall be reviewed in a two (2)-part process:

(a) The applicant shall submit five (5) hard copies or one (1) electronic copy of a pre-application to the DCRA Director who shall forward a copy to each Coordinating Agency. The pre-application shall include the following information:

(1) The applicant's mission, bylaws, process for electing officers, and public meeting requirements where applicable, or, in the case of a Coordinating Agency, its mission and responsibilities;

AOBA Comment: The public meeting component may not be applicable to all applicants. AOBA also questions the need for this language as part of the vending development zone application process.

(2) The purpose and intent of establishing a VDZ, including aspects of placemaking and creative economy planning;

(3) A map delineating the proposed boundaries of the VDZ and all current Vending Locations; and

(4) When applicable, any partner organizations collaborating on the application.

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AOBA Comment: An applicant may or may not partner with other entities so this should not be a requirement.

(b) Upon verification of the items required by paragraph (a), the DCRA Director shall approve the pre-application. Within ninety (90) calendar days of notification from the DCRA 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 DCRA Director. The application shall demonstrate how the purpose and intent of the proposed VDZ will be realized and include the following:

(1) A description of the proposed innovative vending strategy or expanded management opportunity;

(2) A map showing proposed vending and public market locations;

(3) An implementation plan that may include, but is not limited to:

(A) Financial assistance, equipment assistance, storage assistance, technical advice, or business planning support for existing and potential new vendors;

(B) Marketing strategy for placemaking, coordinated design, semi-permanent fixtures, entertainment, or creative economy programming;

(C) Partnership opportunities; and

(D) Diversity of products or services offered;

(4) A plan for coordinating with existing vendors and businesses located within the proposed VDZ; and

(5) Any other information that the DCRA Director requires.

564.6 The DCRA 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:

(a) The DCRA Director shall forward each VDZ application to the Coordinating Agencies for evaluation based upon:

(1) Compliance with objectives defined in § 564.1; and

(2) The ability of the applicant to achieve the proposed innovative vending strategy;

(b) Each Coordinating Agency shall review the application concurrently within forty-five (45) days and forward any issues to the DCRA Director;

(c) The DCRA Director shall notify the applicant in writing or electronically 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 written or electronic notification. The Coordinating Agencies shall notify the Director when all issues have been resolved; and

(d) The Director may deny an application if the applicant is unable to resolve any issues identified by the Coordinating Agencies within the 30-day time period set forth in subsection (b), but extend the 30-day period for good cause..

564.7 Within forty-five (45) days of receiving favorable reports from all coordinating agencies, DCRA shall publish notice of the proposed vending development zone in the *District of Columbia Register*.

564.8 Within thirty (30) days after the close of the public comment period, the DCRA Director shall either approve or deny the VDZ application based upon the information in the VDZ application and the findings from the public hearing.

AOBA Comment: The time period is shortened to reflect the normal comment period for rulemakings, other publications in the DC Register. It is also necessary to help shorten the timeframe for approving a VDZ.

564.9 The DCRA 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 DCRA Director shall manage the site delegation and distribution of Vendor Locations to vendor site applicants.

564.10 The DCRA 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.

564.11 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.

Deleted: hold a public hearing to solicit public comments on the VDZ application. The DCRA Director shall

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564.12 The Director shall discontinue a VDZ if:

(a) The VDZ vending strategy fails to achieve the purpose and intent of the VDZ; or

(b) The Director determines that it is not in the best interest of the public to continue the VDZ, based on such factors as:

(1) Poor management of the VDZ;

(2) Unsafe conditions resulting from the VDZ; and

(3) Failure to follow or maintain the vending plan contained in the VDZ application.

564.13 Before the DCRA Director discontinues a VDZ, the DCRA Director shall provide written notice to the businesses, organizations, or agencies administering the VDZ of the intent to discontinue the VDZ and the reasons for the discontinuance.

564.14 Within forty-five (45) days of receiving the written notice from the DCRA Director, the businesses, organizations, or agencies administering the VDZ shall cure the identified reasons for the discontinuance of the VDZ. The DCRA Director, at his or her discretion, may extend the forty-five (45) day period for good cause.

564.15 The DCRA 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), provided, that:

(a) The boundaries of this VDZ may be revised without the need for additional rulemaking; and

(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.

564.16 Vendors operating in a designated vending development zone shall be subject to §§ 507 and 512 governing the suspension, or revocation of vending business licenses and vending site permits.

AOBA: What are the specific notice requirements, administrative processes that must be provided when the Director suspends or revokes a Vending Business License or Vending Site Permit for a vendor in a VDZ? Will the notice, hearing, other requirements of proposed 507 be applicable to Vending Development Zones? A new 564.16 is added to address these questions.

565 SPECIAL EVENTS

565.1 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.

565.2 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.

SUBCHAPTER F: STREET PHOTOGRAPHY

566 STREET PHOTOGRAPHY: REQUIREMENTS AND RESTRICTIONS

566.1 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.

566.2 The card required by § 566.1 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.

566.3 Each finished photograph shall be clear and sharp, and shall show no blur of focus or camera movement which affects the principal subject.

SUBCHAPTER G: SOLICITING

567 SOLICITING: GENERAL PROVISIONS

567.1 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.

567.2 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.

567.3 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 DCMR.

567.4 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.

567.5 Unless issued a valid Class D Vending Business License, 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.

SUBCHAPTER H: MISCELLANEOUS PROVISIONS

568 VENDING DEPOT REQUIREMENTS

568.1 Vending depots servicing vending vehicles or carts with Class A Vending Business Licenses shall provide all of the following services to a vendor in accordance with chapter 37, subtitle A (Food and Food Operations) of Title 25 of the DCMR:

(a) Storage of the vending vehicle or cart;

(b) Food preparation, including approved food handling areas, as needed;

(c) Proper storage of inventory, such as food, utensils and supplies;

(c) Basic maintenance and cleaning, including:

(1) Hot and cold water;

(2) Sloped and properly drained cleaning area;

(3) Potable water; and

(4) Electrical outlets; and

(d) Proper disposal of trash and food waste, such as garbage and liquid.

568.2 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 in accordance with § 3701, subtitle A of Title 25 of the DCMR.

568.3 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 § 568.1.

568.4 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 subtitle A of Title 25 of the DCMR and all applicable standards imposed by DOH or other relevant agencies.

569 PENALTIES

569.1 A person violating any provision of this chapter may be issued a civil infraction pursuant to chapter 33 of Title 16 of the DCMR.

569.2 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, *et seq*. (2007 Repl. & 2011 Supp.)).

569.3 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.

570 SEVERABILITY

570.1 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

599.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

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, *et seq.* (2011 Supp.)).

Coordinating Agencies – the several District agencies identified in § 564.4.

Coordinating Agency – any of the Coordinating Agencies.

DCRA 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, Washington, D.C. 20024.

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 – Subtitle A (Food and Food Operations**)** Title 25 of the District of Columbia Municipal Regulations.

Ice cream vending vehicle - a vending vehicle, vending cart, or vending stand from which pre-packaged ice cream, popsicles, ice sherbets or frozen desserts of any kind are carried for the purposes of vending in public space.

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 - a vendor who operates a vending business in unassigned locations, pursuant to the requirements of §§ 529 through 532, while occupying public space in that portion of a street or highway that is improved, designed, or ordinarily used for vehicular parking.

Mobile Roadway Vending location – A vending location containing at least three parking spaces, and designated by appropriate signage.

Mobile Roadway Vending vehicle – A self-propelled vending vehicle.

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 and private 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 terms “public market” and “private 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.

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 parking.

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 public right of way 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.).

Stationary roadway vendor – a vendor who operates a vending business while occupying a fixed location with a valid vending site permit in an assigned roadway vending location as designated in § 527;

Street photography – the business of operating on public space and taking photographs, for profit or gain, of any person or persons upon public space with the intent to immediately, or within a reasonably brief 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 § 564.

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 § 558

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 at a specified Vending Location.

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.

All persons desiring to comment on these proposed regulations should submit comments in writing to Helder Gil, Legislative Affairs Specialist, Department of Consumer and Regulatory Affairs, 1100 Fourth Street, SW, Room 5164, Washington, D.C. 20024, or via e-mail at DCVendingRegs@dc.gov, not later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of the proposed rules can be obtained from the address listed above. A copy fee of one dollar ($1) will be charged for each copy of the proposed rulemaking requested. Free copies are available on the DCRA website at http://dcra.dc.gov by going to the "Featured News" section on the main page.

AMERICANS for TAX REFORM

COST OF GOVERNMENT CENTER

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Mr. Helder Gil
Legislative Affairs Specialist
Department of Consumer and Regulatory Affairs
1100 Fourth Street SW, Room 5164
Washington, DC 20024

CC: The Honorable Vincent C. Gray, Mayor, District of Columbia

RE: Third Notice of Proposed Rulemaking for Street Vending
Amending DCMR Title 24, Chapter 5

Dear Mr. Gil,

I am writing to express concerns regarding the rules proposed by Mayor Vincent Gray that threaten the future of the food truck industry in the District. The proposal will harm emerging business owners and consumers in the community.

I submit these comments as a District of Columbia resident, frequent food truck patron, and as the Director of Budget and Regulatory Policy at Americans for Tax Reform. Americans for Tax Reform is a DC-based lobbying organization that focuses on achieving a flatter, fairer, and simpler tax code.

I am also the Executive Director of its affiliate, the Cost of Government Center. The Center works to restore restraint in government finance, promote a limited regulatory regime and eliminate discriminatory excise taxes. We do not believe the regulations suggested by the Mayor would serve business owners and food truck customers in the District.

First, the proposals are subject to varied interpretations. Restricting food trucks to so-called Mobile Roadway Vendor (MRV) locations may seem innocuous on its face, but the rules are not refined in a way that would give businesses or patrons a consistent and clear understanding of what these MRVs are.

Instead, absent proper statutory clarification, these MRVs will be defined by bureaucratic fiat. Unelected DDOT administrators will be given the authority to dictate what food trucks can participate in the District economy, and where they will be allowed to attempt to attract customers.

Currently, owners are able to reach a diverse clientele by operating in different places throughout the week, and consumers are presented with new options without having to travel to different locations.

Morever, food trucks' ability to congregate gives consumers a variety of choices in one place, at one time. Removing from workers' worries the difficulties of grabbing a quick, easy, and fresh lunch is just one benefit the business community reaps from a robust food truck market.

These distinct benefits for customers rely on the fundamental components of mobility and assembly. The Mayor's rules would render trucks all but immobile and remote, erasing their unique appeal.

Worse still, the Food Truck Association portends that a majority of the most popular lunchtime areas with food trucks would not live up to this arbitrary new zoning. This raises some questions as to what the Council is actually intent on accomplishing—overseeing the "safety" of a new industry or regulating it out of business?

The Mayor will need to answer to his constituents why the freedom to enjoy a variety of cuisines and the opportunity to easily support a litany of local businesses will be unceremoniously denied to them, should his plans be adopted.

The proposals do attempt to clear some of the hurdles food truck owners are facing; but it will be a pyrrhic victory if the entire package is accepted in its current form. After all, easing licensing requirements means little to a food truck owner who is denied any space to sell his cuisine.

This says nothing about the message onerous and capricious rule-making sends to other hopeful entrepreneurs and innovators. If an idea as novel and as popular as a food truck is harangued by the District, why would other visionaries test their luck here?

I urge you to reconsider the rules the Mayor has proposed and look forward to working with you to continue to encourage innovation and free enterprise in the District. Should you have any questions, please feel free to contact me at mduppler@atr.org. I can also be reached at 202-785-0266.

Sincerely,

Mattie Duppler
Executive Director
Cost of Government Center

November 13, 2012

Since writing my last comment letter (below) I have signed a 10 year lease to open a "Bricks & Mortar" restaurant due in large part to the success of my current Food Truck business. The restaurant which will be located at 3301 Georgia Ave. NW and is currently under construction could not have happened if these proposed regulations were in effect today. The proposed regulations are still too vague and I would not have had enough certainty of maintaining my current revenue stream to have undertaken this new endeavor. I will depend on the sales from my Food Truck while establishing my business in the Georgia Ave corridor.

Me and my team at El Floridano all live in the District and I've made a conscious decision to buy wholly from District based suppliers and use District based contractors on the build-out of my restaurant.

Please don't make me regret my decision to open my store in the District by potentially harming my existing business.

I support the proposed changes to the regulations as submitted by the DC Food Truck Association.

Regards,

Stephan Boillon
Chef/Owner/Operator
Mothership & El Floridano
Resident Ward 1

I will keep this brief, after starting my DC based food truck in May of 2010 I have had the typical ups and downs of any new business. The one constant fear I've had is whether or not this business that I've built from the ground up will be regulated out of existence. In spite of this constant worry I have managed to have 2 successful years and have just this past Saturday signed a lease to have my very own "bricks & mortar" in Ward 1, where I am also a resident. This new enterprise is exactly what can happen if micro-businesses like Food Trucks, are allowed to thrive in The District.
The company will be creating no less than 16 NEW JOBS and without first owning a successful Food Truck I would never have had the opportunity to make this new venture a reality.
I also believe that the proposed Vending Development Zones are a bad idea and could be anti-competitive due to their vague and subjective nature.

Thank you,

Stephan Boillon
Owner/Operator El Floridano
Resident and Business owner in Ward 1

November 13, 2012

Mr. Helder Gil
Legislative Affairs Specialist
Department of Consumer and Regulatory Affairs
1100 Fourth Street SW
Room 5164
Washington, D.C. 20024

Dear Mr. Gil

My name is Anna Bran-Leis and my husband Shawn & I are the owners of DC Empanadas, LLC. We've been operating as a food truck in DC since January 2011 serving lunch and special events throughout the city. In September of this year we were able to expand our business and open a kiosk at Union Market in Ward 5.

When I was diagnosed with breast cancer I decided I needed to quit my job in the non-profit sector and follow my passion for food. This was quite the journey! Trying to start a restaurant, in DC in the middle of a recession proved to be impossible. Since we were not millionaires with celebrity chef status we did not have banks or investors lining up at the door to fund our venture. It was at this point that we decided to start a food truck and thus DC Empanadas was born.

My husband and I worked 20 hour days to get our business off the ground and build our brand. We were fortunate that DC vending regulations allowed us the flexibility needed to grow our customer base and thrive in such a difficult economy. This flexibility is what has given us the opportunities to grow and expand our business.

As a small business in DC we feel the need to give back to our community and are strong supporters of various local charities. This is our second year that we partner with My Sister's Place for a toy drive. Last year on our food truck we collected toys for every child in their shelters. We often give our food, time & money to schools, food banks & other local non-profits.

We hope to follow in the foot-steps of some our food truck friends whose truck has allowed them to expand into a brick and mortar restaurant. Much Like Josh Saltzman who owns Kangaroo Boxing Club, Stephan Boillon who owns Mothership, and Roger Horowitz who owns Pleasant Pops, it is our goal for 2013 to open a brick and mortar restaurant.

If you pass regulations that restrict our ability to do business in high density areas you will be directly responsible for destroying our industry and ultimately closing several thriving small businesses. Please allow our mobile businesses to continue to thrive and grow and continue to be a part of the vibrant food scene in Washington, DC.

Sincerely,
Anna & Shawn Leis
Owners, DC Empanadas LLC.

November 13, 2012

Mr. Helder Gil
Legislative Affairs Specialist
Department of Consumer and Regulatory Affairs
1100 4th Street SW, Room 5164
Washington, DC 20024

Re: Notice of Third Proposed Rulemaking -- Chapter 5 (Vendors and Solicitors) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations

Dear Mr. Gil:

Counsel for Democracy (CFD) appreciates the opportunity to provide the Department of Consumer and Regulatory Affairs with comments regarding the Third Proposed Rulemaking for Street Vending. CFD is a nonprofit organization that seeks to provide the American people with a voice in public policy. We advocate and litigate where current or proposed statutes, regulations, or policies do not align with public opinion and where an issue presents an injustice or wealth destruction for society. We build and maintain a network of talented legal advocates committed to promoting social change. Our coalition develops strategic partnerships with policymakers, activists, firms, intellectuals, and advocacy organizations.

Mobile street vendors such as food trucks engage their customer base by connecting directly with the public through grassroots marketing and social media. The public has the opportunity to provide immediate and meaningful input regarding the scheduling of locations and hours, menus, vending needs in the community, and more.

We support the District's efforts to amend street vending regulations, and specifically to clarify the relevant licensing and permitting processes. However, we have concerns that the proposed rulemaking does not safeguard the public interest in access to diverse, convenient, and competitively affordable food choices and that it excessively restricts the ability of mobile street vending entrepreneurs to conduct business. A recent site survey conducted by the District of Columbia Food Truck Association of the ten most popular serving locations in the District found that the proposed "10 foot rule" can potentially keep food trucks out of 8 of those 10 locations.

In addition, we also have concerns regarding the following:

I. **Section 503.3 (j)**:

The provision prohibiting the sale of "offensive merchandise" is vague, unenforceable, and violates the First Amendment. Therefore, we recommend amending the current language from "any offensive merchandise, including pornographic or obscene materials" to "any merchandise that is pornographic or obscene."

II. **Section 504.3 (c)**:

The disqualification for a vending license should not be premised merely on being "[a]rrested, cited, or ticketed," but only upon conviction for the offense of vending without a license. The fact of an arrest does not establish that a violation has occurred. Many arrests do not result in charges, or the charges are dismissed. Even if an individual is arrested and subsequently charged, he or she is presumed innocent until proven guilty. Therefore, we recommend amending the current language from "[a]rrested, cited, or ticketed by the MPD for vending without a license" to "[a]rrested, cited, or ticketed by the MPD leading to a conviction for vending without a license."

III. **Section 533.1**:

Providing the DDOT Director with the "discretion to add, modify or remove a Mobile Roadway Vending location at any time" allows one individual to have unsupervised and unregulated power without any public or industry oversight of such action. There is no opportunity to appeal, disagree with, or counter the decisions of the DDOT Director. Therefore, we strongly urge that this particular provision be removed unless an adequate system of safeguards is put in place.

Please let us know if you have questions after you have reviewed these comments. We welcome the opportunity to be involved in the process of finalizing these regulations.

Sincerely,

Destiny Aigbe, Esq.
President and Executive Director
Counsel for Democracy
daigbe@cfdlaw.org

DC BID Council Summary of vending regulations proposed Oct 2012

On October 5, 2012, DCRA released Proposed Vending Regulations as changes to DCMR Title 24, Chapter 5. We recognize that in this third iteration of the proposed vending regulations, DCRA has tried to take into account stakeholders' comments provided on the first and second versions.

The DC BID Council has reviewed the proposed regulations and has the following comments:

1. We support the proposed restrictions on operating food trucks next to driveways, crosswalks, alleys and adjacent to narrow sidewalks. In the comments (dated February 17, 2012) that we provided on the previous proposed regulations, the BID Council had raised concerns about the safety of food truck patrons and other public space users, especially on crowded sidewalks and near driveways and crosswalks.

2. The proposed regulations create new class of mobile vending, services and merchandise, Class B licenses. We feel that the city should not be creating additional vending classes until DDOT and DCRA have worked out the details for food trucks and tested the new regulations to see how they work. We recommend eliminating this class until then.

3. We support designated spots for food trucks, especially in the high demand areas. Over-concentration of food trucks can create trash and parking problems, as well as make sidewalk passage difficult if multiple trucks have long lines.

4. We are concerned about the lack of details in the process for Mobile Vending Zones. Who will decide which vendors get to use which locations? How will disputes be settled? Before the sidewalk vendors were given fixed locations for vending, there were disputes, sometimes violent, over the most desirable locations. We are concerned that the same thing could happen for the Mobile Vending Zones.

Thank you for considering our comments. Questions should be addressed to abairstow@dcbidcouncil.org, 202-441-9576.

November 13, 2012

Helder Gil, Legislative Affairs Specialist
Department of Consumer and Regulatory Affairs
1100 4th Street SW, Room 5164
Washington, D.C. 20024

Re: Proposed Regulations to Amend Chapter 5 of Title 24 of the District of Columbia Municipal Regulations

The D.C. Farmers' Market Collaborative appreciates this opportunity to submit comments regarding the proposed vending regulations released October 6, 2012 which will be set forth in Chapter 5 of Title 24 of the District of Columbia Municipal Regulations.

Farmers' markets provide important benefits to the District by, among other things, offering healthy and fresh products to residents, and supporting local producers. Farmers' markets in D.C. also give back to the city by donating fresh fruit and vegetables to local nonprofits serving low-income families, and providing nutritious food to low-incomes residents through the WIC, Senior Farmers' Market Nutrition Program and Food Stamp (SNAP) programs. Many markets have raised money for "bonus bucks" to increase the buying power of low-income residents so that they can purchase more healthy foods. Several markets operate in so-called "food deserts," working to bring nutritious food to areas underserved by healthy food retail. In short, farmers' markets stand apart from traditional vendors, and, therefore, we feel that the District should regulate farmers' markets under different requirements and standards.

We thank DCRA for their continued efforts to work with the Collaborative on farmers' markets licensing and permitting in the first and second round of these regulations, and for including language that exempt Class C license holders from many provisions.

Specifically, we are in agreement with the pieces of the proposed regulations that remain unchanged from the second round of proposed regulations, which:

1. Clarify which provisions would apply to the activities of farmers' markets Class C Vending License Holders, which would not be issued Vending Site Permits.

2. Broadly define -- and thereby exempt from Class C license/permit requirements -- "persons selling" at farmers' markets.

3. Clarify that an individual person or entity managing a farmers' market needs only one Class C License, and with that license can operate at multiple locations (provided that the operator holds the necessary permits to operate at each location).

We support that these proposed regulations require market managers (either individuals or organizations) of farmers' markets to obtain a Class C Vending Business License from the Department

of Consumer and Regulatory Affairs ("DCRA"), and a Public Space Permit from the Department of Transportation ("DDOT") or a Certificate of Occupancy for use of private space from DCRA. A Class C License Holder would not be required to obtain a Vending Site Permit from DDOT.

However, we are concerned about a number of proposed regulations in the current third round that do not fit with the realities of how farmers' markets are run. Given the unique nature of farmers' markets, we are concerned about how these obligations on the front end would impact them.

As an example, one proposed change (536.5) would require that we have DOH inspection certificates before we can apply for our annual permits. The problem is that many markets operate on a seasonal basis, and thus would not be operating at the time that they apply for permits. There would literally be nothing with food to inspect.

The new proposed regulations, unlike the previous version, have several provisions, such as 501.4 (b), that indicate persons holding Class C Vending Business Licenses are "food vendors" comparable to persons holding Class A Vending Business Licenses. Thus, we presume that persons seeking to obtain a Class C Vending Business License would be required to obtain the certificate and other documentation, and otherwise comply with the requirements in, Section 502.2. This is also confirmed by the newly added provision 536.5, in the section specific to farmers' markets.

The issue of how best to promote farmers' markets while ensuring for the health and safety of residents requires coordination among several district agencies, including DCRA, DOH and DDOT. Our goal from the beginning has been to seek the promulgation of regulations that acknowledge the unique circumstances of farmers' markets and the important benefits that they provide. We believe that the changes in the most recent version result in a set of regulations that are written to focus on traditional food vendors and group farmers' markets with traditional food vendors in ways that do not reflect the ways in which markets function and operate.

As such, the Farmers' Market Collaborative believes that these regulations should create a clear, transparent and doable process to license and permit farmers' markets that recognizes the unique value of farmers' markets to the city's business, nutrition, and community landscape (which we do not believe is the case in this current version), or create separate legislation. We also acknowledge the recent changes to the DOH food code (specifically, Chapter 37, subtitle A (Food and Food Operations) of title 25 of the DCMR), which we understand have been finalized, but have not yet been published in the D.C. Register. In this respect, we believe it is difficult to comment on the impacts to farmers' markets caused by changes in the yet-to-be published DOH food code which are also reflected in these proposed regulations.

We would welcome the opportunity to meet with DCRA, as well as DOH, in relation to health code issues to craft provisions that will appropriately regulate our activities. We have been operating farmers' markets in the District for 15 years, and have a wealth of knowledge about the intricacies of our operations as they might relate to DCRA as well as DOH. There are also excellent examples from

neighboring states that can serve as a template as we move forward in this conversation. We would like to work together with DOH and DCRA to ensure that we are meeting the highest standards, while reducing unnecessary burdens to government and streamlining requirements so that they best fit the actual practices of District farmers' markets.

Respectfully submitted,

The D.C. Farmers' Market Collaborative

The D.C. Farmers' Market Collaborative is convened by D.C. Hunger Solutions. Since 2007, this body of representatives from farmers' markets and anti-hunger organizations has promoted the benefits of farmers' markets and implemented strategies to increase market capacity to serve low-income communities. The Collaborative includes, among others: Bloomingdale Farmers Market , Columbia Heights Community Marketplace, DC Greens (Glover Park-Burleith), 14&U Farmers Market, FreshFarm Markets, Mount Pleasant Farmers' Market, Rose Park Farmers Market and the Ward 8 Farmers' Market. D.C. Hunger Solutions, an initiative of the Food Research and Action Center, is dedicated to ending hunger and improving the nutrition, health, and well-being of low-income people in the District of Columbia.

Contact information for Collaborative:

Jessica Luna
Anti-Hunger Program Associate, D.C. Hunger Solutions
Coordinator, D.C. Farmers Market Collaborative
jluna@dchunger.org
(202) 986-2200 x3042

DC MAP
1729 Twentieth Street, NW
Washington, DC 20009
(202) 234-8939 (o)
(202) 234-0358 (f)

02/28/2012

Helder Gil
Legislative Affairs Specialist
Department of Consumer and Regulatory Affairs
Room 5164
1100 Fourth Street, SW
Washington, DC 20024

Re: Comments to new DCMA Title 24, Chapter 5 Rulemaking

Dear Mr. Gill:

These comments and related documents are in response to the published *Notice of Proposed Rulemaking*, DCR, Vol. 59 – No. 3, January 20, 2012 in DCMR Title 24, chapter 5, and supplement our comments in response to the *Notice of Proposed Rulemaking*, DCR, Vol. 57 – No. 26, June 25, 2010 pp. 005469 regarding vending regulation.

On February 9, 2012 the DC MAP board of directors held a special meeting. The board approved a motion that DC MAP files a response to this rulemaking. The board requested that our previous comments dated July 23, 2010 filed along with all attachments be considered a part of this rulemaking.

We have the following general comments:

1. Mobile Roadway Vending as set forth in the draft regulations is inconsistent with the permanent vending statute. We therefore request that any and all proposals related to this type of vending be removed from this rulemaking until the public has had the opportunity to address it in the appropriate forum the legislative branch, the DC Council. Until there is a legislative direction on mobile roadway vending it should not be part of this rulemaking. No DC government document related to vending going back to 2005 has even discussed this type of vending. The current law requires ALL vending permits be tied to a vending site permit for a specific location. In fact, Councilwoman Bowser stated at a recent public hearing on vending that her committee never considered how to address

mobile roadway vending. She said that the topic of how mobile food trucks would use public space did not come up and was not addressed by the committee report or legislation. At that time the statute was being developed "On the Fly" was the only mobile vending food truck and it parked on private property not public space.

2. Parking meters: The concept of allowing commercial activity at a parking meter is inconstant with the public policy that parking meters are for customers, not commercial activity or employees. Parking meters are not appropriate locations for vending or any commercial activity. To allow a commercial activity there will directly compete with the business needs of the traditional inline businesses for parking for its customers.
   Additionally, in business corridors bordering residential areas the use of parking meters for commercial activities will encourage customers to park on residential blocks. This will decrease residential parking and increase the tension between residents and businesses.
3. Demonstration Zones: The section regarding demonstration/development zones needs further discussion with the public, BIDs, ANCs, and other community organizations. As set out it will become a significant financial and personnel drain on an entity that desires to establish one.
   Demonstration/development zones should not exempt a vendor from obtaining a vending site permit. To allow such exemption does not address one of the underpinnings of the statute. To allow such exemption will limit the use of public space and cause conflict. It is apparent that the initial permission to not require site permits has allowed the operating mobile roadway vendors to compete for customers outside of the Downtown demonstration zone.
   We concur with the concerns expressed by the DC BID Council that it is not clear how the vending development zone would dovetail with the other regulations and zoning overlay districts. If mobile roadway vendors can use any legal parking location than it would not be possible to limit locations or number in a vending development zone or in Ward 2 as required by the statute. There are many unresolved regulatory questions created by the draft regulations and the process for developing one is onerous and lacks a meaningful enforcement mechanism. It is unlikely that any BID would be interested in establishing a demonstration/development zone. Also, it is not clear if the mechanism to establish one is an "opt-out" or "opt-in". A demonstration/development zone must be an "opt-in" mechanism including not only BID participation but ANC participation as set forth in the DC Home Rule Charter. The current illegal activity has already had a significant financial impact on our inline lunch businesses.
4. The section that gives the Downtown BID the authority of PSPMC should be removed until the Council and public have had an opportunity to have an appropriate discussion. The proposal to allow it to reshape its boundary needs to be limited to the Downtown BID area.

5. The regulations need to include the role of the ANC in reviewing each proposed vending site permit as the Home Rule law requires ANC participation in other uses of public space such as sidewalk cafes. A vending site permit theoretically will have a longer term impact on public space than a sidewalk café regardless whether the proposed vending site location is on a sidewalk or roadway.

We respectfully request that the documents set out below which were submitted as part of the prior rulemaking also be included and considered with our comments as part of the official documents for this rule making and addressed prior to promulgating the final rule:

October 28, 2005: Committee on Consumer and Regulatory Affairs Committee Report
June 1, 2006: DCRA Report to Council – Lifting the Moratorium
July 11, 2006: PSPMC Vending Demonstration Program Report
November, 06, 2006: Vending FAQs
December 04, 2006
December 05, 2006: Letter to Council
January 16, 2007: Vending Location Initiative Phase II
October 23, 2008: Comments to DCRA re: proposed vending regulations
October 23, 2008: Testimony on The Vending Licensing Moratorium Act of 2005
November 7, 2008: Letter to DCRA Director Argo
June 09, 2009: Testimony on B18-257
June 23, 2009: Committee on Public Services and Consumer Affairs Report, 18-257
February 22, 2010: Vending Task Force Report to Council
July 23, 2010: Comments to DCRA re: proposed vending regulations

Thank you for this opportunity to submit our concerns and documents.

Respectfully,

Edward S. Grandis

Edward S. Grandis
Executive Director and Legal Counsel
DC MAP

November 13, 2012

As a DC worker I looked forward to my lunches in the summer. It gives me an opportunity to support local business, and enjoy the company of others. I purchase many of my lunches from area food trucks. They all have welcoming staff, and excellent food. It is my sincere hope that DC's elected officials are making every effort to accommodate these areas business, and avoid the calls by some to place unnecessary restrictions on their operations.

Michael Ellement

November 13, 2012

As a frequent customer of the DC food truck scene I've been elated at the diversity, the community and the enthusiasm I've seen as part of the DC environment since food trucks first came on the scene.

The new DC regulations treating food trucks like portable sidewalk cafes is deeply threatening to this entire industry, one which has brought a good reputation to DC and its food scene. Moreover, the frequent food trucks are the reason I go away from my local cafeteria to visit other businesses. The current 10 ft sidewalk exclusion proposed by the DC council would effectively eliminate this massively popular business enterprise.

I am all for the regulation of food trucks, but the regulations created need to be sensitive to the business ideas and actual roles of food trucks. Regulating them like sidewalk cafes means that they will forever be tied to the graciousness of the council in allowing them areas where they could operate. Instead of creating one rule which requires immediate granting of exemptions in popular areas like Franklin and Farragut Square, I urge the council to set these regulations aside and come up with new rules which directly take into account the food truck business model and don't take away the delectable diversity of dining options that they provide. The food trucks are responsible for my coming out to patronize local businesses when the food trucks aren't there. Shutting them down means taking that money away not just from the food trucks, but from the brick and mortar stores nearby.

Please, don't regulate the food trucks out of existence. Eliminate the 10 ft rule and create new smart regulations which would allow food trucks to operate.

Best,

Bradley Hague
Ward 6 resident

November 13, 2012

I am an avid supporter of all business in DC, I work at 8th and I NW. I have worked downtown for 10 years. I support the brick and mortar restaurants, but feel that there is a great need for mobile vending regulations that work for all involved. As a consumer, I choose with my wallet. The food trucks have added a great culture and diversity to lunch time dining in DC. I have visited over 100 different trucks. Long before the food truck revolution started, I had stopped going to the old usuals near my office as they are unable to provide healthy, fresh, tasty, and value to their products. I started bringing my lunch to work. So the businesses have lost my support because of their failure to satisfy me.

Food Trucks need a place in DC. Nothing brightens up my day when I can walk to either Metro Center, or Franklin Park and have about 8 options at each place. While not all of them are great, most are a great diversion. I am asking that the DC Vending regulations find a way to accommodate the food trucks, let them operate with freedom that is fair for them, the consumer, and brick and mortar restaurants. They are a great asset to the city.

Thank you for your time!

David Hartogs

November 13, 2012

I am writing you to let you know that I think the 10 foot rule for food trucks is unnecessary and it would mean giving up great food truck locations that actually work quite well.

Thank you

Robin L. Hayes

INSTITUTE FOR JUSTICE

November 13, 2012

Via Email
Mr. Helder Gil
Legislative Affairs Specialist
Department of Consumer and Regulatory Affairs
1100 Fourth Street, S.W., Room 5164
Washington, D.C. 20024
DCVendingRegs@dc.gov

RE: Notice of Third Proposed Rulemaking, Rules Concerning Vending Business License Regulations, 59 D.C. Reg. 40 (Oct. 2012)

Dear Mr. Gil:

We are writing on behalf of the Institute for Justice, a libertarian non-profit law firm that fights for the economic liberty of entrepreneurs across the county. Because anti-competitive restrictions against street vending violate the constitutional right of street vendors to earn an honest living, the Institute works to defeat such restrictions through its National Street Vending Initiative. This initiative combines litigating against protectionist restrictions in state and federal courts, helping vendors organize in order to fight these restrictions through activism, and educating the public about the importance—both economically and socially—of street vending.

It is in this spirit that we offer our comments to Rule 24-500, D.C.'s proposed vending business regulations.

Introduction

Washington D.C.'s food trucks create jobs, enrich consumers, and make the District a safer and more exciting place to live. Currently, there are nearly 50 food trucks in D.C. that directly employ over 100 people and help create jobs for countless others. These food trucks offer convenience and a wide variety of interesting and inexpensive foods that consumers could not get elsewhere. And by drawing customers out of their offices and onto the street, D.C.'s food trucks have helped reactivate long-lost public spaces. Before the food trucks started operating, for instance, Franklin Square was a place where few D.C. office workers would eat

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their lunch. Now Franklin Square along with several other parks in the Downtown area are vibrant places that the District's residents and office workers enjoy visiting.

In the Institute for Justice's first published report on street vending,[1] the Institute explained that for a city to encourage a vibrant food-truck culture, it should avoid trying to "protect" brick-and-mortar restaurants from food trucks and instead enact clear, simple, and modern laws that are narrowly tailored to address real health-and-safety issues. Indeed, the proposed regulations that the District noticed in January 2012 were overall very good and came close to meeting this objective.

As the Institute for Justice explained in its March 1, 2012 comments to those proposed regulations, the District needed only to modify a few aspects of the regulations to create one of the best regulatory frameworks for food trucks in the country.[2] The Institute's suggestions included discarding the Vending Development Zone concept, allowing both sweet and savory food trucks to remain at a parking spot for the full time allowed by the meter, and letting food trucks operate whenever they wish. With these changes, we noted that D.C.'s regulations would "reject[] protectionist and unconstitutional rules in favor of ones that address legitimate concerns about public health and safety."[3] The end result of those rules, we continued, "would be a win for food trucks, their many customers, the local economy, and—most importantly—the right of all D.C. small business owners to earn a living free from anti-competitive restrictions."[4]

Although the newest version of the proposed regulations implements the second of our suggested changes, it contains other changes that make this version far, far worse than the prior one. As a result, implementing the proposed regulations would cripple the industry. There are two specific aspects of the proposed regulations that would make it incredibly difficult for food trucks to connect with their customers. First, the regulations would not allow food trucks to park on any street in the Central Business District in which the adjacent sidewalk is less than ten feet wide. This requirement would make it illegal for food trucks to serve their customers at most of the popular operating areas throughout the District. Secondly, this problem would be exacerbated by the position of District officials that the creation of a Mobile Roadway Vending location on a block would prohibit food trucks from parking in any other space on that block, as well as in any space located across the street from the location.

Minimum Sidewalk Width Restrictions

There are two provisions in the proposed regulations concerning the minimum width of sidewalks in front of which food trucks may park. The first, located at Section 531.1(a) of the proposed regulations, specifies that a food truck not operating at a Mobile Roadway Vending [MRV] location must park at a valid parking space that meets the requirements of Section 531.2.

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[1] Erin Norman, Robert Frommer, Bert Gall & Lisa Knepper, *Streets of Dreams: How Cities Can Create Economic Opportunity by Knocking Down Protectionist Barriers to Street Vending* (July 2011), *available at* http://www.ij.org/streets-of-dreams-2.

[2] Institute for Justice, Comments on Notice of Second Proposed Rulemaking, Rules Concerning Vending Business License Regulations, (Mar. 1, 2012).

[3] *Id.* at 6.

[4] *Id.*

Amongst Section 531.2's criteria is subsection (c), which prohibits food trucks from operating at a parking space where "the adjacent unobstructed sidewalk is less than ten feet (10 ft.) wide in the Central Business District or seven feet (7 ft.) wide outside the Central Business District." Secondly, Section 530.8(c) of the proposed regulations state that a proposed MRV location must be adjacent to a sidewalk with an unobstructed minimum width of at least "ten feet (10 ft.) wide in the Central Business District or seven feet (7 ft.) wide outside the Central Business District."

If enacted, these minimum sidewalk width requirements will make it illegal to vend from a food truck at some of the most popular locations in Downtown Washington D.C. A survey conducted by the Food Truck Association of Metropolitan Washington measured the sidewalk width at ten different places in the Downtown area where customers have come to expect their favorite food trucks. What it found is that the distance between the outermost obstruction and the building face at eight of those ten locations was less than 10 feet, including locations at Farragut Square, Franklin Square, and L'Enfant Plaza. Should the District enact this restriction, dozens of spots where food trucks could legally stop and operate will disappear overnight.

The Institute for Justice also notes that the District's proposed minimum sidewalk width requirement would inhibit the creation of MRV locations in many places around Washington D.C. As you are aware, an MRV location is a location where at least three food trucks may park and operate for up to four hours, provided that they have purchased an MRV permit. Section 530.8 states that "[a]n MRV location ***shall*** not be established . . . [w]here the adjacent unobstructed sidewalk is less than ten feet (10 ft.) wide in the Central Business District or seven feet (7 ft.) wide outside the Central Business District." (Emphasis added). Thus, the District's own regulations would prohibit the District government from establishing MRV locations at the eight locations that the D.C. Food Truck Association surveyed and found to be under ten feet.

Officials at the October 15, 2012 meeting with the District Department of Transportation (DDOT) about the proposed regulations indicated that Section 533.1 gives the DDOT Director "the discretion to add, modify or remove a Mobile Roadway Vending location at any time." According to District officials, this discretion is so broad as to allow the Director to create an MRV location even where the sidewalk width at the proposed location is less than the minimum requirement listed in Section 530.8(c).

To be blunt, the District's position that it will have the discretion to ignore the clear language of its own regulations is simply wrong; as the District of Columbia Court of Appeals has repeatedly noted, "[v]erbs such as 'must' or 'shall' denote mandatory requirements . . . unless such construction is inconsistent with the manifest intent of the legislature or repugnant to the context of the statute." *Williams v. United States*, 33 A.3d 358, 360 (D.C. 2011) (quoting *Leonard v. District of Columbia*, 801 A.2d 82, 84-85 (D.C. 2002)). Because Section 530.8(c) states that an MRV location shall not be established where the unobstructed sidewalk width in the Central Business District is less than ten feet, this language trumps whatever discretion the DDOT Director may possess. Any MRV locations created in such locations would be *ultra vires* and, if challenged in court, would be declared void and without effect. Thus, the minimum sidewalk width language in Sections 530.8 and 531.2, if enacted, will eliminate vending from food trucks altogether in eight of the ten most popular locations Downtown. This measure would not regulate the District's food-truck industry; it would destroy it.

Furthermore, the minimum sidewalk widths found at Sections 530.8 and 531.2 of the proposed regulations are not based on a deliberate, evidence-based investigation that looks at what impact food trucks have on sidewalk congestion. Instead, it appears that the District has copied the minimum sidewalk widths that apply to sidewalk cafes and other permanent occupations of the public right of way and applied them to food trucks. *See, e.g.*, D.C. Mun. Regs. § 24-204.1 (requiring "a clear, unobstructed passageway not less than ten feet (10 ft.) in width at all points" adjoining the use of public surface space); § 24-316.9 (same rule for sidewalk cafes). But unlike the presence of sidewalk cafes, bike racks, and other permanent obstructions, a food truck does not deny anyone the use of the sidewalk.

Nor does the District put forward any evidence to suggest that operating a food truck next to a sidewalk where the unobstructed width is less than ten feet will lead to congestion. Indeed, as part of its National Street Vending Initiative, the Institute for Justice surveyed the academic literature for any analyses of whether food trucks caused or exacerbated sidewalk congestion. Finding none, the Institute conducted its own empirical study on the streets of D.C. in 2011.[5] What it found was that the presence of a food truck did not significantly increase foot traffic or make it more difficult for pedestrians to traverse the sidewalk.[6]

Although the Institute for Justice has researched street-vending laws across the country, it is not aware of any other city that has a 10-foot minimum sidewalk width requirement. Instead, the most common requirement is one that simply tells food trucks that they should not operate in a way that blocks the sidewalk. Rather than establish a rigid minimum width requirement, the Institute recommends that the District follow the approach taken by the City of Los Angeles, which says that trucks should take care not to "interfere with or obstruct the free passage of pedestrians or vehicles along any such street, sidewalk or parkway."[7] The advantage of this approach is twofold: First, a narrowly tailored rule like this is more flexible than a one-size-fits-all requirement. Although there might be times when requiring a ten-foot sidewalk width might be necessary (although that requirement should be based on objective, demonstrable evidence concerning a congestion problem at a particular location), there are certainly many other times of day and many other locations around the Central Business District where operating a food truck next to an unobstructed sidewalk width of less than ten feet will not cause any congestion. Second, such a rule maximizes the opportunities for vending by keeping more public spaces open for food trucks. As mentioned above, a vibrant food-truck industry benefits both consumers and the broader community as a whole.

Mobile Roadway Vending Locations

The Institute for Justice also has great concerns that the actual implementation and establishment of MRV locations throughout the District will further reduce the number of locations from which food trucks may operate. Part 4 of the proposed regulations introduces the concept of MRV locations, which are spaces on the public right-of-way that the District dedicates for use by food trucks between the hours of 11:00 a.m. and 3:00 p.m. on weekdays.

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[5] For more detail about this analysis, *see* Erin Norman, Robert Frommer, Bert Gall & Lisa Knepper, *Streets of Dreams: How Cities Can Create Economic Opportunity by Knocking Down Protectionist Barriers to Street Vending* 33-34 (July 2011), *available at* http://www.ij.org/streets-of-dreams-2.
[6] *Id.*
[7] *See* L.A. City Code § 56.08(c).

Food trucks that purchase a special parking permit can park at these locations on a first-come, first-serve basis.

As it is drafted in the proposed regulations, the MRV location concept is one that would benefit food trucks, as it would give them an option to stay at a vending site for longer than the two-hour limit proposed in the regulations. But at the October 15, 2012 meeting with Department of Transportation officials, the food-truck community first learned that the District planned to prohibit food trucks from operating anywhere on a block where an MRV location has been established, other than at that location itself. Officials also indicated that they planned to bar food trucks from operating across the street from an MRV location. When meeting attendees noted that none of these restrictions appear anywhere in the proposed regulations, DDOT officials made clear that these restrictions would be added later.

These unwritten aspects to the proposed regulations raise grave concerns that the MRV locations could reduce, not increase, the opportunities available to food trucks in the District. Under the system as laid out by District officials, the Director could create an MRV location that would have dedicated spaces for three food trucks. But in so doing, there would be a tradeoff: The establishment of the MRV location would make it illegal for food trucks to park anywhere else on either side of that block. So while three locations would be gained, many more would be lost, with the ultimate effect that establishing an MRV location could potentially make it harder, not easier, for a food truck to park and operate.

Indeed, there is nothing in the regulations that would prevent the Director from establishing MRV locations in order to substantially reduce the overall number of parking spaces available to food trucks. (Although the Director would not have the power to place an MRV location in an area that food trucks are forbidden to operate because of the 10-feet minimum sidewalk width restriction, he would—pursuant to Section 533's language that he may "add, modify or remove a Mobile Roadway Vending Location at any time"—have the unfettered power to place an MRV location anywhere food trucks are not forbidden to operate.) Because the Director has total discretion in this regard and is not required to provide any explanation for his or her decisions, there is the risk that this discretion will be used for improper purposes, including the constitutionally impermissible purpose of attempting to "protect" politically connected restaurants from competition from food trucks.

The best way to guard against this danger is to reject the DDOT officials' reading of the proposed regulations concerning the elimination of parking spaces near MRV locations. We do not believe that creating dedicated parking spaces for food trucks is, in and of itself, problematic. But giving the Director the power to create those spaces so as to reduce the total number of parking spaces available to food trucks for protectionist reasons is. The only reason the Director should be able to bar a truck from operating in any space is because he or she can demonstrate, using objective and clear criteria and evidence, that allowing a food truck to park in that space would cause a real threat to public health and safety.

Conclusion

As discussed above, had the District enacted the food-truck rules contained in the second round of proposed vending regulations, with the modifications suggested by the Institute for

Justice, they would have been one of the best sets of laws throughout the country. That is because they would have followed the two principles that the Institute identified in *Food Truck Freedom: How to Build Better Food-Truck Laws in Your City*: 1) rejecting protectionism as a reason to legislate, and 2) fidelity to the idea that laws should be clear, narrowly tailored and outcome-based.[8] Instead, the District went back to the drawing board and now, eight months later, has come back with drastically altered regulations that seek to impose a command-and-control structure on the entire industry. If implemented, these regulations will be some of the most restrictive in the country, will lead to a pitched decline in the number of food trucks on the District's streets, and will fly in the face of the thousands of public comments that the District government has received from D.C. residents and office workers who support the industry.

The public is owed an explanation for this dramatic shift in policy and the total disregard of the public's wishes. Given that the changes discussed above do little or nothing to address real public health and safety concerns in a logical manner, the Institute is concerned that the reason for these changes is rooted in economic protectionism. As the Institute has explained before, economic protectionism is not a legitimate governmental interest, and regulations enacted on that basis raise grave constitutional questions.[9] Just as importantly, protectionism is bad public policy. As the Institute for Justice describes in *Seven Myths and Realities about Food Trucks*, food trucks create jobs, satisfy customers, and make communities safer and more enjoyable places to live.[10]

The bottom line is that if the District persists in the current path outlined in its proposed regulations, it will create one of the worst regulatory schemes for food trucks anywhere in the country. There is simply no rational reason for the District to throw away the vast economic benefits that food trucks provide the city, which include dozens of productive small businesses, hundreds of jobs, increased choices for consumers, and millions of dollars in sales tax and other revenue that the District collects each year. Accordingly, the Institute recommends that the District change course, return to the version of the proposed regulations that it proposed in January 2012, and revise them along the lines of what the Institute for Justice previously suggested. If the city is concerned about sidewalk congestion, it should adopt Los Angeles' common-sense approach to that issue. And if the District wants to create dedicated parking spaces for food trucks, it should not do so in the manner it now proposes.

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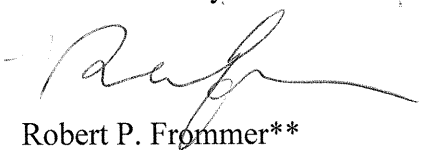
[8] Robert Frommer & Bert Gall, *Food Truck Freedom: How to Build Better Food-Truck Laws in Your City* 5 (Nov. 2012), *available at* http://www.ij.org/food-truck-freedom.

[9] Institute for Justice, Letter to Helder Gil re: Notice of Second Proposed Rulemaking, March 1, 2012, at 3 (citing *Merrifield v. Lockyer*, 547 F.3d 978, 991 (9th Cir. 2008); *Craigmiles v. Giles*, 312 F.3d 220, 229 (6th Cir. 2002); *St. Joseph Abbey v. Castille*, No. 10-2717, 2011 U.S. Dist. LEXIS 79327, at *2 (E.D. La. July 21, 2011).

[10] Bert Gall & Lancée Kurab, *Seven Myths and Realities about Food Trucks: Why the Facts Support Food-Truck Freedom* (Nov. 2012), *available at* www.ij.org/7-myths-and-realities.

Sincerely,

Robert W. Gall*
Senior Attorney



Robert P. Frommer**
Attorney

**This attorney is a member only of the DC and NC bars.*

***This attorney is a member only of the DC and VA bars.*

To: Helder Gil, Legislative Affairs Specialist, DC Dept. of Consumer & Regulatory Affairs

From: Baylen J. Linnekin, Executive Director, Keep Food Legal

Re: *Comments OPPOSING Notice of Third Proposed Rulemaking; Adoption of New Chapter 5 (Vendors) of Title 24 (Public Space and Safety) of DC Municipal Regulations*

Date: Nov. 13, 2012

Thank you for accepting these comments of Keep Food Legal, a grassroots nonprofit incorporated in Washington, DC, on behalf of our members and supporters. Keep Food Legal is the first and only nationwide, nonprofit membership organization devoted to food freedom—the right of every American to grow, raise, produce, buy, sell, share, cook, eat, and drink the foods and beverages of their own choosing. Keep Food Legal members and supporters hail from Washington, DC and from states, cities, and towns across the United States. Our members and supporters are key cogs in nearly every link in the food chain—including farmers, manufacturers, grocers, restaurateurs, mobile food vendors, tavern owners, chefs, consumers, foodies, activists, academics, and authors.

I am the founder and executive director of Keep Food Legal. I am a lawyer, earned an advanced degree in agricultural and food law, and have written and spoken extensively on mobile food vending law and policy. I have served as a panelist and panel organizer on mobile vending issues at academic and applied conferences held in California, Illinois, Louisiana, Massachusetts, and here in the District. I have researched and written extensively on Washington, DC regulations pertaining to mobile food vending, including "The New Food Truck Advocacy," a scholarly article that appears in the current issue of the *Nexus Journal of Law and Policy*; a May 2012 *Huffington Post* article, "Make the Smart Choice: Don't Limit Where Food Trucks Can Park in the District;" and a March 2011 *Reason* magazine article. In addition to my research and writing on the subject of food truck regulations, I designed and currently teach an undergraduate course at American University here in the District that focuses largely on mobile food vending.

Keep Food Legal and our members and supporters **OPPOSE** the *Notice of Third Proposed Rulemaking; Adoption of New Chapter 5 (Vendors) of Title 24 (Public Space and Safety) of DC Municipal Regulations* ("the proposed regulations") in its current iteration for several reasons.

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First, §§ 530.8(c) and 531.2(c) of the proposed regulations would together ban mobile vendors from parking and vending "[w]here the adjacent unobstructed sidewalk is less than ten feet" in width. These distance regulations are unreasonable, arbitrary, and unfair for several reasons.

The DC Department of Transportation (DDOT) currently defines an "obstruction" of "clear sidewalk space" as pertains to a sidewalk café—the public space most analogous to that used by mobile food vending consumers—as "trees, streetlight poles, sign poles, fire hydrants, and other objects located on the surface space[.]" The proposed regulations would appear to expand the definition of an "obstruction" to include people. Unlike a brick-and-mortar restaurant—which in creating an outdoor café establishes a permanent or semi-permanent space on city sidewalks—the chief so-called "obstruction" when it comes to mobile food vending in the District is not tables and chairs and umbrellas but consumers standing on a sidewalk. Do District regulators sincerely believe that District taxpayers are an "obstruction"? Furthermore, unlike a sidewalk café, which stands across the sidewalk from curbside obstructions like sign poles and therefore may multiply the number of so-called obstructions on a given sidewalk, mobile food vending consumers tend to stand alongside the curb and present no such multiplier impact.

The proposed regulations also treat mobile food vendors far differently (and more harshly) than they do brick-and-mortar restaurants in other ways. For example, the proposed regulations appear to permit case-by-case reductions of the minimum sidewalk width from ten to seven feet. But current DDOT regulations pertaining to brick-and-mortar restaurants—again using the illustrative example of the sidewalk café—give the agency "the authority to reduce the sidewalk width adjacent to a [sidewalk] café to 6 feet." As previously mentioned, an outdoor café is a permanent or semi-permanent, often year-round space on city sidewalks. Conversely, consumers may queue on any given area of sidewalk in the District to purchase food from a mobile vendor for perhaps ten to fifteen hours a week (2-2.5 hours/day during lunchtime on weekdays). There is no good reason to crack down on the District's popular sidewalk cafés. Rather, we urge that the District not arbitrarily regulate the less frequently used space around a mobile food vendor more severely than it does the more frequently used space in and around a sidewalk café.

Second, under the so-called "ice-cream truck" rule, DCRA has long mandated that the potential customers of a mobile food vendor form a line (or queue) before a food truck may stop and serve food. DCRA has also required that a truck must leave a parking space without delay after serving the last customer in a queue. Hence, existing DCRA regulations have been an important driver of queues in places like Farragut Square because they effectively prohibit any mobile food vendor from parking and vending unless they do so at a place with a high concentration of people standing in a line.

The proposed regulations, on the other hand—including especially the proposed ten-foot width requirement described above—seem designed to punish mobile food vendors *because* these vendors have been mindful of DCRA regulations and vend only when and where they find large numbers of potential customers standing in line to buy their food products. It would be unjust for the District to penalize mobile food vendors for complying with an absurd regulation like the ice-cream truck rule just because compliance with that absurd rule has perhaps created a fresh set of unintended consequences.

Even if DCRA rules artificially increase the size and frequency of a queue, sidewalk queues are the inevitable result of consumer demand—as evidenced not just by queues formed by mobile food vending consumers but also by similar lunchtime and dinnertime lines outside downtown brick-and-mortar restaurants and by weekend crowds flocking to sidewalks in Georgetown and around Eastern Market. Pedestrians also crowd city sidewalks during rush hour at most downtown Metro stations; assemble on the sidewalks around the Washington Nationals ballpark before, during, and after games; and congregate on the sidewalks outside the Verizon Center before and after concerts and sporting events. These mass consumer gatherings are not problems in search of regulatory solutions. Rather, they're each examples of the economic activity that has helped transform some previously moribund parts of the District into particularly vibrant public spaces full of taxpayers.

Furthermore, even if a queue does crowd a sidewalk, any objective assessment of that crowding should consider facts before succumbing to rhetoric. Take Farragut Square, for example. Mobile food vendors are not permitted to park on either side of I St. or K St.—which helps keep those sidewalks on and around the Square free of consumer queues. There are four easily navigable sidewalks on the opposite sides of the street all around Farragut Square (including I and K Streets) just as there are two easily navigable bisecting walkways right through the center of Farragut Square. That means just two of the ten available pedestrian paths through or around Farragut Square are ever even possibly crowded by consumers frequenting mobile food vendors—and then only for a few hours each day at most.

Third, the proposed regulations still contain some of the same defects that plagued previous proposals by DCRA to amend existing mobile food vending regulations. For example, the proposed regulations still include an ambiguous scheme to create approved vending areas. These arbitrary vending areas can serve no other purpose than to limit consumer access to foods sold by mobile vendors so as to protect—in an illegal and unconstitutional manner—the business interests of brick-and-mortar restaurants in the District. Keep Food Legal opposes any designated vending zones, areas, parking spaces, or other similar restrictions in the strongest terms.

In closing, Keep Food Legal **OPPOSES** adoption of the proposed regulations because our members and supporters feel they would represent a severe step backwards for the District's mobile food vendors and their tens of thousands of consumers and supporters. The proposed regulations would appear to be yet another attempt by the District to prohibit mobile food vendors from parking and vending in many areas where District consumers count on them most. In this manner, the proposed regulations appear to be just another attempt by the District to crack down on the city's vibrant and still growing food truck culture in order to illegally and unconstitutionally protect the interests of a small but powerful segment of the District's brick-and-mortar restaurant community. It is for these reasons that Keep Food Legal and our members and supporters **OPPOSE** the *Notice of Third Proposed Rulemaking; Adoption of New Chapter 5 (Vendors) of Title 24 (Public Space and Safety) of DC Municipal Regulations* in their current iteration.

Thank you for accepting and considering these comments of Keep Food Legal and our members and supporters. I would be happy to speak further about our comments at your request.

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November 13, 2012

Mr. Helder Gil
Legislative Affairs Specialist
Department of Consumer and Regulatory Affairs
1100 Fourth Street SW
Room 5164
Washington, D.C. 20024

Dear Mr. Gil,

Please allow me to introduce myself. My name is Kristina Kern and I am the sole owner of Stella*s PopKern, a snack truck that operates M-F during the lunch hour in DC. In addition, we do catering during the week and on weekends.

After much research and thought, I decided to launch a food truck in February of this year. I was initially going in the direction of a brick and mortar establishment, and as a single mother, decided that would be too risky since I could've had the potential to lose my only asset at the time, my home. Opening a food truck to really test market my product in DC was a viable option and one I took. Mr. Gil, creating this business from nothing is an achievement that I am so proud of and I relish in the fact that I am able thus far to sustain it and watch it flourish. It took approximately five months of sweat and tears to build my truck out to get it on the road. It is the hardest project I've ever engaged in, but also the most rewarding. I am proud to say that I employ one person and am looking to bring on another now.

Mr. Gil, my fellow food truck owners and myself bring culinary vibrancy, employment opportunities, tax revenue and a cultural spirit to our wonderful city. I love DC and have been a resident for 23 years now. DC food trucks add to the already diverse fabric of our great city. I know that our customers look forward to the camaraderie that exists while standing in line waiting to get their lunch/snacks, and I am lucky enough to be a part of their satisfaction. I get so excited daily as I watch my customer's faces when they consume my product.

The proposed regulations will seriously affect all of us and quite frankly put most, if not all of us, out of business. Mr. Gil, I have a 10 year old daughter and I am relying on my truck to sustain us. If I can't operate in the higher trafficked vending areas in DC, as I am currently allowed to do, I will have to shut my business down. Needless to say, this will be detrimental to my daughter and myself.

Mr. Gil, I appeal to you to hear what I, my fellow food truck owners and our customers have to say. The proposed regulations, as stated, will shut down many viable businesses and hurt many families in the process.

Regards,

Kristina Kern
Stella*s PopKern

November 9, 2012

Mr. Helder Gil, Legislative Affairs Specialist
Department of Consumer and Regulatory Affairs
1100 Fourth Street SW, Room 5164
Washington, D.C. 20024

Dear Mayor Gray,

Thank you for the opportunity to provide comments on the proposed regulations affecting the District of Columbia food trucks.

Food Trucks are food for our community and economy. They offer District residents and workers popular choices and competition through a variety of great cuisine at great prices, adding to the vibrancy of downtown and creating hundreds of jobs.

These benefits could be lost if your current proposal is adopted. Your proposal grants new, sweeping powers to unelected District Department of Transportation officials to decide where food trucks can and cannot serve customers. You are also proposing to restrict food trucks where there is less than 10 feet of "unobstructed" sidewalk — without clearly defining what an "obstruction" is and threatening to limit food trucks in popular parts of downtown.

Both Farragut and Franklin Square fall into these categories. These areas have one of the highest concentrations of workers downtown. If your regulations go into effect, these workers will no longer patronize local food trucks which have become an integral part of DC culture and the local economy.

We should be working together to improve choices, quality, safety, and value for consumers, not limit them. Please work with the Food Truck Association and all the members of our community to put forward food truck regulations that are clear, tailored to address specific needs and make common sense.

I join my fellow DC food truck enthusiasts in support of regulations that are reasonable, feasible, and support the prosperity of the food trucks we have all grown to love.

Sincerely,

Caitlin Kubler
Anna Karkovska McGlew
Laura Brittingham
Luis Verdiz
Stephanie
Jimi Stelly
JAY Vergo

Kenneth Baker
Patrick Kyle West
Sharon Dell
Angelique Tsegaye
Keyann Allen
Kam B Nesbere

November 13, 2012

Over the past year working in DC, I have gotten to know some of DC's more passionate entrepreneurs - DC food truck owners. The food truck owners are excited to be part of the DC community, they are passionate about their businesses, and they work hard every day to serve their customers.

With the new proposed regulations, I will face reduced lunch choices and variety. Without food trucks, I would bring my lunch every day. Food trucks provide a unique lunch experience each day. Where else in DC can you find a Hawaiian steak sandwich or goat cheese mac and cheese for an affordable lunch?

Food Trucks in DC have created a great community that brings together people from across the DMV. Events like Truckeroo and Curbside Cookoff are unique events that have become a staple of the DC food community.

It is important that the DC government promote the entrepreneurial spirit of food truck owners, not stifle them. Three food truck owners have gone on to start brick and mortar restaurants and three food truck owners have opened up kiosks at Union Market. While these six have seen their food trucks launch brick and mortar restaurants, they won't be the last.

Food truck owners are here for the long haul. They are in DC to be part of the community and to serve the community. They are not just building their businesses in DC, they are building their lives here.

The proposed regulations will ban food trucks from 8 of the 10 most popular lunch destinations and they leave the DDOT with unrestricted power to regulate food trucks. We need specific, defined rules that promote use of public space without restricting the entrepreneurial spirit that has allowed DC startups to thrive.

The food truck owners are some of the most inspiring people I have gotten to know because of their passion for food and the DC community. I strongly urge you to redraft rules that work for food trucks and the DC community.

Best,

Camden Lee

The Honorable Mary Cheh
City Council Member Ward 3
1350 Pennsylvania Avenue, Suite 108, NW
Washington, DC 20004

The Honorable Jim Graham
City Council Member Ward 1
1350 Pennsylvania Avenue, Suite 105, NW
Washington, DC 20004

Mr. Helder Gil, Legislative Affairs Specialist
Department of Consumer and Regulatory Affairs
1100 Fourth Street, SW, Room 5164
Washington, D.C. 20024

I was born and raised in Washington, DC with my roots in Ward 3 and currently residing in Ward 1. When I considered starting my own business, of course I wanted to do it in my hometown. In 2010 I opened a DC food truck called TaKorean serving Korean BBQ Tacos around different areas of our city. When we opened we employed three people full-time all District residents. We grew and matured our operation over the past two years and now just a few months ago we've opened a new fixed location in the new Union Market in Ward 5. TaKorean now employs 10 full-time employees in addition to up to 5 part-time employees.

We operate as a professional business. We pay DC's franchise tax of 10% on profits for corporations. We collect and remit sales tax of 10% each month. We rent kitchen space as a requirement of our health department regulations where through our rent we contribute to property taxes. We are committed to donating 1% of all of our sales to local charities and organizations. We contributed several thousands of dollars last year to organizations such as DC's Central Kitchen, The Anacostia Watershed Society, and The Potomac River Keeper.

My food truck pays the bills of up to 10 employees 7 of who are DC residents. My food truck has given me the ability to grow my business and contribute more to the DC community. Unfortunately, the new proposed regulations from Mayor Gray have the potential to damage the mobile vending industry completely.

By banning food trucks from any street side that has less than 10ft of unobstructed sidewalk space, the regulations would effectively eliminate food trucks from most of the Central Business District. Furthermore, the metrics are out of line with other businesses such as restaurants sidewalk café's, which only need 8ft and get exceptions all the time. Food trucks pose no permanent or semi-permanent obstruction to the sidewalk itself, while other

businesses do and get more favorable regulations. The agencies I've spoken with have shown no documented proof of transit obstruction, public safety risk, nor any other legitimate concern that would merit further regulations on food trucks. I'd like to work with the DC government to help make the streets safe, clean, and fun. In order to solve a problem there needs to be a proven documented problem first.

The proposed MRV locations have no outlined process or criteria for which DDOT will implement or manage these locations. I oppose the idea that the DDOT director can at will without any transparency, criteria, or appeal process, decide to limit or eliminate vending in certain areas. The process must be detailed and the mobile vending industry must have some protection in the process.

I would also like to see the hours of operation expand to those that fixed location businesses are allowed to keep. There is no reason that vendors shouldn't be able to serve late night, just as many restaurants do. Additionally, it makes areas safer where there are more eyes on the streets at night.

I like the idea of the 4-hour parking permit, however not being able to use it across the city would perpetuate the current struggles of mobile vendors. Additionally, the district should want vendors to spread out to new areas of the city, which presumably would result in less congestion in the high-density vending areas.

As a mobile vendor and fixed location business owner in DC I would encourage the Mayor to propose fair, balanced regulations, that reflect realistic documented concerns, and continues to allow the food truck industry in DC to be robust. I also support and helped draft the comments of the Food Truck Association.

Thank you for including the public in this process,

Mike Lenard

Owner / Operator – TaKorean Truck

November 13, 2012

I write to express my disapproval of DC's proposed mobile vending regulations that would unduly and capriciously restrict food trucks from doing business within areas of high demand for their services. In particular, the notion that ten—and only ten—feet of "unobstructed" sidewalk space can safely and effectively accommodate lunchtime crowds in front of food trucks and balance the trucks' customers' needs with those of other pedestrians is almost certainly unjustified; along with DDOT's rather liberal definition of a sidewalk obstruction, the regulations would prevent a thriving sector from serving customers in some of the most high-demand areas in the District. And while I would like to believe that DDOT's ability to designate Mobile Roadway Vending (MRV) locations under the proposed regulations would take into account the needs of all stakeholders and preserve what seems to be a perfectly fine status quo, the decision making process lacks transparency and is susceptible to undue influence from parties not sympathetic to food trucks and their growing customer base, e.g. the brick-and-mortar restaurant industry of downtown DC.

At a time when so many District residents are unemployed or underemployed, a fact that District politicians constantly remind us of, it is unfortunate that the District Government is taking steps to undermine a group of small businesses that is actually creating jobs, to say nothing of generating sales tax revenue for the District. DC should be creating incentives for these small businesses to locate their kitchens in DC, hire employees from the local labor force, and spend their capital in DC instead of in Maryland or Virginia. Food trucks and their supporting industries represent a local economic "cluster" that can be a key driver of local economic development; DC should not squander the opportunity these small businesses represent.

Sincerely,

Aaron Malinoff
Washington, DC

November 10, 2012

Mr. Helder Gil, Legislative Affairs Specialist
Department of Consumer and Regulatory Affairs
1100 Fourth Street, SW, Room 5164
Washington, D.C. 20024

Dear Mr. Gil:

I am an employee of Feelin' Crabby and I oppose the proposed food truck regulations. I have been working on the Feelin' Crabby truck for the past 14 months after I was laid off by a restaurant that went out of business. After one year, I was promoted to Food Truck Manager and am currently a licensed vendor in the District. I am concerned about my own future if the proposed regulations are put into effect. Our food truck needs to vend at popular locations where people congregate. The profit margin for our business is lean and requires volume to make any sense. It takes time for food truck operators together to develop vibrant food truck marketplaces like at L'enfant Plaza or Franklin Square. It is difficult for me to understand why the department would want to limit food trucks in these and other areas with arbitrary rules limiting food truck parking based on the width of the sidewalk.

I am also concerned about the proposed regulations and their impact on our customers. In many locations on our schedule there are very few lunch options other than food trucks. Why would the DC government want to limit choices and competition? It's hard to understand why the 10' and 7' restrictions are in the proposed rules unless the District is trying to get food trucks out of the most popular areas for consumers to purchase food truck fare. I know from my interaction with customers on a daily basis that we are making a positive difference in the lives of District residents and workers. Our regular customers have come to rely on us being at their location on the day of the week that we frequent their neighborhood. We bring revenue to the District through sales tax. If we aren't allowed to vend in popular locations many of our customers would bring their lunch to work and the District would receive nothing. While I understand the importance of public safety, I have trouble understanding what problem the District is trying to solve with the proposed regulations. In all the time that I have been on the truck, I have never seen any situation where citizens were in danger or where public safety was an issue.

The purpose of regulations is to protect public safety, ensure fair business practices and promote economic growth. I think that the department can come up with a revised version of these regulations to accurately reflect these principles.

Ultimately, the consumers win when food trucks are allowed to flourish. I hope that the Councilmembers and the Mayor will quickly revamp regulations to continue to allow the food service industry in DC to grow and prosper.

Sincerely,

Josh Mast
Food Truck Manager
Feelin' Crabby

Red Hook Lobster Pound-DC, LLC
1235 Linden Place, NE
Washington, DC 20002

November 13, 2012

Mr. Heder Gil
Legislative Affairs Specialist
Department of Consumer and Regulatory Affairs
1100 Fourth St, SW
Room 5164
Washington, DC 20024

Re: Comments on Proposed DC Vending Regulations

Dear Mr. Gil:

My name is Leland Morris and I am co-owner and President of RHLP-DC, LLC which does business in DC as Red Hook Lobster Pound-DC (RHLP) and operates two food trucks that sell fresh Maine lobster rolls all around the DC metropolitan area. I am a District resident and RHLP is a DC LLC and is headquartered in Capital Hill (Ward 6). The other co-owner of RHLP is Doug Povich who is a fifth generation native Washingtonian. We both are committed to growing our business in DC and helping DC become a world-class culinary destination and an exciting and vibrant place to live and work.

Doug and I started this business in the Spring of 2010. While our first truck was being built, we started serving our lobster rolls from tents at various festivals and events in the area. Our first truck was completed in August, 2010 and after we received all of the permits and inspections required by DCRA and DOH, we opened on August 19, 2010, parking at Farragut Square for lunch. That day we served over 400 people who had lined up half way around the square, some waiting over an hour for a taste of our fresh Maine lobster rolls.

At the time, there were about 10 food trucks in DC and business was good. Based on our early success and popularity, we began construction of our second truck in the winter of 2010 and in the Spring of 2011 she was launched.

Since our debut in DC, we have received many accolades including being the first and only food truck ever listed in the Washington Post's Fall Dining Guide (2010), being voted best food truck in 2011 and 2012 in Washington City Paper's annual Best of DC competition, winning Washingtonian Magazine's 2011 Food Truck Fight, being #11 on Washington City Paper's 2011 list of the most powerful restaurants in DC, and being named one of the top 6 lobster rolls in the U.S. by Bon Appetit Magazine in 2011. In addition, we have over 35,000 loyal friends and followers on Facebook and Twitter.

I list these achievements not to boast but for two reasons. First, to underscore the fact that the new breed of food trucks that has established itself in DC and around the country is recognized as a significant and welcome trend in culinary circles. World-renowned chefs (including DC's own Jose Andres) have started food trucks and lesser know chefs have started with trucks and have "graduated" to brick and mortar restaurants. In doing so, thousands of small businesses have been started, hiring thousands of employees and demonstrating that these businesses represent a new, creative and viable business model that contributes not only to a city's streetscape but also to it's culture, vibrancy and economic vitality.

Second, it's important to understand that despite our success as one of the top food trucks in the area, it's getting more and more difficult to succeed. The continuing economic downturn facing the country and the region combined with increased competition from additional food trucks on the streets, challenge even the strongest operators, including ourselves. As the slow Winter season approaches, we are looking for ways to cut costs to try to at least break even and get us through to Spring. We have 10 full-time employees and we are doing what we can to keep them employed. Business is down compared to a year ago. While a few local food trucks have succeeded well enough to add another truck or to transition to brick and mortar restaurants, many more have gone out of business. The bottom line message is that this is not an easy business and it's getting harder, not easier. The notions that everyone out there is making money hand over fist and that there are going to be hundreds more trucks on the street are huge misconceptions. The market simply won't support it.

It's in this context that I feel compelled to address DCRA's proposed regulations. Our success and the success of the trucks currently on the streets thus far, as tenuous as that success now is, has been based on the current regulations and our ability under those regulations to park in essentially any legal parking space. This has worked fairly well so far, except for the fact that two hours (the time limit at most parking meters) is an insufficient amount of time during which to provide lunch service. The primary element of our business model is our mobility which enables us to respond to customer demand, to serve underserved areas of the city, and to partner with other businesses in the city for cross-marketing and promotional purposes. Customers and followers all over the city regularly reach out to us and ask us to come serve lunch where they work. Our ability to respond to those requests is critical to continuing and growing our business.

Your proposed regulations, while curing many of the non-controversial administrative issues that needed to be fixed, inexplicably impose several other restrictions for no apparent reasons and threaten to severely curtail our mobility and our existing service areas. They don't address any concerns that we're aware of out on the streets. Instead, they appear to be based on some vague, unstated need to "manage public space." Such a need, while generally legitimate, should not and can not be used as a pretext to impose regulations that would effectively kill our businesses in DC.

Two areas of the proposed regulations are of particular concern: those that preclude vending based on a minimum sidewalk width requirement and those that establish so-called MRV locations for vending. I'll address each area below.

Minimum Sidewalk Widths

The proposed regulations imposing minimum sidewalk widths and required signage on our trucks appear to be aimed at fixing a pre-conceived idea that food trucks create blockages on sidewalks. As co-owner and operator of a truck that used to have some of the longer lines of customers (they are much shorter now for the reasons I mentioned above), I can attest to the fact that we have NEVER received a complaint about our line of customers blocking passage on the sidewalk or blocking any store or parking entrance for that matter. We manage our lines through frequent announcements and our customers in line are courteous and generally arrange themselves in ways to avoid blocking pedestrians. Customers in lines at food trucks are no different than customers in lines out the door at brick and mortar stores and restaurants - they move out of the way if they are in the way of passers-by. Based on our experience of operating for over two years on the streets of DC, we can attest to the the fact that sidewalk blockage is not a problem that food trucks create. This is not a problem that needs addressing, especially in the way the proposed regulations do. The proposed minimum sidewalk requirements are a solution in search of a problem.

Absent evidence of a problem, why would DCRA propose regulations governing minimum sidewalk widths that would effectively eliminate food truck vending from approximately 80% of the most important places we currently vend (based on the study conducted by the Food Truck Association of Metropolitan Washington)? If DCRA has received complaints regarding food truck customers blocking sidewalks, you should say so. Moreover, it's entirely unclear how designating a minimum sidewalk width has any relevance to food trucks when food trucks, unlike sidewalk vendors or outdoor cafes of restaurants, place no physical obstructions on the sidewalk and are present at the curb for only a few hours a day.

The answer is that there is no valid reason to impose minimum sidewalk width restrictions and the proposed rules regarding such restrictions should be eliminated (except for the proposed signage rule which seems reasonable). Keeping them, especially in their current form, threatens to destroy the already fragile state of the food truck industry in the city as described above. Unnecessary regulations that would on their face preclude food trucks from operating in the largest and most important areas in the city where we currently vend cannot help but have a devastating effect on our businesses.

Mobile Roadway Vending Locations

The proposed regulations for establishing Mobile Roadway Vending (MRV) locations appear to be aimed at solving the problem of parking congestion created by food trucks. Unfortunately, as proposed, the MRV regulations fail in at least four ways. First, they

are overly broad in terms of the perceived scope of the parking problem, and therefore must be scaled back to solve the problem and avoid creating others. Second, by proposing a first-come, first-served approach to assigning the MRV spaces to mobile roadway vendors, the proposed regulations do nothing to improve turn-over at meters. Moreover, as proposed, the proposed regulations do little to fix the primary problem that trucks face, namely the two-hour time limit for parking at a meter. Finally, the fact that there is no clear process associated with determining how MRV spaces are created and modified is highly problematic and needs to be changed.

1. The scope of the parking problem

Based on our experience, if there is a problem on the streets related to food truck parking, it exists only in one or two locations in the city where large numbers of food trucks congregate on a daily basis and where there is a potentially high demand for parking spaces by the public. The first area is the east and west sides of Farragut Square (on 17th St. between I St. and K St. NW). This is probably ground zero for food truck activity in terms of the number of trucks that vend there on a daily basis. If you feel compelled to implement some sort of reserved parking system it would make sense to do so here, perhaps as a pilot program.

The second most popular area where many food trucks park on a daily basis is Metro Center (by the metro stop at the corner of 12th and G St., NW), although there is less parking congestion on this block as it is often possible to find parking on adjacent blocks, even during lunch hours. Because there is more parking here, I'm not convinced that there is a need for an MRV to be established at Metro Center.

In the rest of the city where large numbers of food trucks park on a daily basis, there is no need to implement any restrictions aimed at solving problems of parking congestion caused by food trucks because there is little public demand for parking spaces in these areas. It also happens to be the case that there there are few food options in these areas compared to the numbers of workers. Specifically, after Farragut Square and Metro Center, the next four most popular areas where many food trucks park on a daily basis are Franklin Park, Union Station (near 1st and Massachusetts Ave., NW), State Department (near 23rd and Virginia Ave., NW) and L'Enfant Plaza (near the metro stop at 6th and Maryland Ave., NW). In these areas, it is often possible to find parking on the same block as the food trucks and almost always on adjacent blocks even during lunch hours.

Based on these facts, I believe that it may make sense to implement an MRV-type parking scheme at Farragut Square on a pilot basis and see how that works for all the stakeholders. If it works well, the pilot could be made more permanent.

2. The problem with first-come, first-served

By proposing a first-come, first-served approach to assigning the MRV spaces to mobile roadway vendors, the proposed regulations do nothing to improve turn-over at parking meters where trucks sometimes begin parking well in advance of opening for business. I understand that this is a less than desirable situation and that it is probably what the proposed MRV regulations are at least in part intended to fix. Putting aside for the moment questions about where and how MRV locations are created, the main problem is that the proposed regulations have the MRV spaces being accessed on a first-come, first-served basis. Without a different means by which to assign MRV spaces on a daily basis to different trucks, the current situation where spaces are tied up for extended periods of time will continue and the MRV will have served no purpose in solving the situation.

As a solution, I endorse the reservation proposal described in the comments of the Food Truck Association of Metropolitan Washington, of which we are a member.

3. The two-hour parking limit

As noted at the outset, the primary problem facing food trucks is that the two-hour parking limit is at least an hour too short to function as a viable lunch service period. The time required for most trucks, once they arrive at the vending location, to set up, serve customers, break down and stow their equipment for return to their kitchens is about three hours. Under the current regulatory regime, trucks may park at legal parking spaces but the majority of those are metered for two-hour limits. Trucks, therefore, are forced to either leave a location, unable to serve customers in line, or face receiving a parking ticket from parking enforcement officers that appear to have a vendetta out for food trucks, but that's a another story.

Unfortunately, the proposed regulations do little to fix this problem. They seem to set up a trade-off where a truck desiring to operate for more than the two-hour time limit at most meters may only do so in MRV locations established by DDOT. In order to maintain the mobility that is a key feature of our business model, this would require DDOT to establish MRV locations all over the city, even in places where a truck may vend only one day a year. Clearly, that would make no sense. Therefore, as explained above, the scope of the MRV locations needs to be scaled back, at least initially, to only those areas where there is currently a high demand for food trucks.

At the same time, everywhere else, trucks should be permitted to park for a period of time that matches their normal lunch operations. I believe that period is between three and four hours for most trucks service savory food. Trucks could pay a fee and be issued four hour parking permits that could be used at any metered parking space or at an MRV location. My guess is that having the ability to park for three or four hours would eliminate virtually all of the parking tickets that trucks currently receive and would not exacerbate the parking turn-over concern because, by definition, the trucks would be parking in non-MRV locations where there is ample additional parking for private cars.

4. The MRV Process

Finally, I am deeply concerned that the proposed regulations set forth no clear procedures for determining how MRVs are created, modified or removed other than to leave it up to DDOT. In order for all affected parties to know how their businesses will be impacted by your implementation of the proposed regulations, it is imperative that the MRV process be based on objective criteria that are identified in the new regulations and that we are permitted to participate in that process in a meaningful way given the inevitably significant impact that the regulations will have on our businesses. Such procedures should include some means by which to appeal any final decisions by DDOT regarding the creation, modification or removal of MRVs.

In conclusion, RHLP is committed to growing its business in DC and seeing the benefits of a vibrant food truck industry permeate the city. In order for that to happen, any new vending regulations need to be carefully tailored to address the existing issues without over-regulating or otherwise imposing unnecessary restrictions that would effectively eliminate our ability to continue to serve customers in large parts of the city where we currently vend. You have the opportunity to create mobile food vending regulations that can serve as a model for other cities around the country. Please don't waste that opportunity or worse, irrevocably damage a nascent and important small business community.

Sincerely,

Leland Morris, President
RHLP-DC, LLC

November 13, 2012

My name is Uyen Nguyen and my husband is Andy Nguyen. We own a local Vietnamese food truck. We actually own two trucks. One operates in VA and the other in DC. We're considering bringing our second truck into the city to expand our presence in the city. We started selling in DC in September and soon after updated our prices to reflect the 10% sales tax. We're happy to do our part as a small business and contribute back to the local Government.

Unfortunately, a few weeks after operating in DC we were informed of the new proposed regulations for Food Trucks. As a small business owner, we're extremely nervous knowing that the way of doing business as we have been accustomed with is going to change drastically. We're supplying a demand for more diverse lunch options for people in the city who do not have long for lunch. According to our customers we have given them a chance to sample Vietnamese cuisine for the first time.

The proposed regulations restricting us from selling on streets where there is 10ft of unobstructed sidewalk space from the planter box will eliminate the majority of areas we have developed our business. We're aware the city would like the establish MRV locations in these popular lunch spots. However, the proposed regulation did not guarantee a certain amount of spots and we anticipate more MRV permit holders than there are MRV location.

As a small business with very little operation capital, we're hesitant to buy a permit for a spot that may not be available. If we have a permit and are unable to find a MRV location, we would have to pay to park in another spot for the day. This would make us pay twice and just double to price to operate for the day. It would be ok, if this was a rare occasion, but the fee would add up. We cannot afford to purchase something that will not ensure a spot to do business.

Our future plans are to grow business in the District well enough and have an established based so we can open a brick and mortar restaurant in the District. Our food truck is providing us the opportunity to reach a population of people we would otherwise be unable to do. We plan on taking the income generated by the business and re-investing it back into the District and our business by expanding to a brick and mortar restaurant. The economy isn't strong enough where lenders are looking to invest in un-established small businesses. The money we need to open a restaurant will solely come from income the business can generate on its own.

Please allow us the chance to see what we can accomplish as a business.

Thank you.

Uyen and Andy Nguyen
Lemongrass Truck

November 13, 2012

I write in support of the DC Food Truck Association's position against the Mayor's proposed food truck rule.

Jacob Oetama-Paul

Dear Mayor Gray: Please Do Not Threaten to Eliminate My Food Truck Business

My name is Sandra Panetta and I am the sole owner and operator of the Sweetbites food truck. My mobile vending truck serves gourmet cupcakes and other baked goods, as well as hot beverages to customers in the DC area. I have over 4,000 Twitter followers and many repeat visitors to my truck every day.

Given the significance of the issues that I write to you about, I wish I could write a well-thought out and eloquent letter to you about my journey into this business and how I feel about the proposals to change vending regulations. However, as a single mom of 2 active ninth-graders, and the sole operator of a highly successful dessert truck business that I rely on to support my family and pay my employees, I will not have the time I wish I could devote to this letter. So I offer you the following:

I worked as a Policy Analyst at the Environmental Protection Agency for 23 years before retiring to run Sweetbites. After visiting other cities with successful and thriving food tuck industries, and with 10 years of moonlight baking experience under my belt, I thought what I wonderful thing this could be for DC as well. I invested $150,000 to build a commercial baking kitchen and a well-constructed and attractive food truck. When I launched my truck I was one of only a handful of trucks on the DC streets. The reception I received was overwhelmingly positive! People came out into the fresh air to chat, grab a quick and delicious lunch and a freshly-baked and fabulously yummy cupcake from my truck. I was thrilled about what I had accomplished as an entrepreneur, and felt that the risk I had taken had paid off. Despite how difficult it was to keep my truck running and maintain a high-quality product, I felt confident that my business would grow and thrive because of the outpouring of supportive fans. The DC government embraced the food truck business and permitted many more trucks to operate. The people kept coming out to enjoy the trucks and they were happy! I certainly would not get rich, but I did the right thing.

Now a new set of proposed DC regulations eliminates access to my most successful vending locations where I have built up hundreds of satisfied repeat customers. The DC government's proposed vending regulations threaten to take away my ability to operate my small business and directly threaten my livelihood. My customers have all been outraged at the possibility of losing the food trucks. They love frequenting the food trucks in prime business locations where they work. They want the access to convenient choices and quality food that the mobile vendors provide.

My food truck provides me the opportunity to earn a living working for myself and provide for my two children. However, if the DC government decides to drive my business away from prime locations, the outcome is the manipulation of city policy to favor one business over another, limit competition and consumer choice and ultimately drive out my and every other food truck in the District. Since the first food truck opened in DC more than three years ago we have been licensed by the DC government to do business from most any legal parking space without incident. You have no reason to abruptly alter that precedent now.

Mayor Gray, please do not pass these regulations. Having been a public servant myself for nearly 30 years with experience in all levels of government, I trust our local leaders to do the right thing. Please

pass fair and logical regulations for the beloved trucks of the District. Although the special interest groups who are pressuring you are using an indirect strategy to ultimately eliminate food trucks, please know that your constituents – the thousands of residents of Washington, DC looking to you to do the right thing – clearly want food trucks to stay.

Thank you for supporting food trucks and ensuring that my business, like all other businesses in DC, is allowed to thrive and grow. **We need regulations that continue to give customers the choices and convenience that they want.** And food truck owners deserve to be taken seriously as small business owners with employees to support, mortgages to pay, and mouths to feed.

Sincerely,

Sandra Panetta

Owner-Operator, Sweetbites LLC

November 13, 2012

To: City Administrator
Fr: Mike Pappas on behalf of sidewalk vendors in Washington, DC

Please download the attached document a critique of the proposed vending regulations. While these comments were drafted upon review of the second proposed rulemaking very little changes regarding our concerns were addressed in the Notice of Third Proposed Rulemaking and we are submitting them to be included as part of the formal record of this rulemaking.

Additionally, we would like to emphasis that the sidewalk vendors representatives have expressed concerns with the proposed so-called lottery system that is being proposed. Their representatives have expressed these concerns since the work of the Vending Task Force as well in each of these proposed vending rulemakings.

Sidewalk vendors have been largely ignored in the dialogue of how to "fit" in the new mobile vending trucks. The balance of concerned has been to appease the mobile vending trucks at the economic loss to the sidewalk vendor, many of whom have been vending from the same location for many years and perhaps over a decade or more.

DCRA must ensure that all the vending community has equal protection and fairness. A mobile vending truck with similar product should not be allowed to be within economic proximity of a sidewalk vendor. DCRA must stop ignoring or moving sidewalk vendors without due process. The so called lottery is not fair to the sidewalk vendor who is self employed and does not have the clout of a corporation. There is very little trust between the sidewalk vendor and DCRA and DCRA must work to repair this trust.

We welcome an opportunity to meet to further discuss these concerns and work towards an equitable outcome.

The genesis of the vending program in DC was to provide a gateway to the independent low financed business person to become self sufficient; not to provide favorable treatment to corporations.

Thank you,

Edward S. Grandis
1729 20th Street, NW
Washington, DC 20009

	CHAPTER 5 VENDORS	2010 Comments	2012 Comments
	SUBCHAPTER A: GENERAL PROVISIONS 500 PURPOSE 501 AGENCY RESPONSIBILITIES **SUBCHAPTER B: VENDING LICENSES, PERMITS, AND AUTHORIZATIONS** 502 GENERAL LICENSURE REQUIREMENTS 503 VENDING BUSINESS LICENSE: CLASSES OF LICENSES 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 510 VENDING SITE PERMIT: ISSUANCE 511 VENDING SITE PERMIT: EXPIRATION AND RENEWAL 512 VENDING SITE PERMIT: DENIAL, SUSPENSION, REVOCATION, AND SEIZURE 513 HEALTH INSPECTION CERTIFICATE: GENERAL 514 HEALTH INSPECTION CERTIFICATE: APPLICATION 515 HEALTH INSPECTION CERTIFICATE: ISSUANCE 516 HEALTH INSPECTION CERTIFICATE: SUSPENSION 517 FOOD PROTECTION MANAGER CERTIFICATE		. 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. 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. 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. The vending moratorium lives on, 14 years after it was implemented.

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	599 DEFINITIONS		

500	**SUBCHAPTER A: GENERAL PROVISIONS** **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. *et seq (2008 Repl.)).*	Good.	Same comment as before
501	**AGENCY RESPONSIBILITIES**		
501.1	The Director of the Department of Consumer and Regulatory Affairs (hereinafter Director) shall be responsible for: a) Coordinating all vending activities in the District of Columbia; (b) Reviewing applications for, and issuing, Vending Business Licenses to vendors in the District; (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 ;	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 "*guidelines*") it looks like the former.... If DDOT is responsible for approving sites, why isn't DDOT (in collaboration with OP) identifying them? What give DCRA this special expertise?	Same comment as before 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?

	(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;		
	(e) Creating and maintaining a database of all vendors issued Vending Business Licenses, including any specific Vending Location assigned to each vendor;		Based on all the various certificates and authorizations required here, the database needs to have more fields than this…
	(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;	Wouldn't "the market" be a better arbitor of this than DCRA?	Same comment as before
	(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	Again, wouldn't "the market" tend to lead vendors to make rational decisions?	Same comment as before. There are a number of vending locations (e.g. outside nightclubs) where extended hours are appropriate.
	(h) Establishing standards regarding the design, maintenance, and operations of vendors and vending equipment.	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.	We see that the standards have been modified to allow all the current vending operations, *except sidewalk merchandise vendors,* to operate exactly as they do today. (Until the BIDs kick them off the street).
501.2	The DDOT Director shall be responsible for: (a)Designating, modifying, and waiving, as appropriate, the standards for Vending Locations, pursuant to § 520 and § 528;	As we read these regulations, there are no "standards" whatsoever for vending locations, merely locations where vending is prohibited.	Same comment as before

	(b)Approving locations on public space where public markets may be located and issuing public space permits for public markets on public space; (c)Creating and maintaining a database and map of all approved Vending Locations; and (d)Assisting, as appropriate, with the enforcement of the provisions of this chapter.	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.	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" 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.
501.3	The Metropolitan Police Department (MPD) shall be responsible for: (a)Enforcing District laws and regulations prohibiting unlicensed vending activities; (b)Enforcing any criminal laws, including laws regarding assault, harassment, and intimidation, in connection with vending; and (c) Assisting with the enforcement of the provisions of this chapter.	By diminishing MPD's role in vending enforcement, DCRA sets the stage to expand its own internal enforcement staff. A classic bureaucratic move...	Same comment as before. We'd also like to point out that there is no process or procedure here to coordinate with federal officials to strip licenses of vendors who have been found guilty of selling counterfeit goods. We have numerous court records of licensed vendors

			repeatedly convicted of this crime, and yet they still have DC vending licenses! This is a long-standing failure by DCRA, and these regulations should correct it.
501.4	The Department of Health (DOH) Director shall be responsible for: (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; (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; (c)Regularly inspecting food vending operations; and (d)Enforcing the application of the Food Code to vendors.	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	The Fire and Emergency Medical Services Department (FEMS) shall be responsible for: (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 (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.	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.
	SUBCHAPTER B: VENDING LICENSES, PERMITS, AND OTHER AUTHORIZATIONS		
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

	space in the District of Columbia without obtaining and maintaining a valid: (a)Basic business license for vending (Vending Business License) issued by the Director, except as provided by § 502.3; (b)Vending Site Permit assigned pursuant to § 508, unless the vendor is a Roadway Vendor pursuant to § 556; (c)Health inspection certificate issued by the DOH Director, if the person vends food; (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 (e)Permit from FEMS, if the vendor uses propane gas or solid fuels, such as wood pellets or charcoal.	approach. But the way this is organized in these regulations is completely unworkable.	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.
502.2	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.	The conditions ought to be spelled out in regulation.	Same comment as before
502.3	A Vending Business License shall not be required for: (a)Employees of licensed vendors; (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; (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; (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 *et seq*. (2008 Repl.)); or (e)Persons authorized to sell products, merchandise, food, or services at a licensed or	Ok ok ok Good ok	

	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	The Director shall issue the following classes of Vending Business Licenses: (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; (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; (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	The basic structure of this licensing scheme makes sense. Merchandise ought to include non-potentially-hazardous food items.	Same comment as before 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

	(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	No vendor shall sell the following categories of merchandise or food: (a)Live animals; (b)Power tools; (c)Luggage exceeding six inches by eighteen inches by twenty inches (6 in. x18 in. X 20 in.); (d)Rugs and carpets exceeding the surface area of the vendor's vending cart or stand; (e)Household appliances, including refrigerators, microwave ovens, dishwashers, stoves, and televisions with screen sizes greater than seven inches (7 in.); (f)Alcoholic beverages or other alcoholic items for consumption; (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. *et seq*. (2005 Repl. & 2011 Supp.)); (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.));		Evidently the idea is that vendors at public markets are not "vendors" because they are licensed, so they can sell this stuff? This is arbitrary As is this And this

	(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.)); (j) Any offensive merchandise, including pornographic or obscene materials; (k) Any counterfeit merchandise; (l)Any adulterated food, as the term is defined in section 9901 of subtitle 25 of the District of Columbia Municipal Regulations; and (m) Any plants, other than non-controlled and non-hazardous cut flowers, dried flowers, and potted plants.		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	Application for a Vending Business License shall be made on a form prescribed by DCRA and shall include the following information: (a)The name and address of the owner of the vending business; (b)The class of Vending Business License being sought; (c)A description of the type of merchandise, food, or service to be offered for sale; (d)A description of the vending vehicle, vending cart, or vending stand to be used (not applicable to Class C license applicants);	"or classes" - Let's avoid duplication of effort.... If vending were ever to be properly planned in Washington, this becomes a very important provision. As does this.	Presumably a vending business can hold more than one class of license.

	(e)An indication of the Vending Locations the applicant wishes to occupy, in their order of preference (not applicable to Class Ce license applicants);	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...	Same comment as before. Without a universe of designated/ “approved” vending sites, how does a vendor know which sites are available. We have always said that this whole “lottery” scheme is unworkable.
	(f)A Clean Hands Certification;	Good	
	(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;		
	(h)If the applicant is not a resident of the District of Columbia:		
	(1)The name and address of a registered agent upon whom service of process and other legal notices may be delivered; or	We presume the “registered agent” must have a DC address. Otherwise, why this provision?	We have never understood how a vendor can designate the Mayor to accept legal notices and services of process on behalf of the vendor.
	(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;		
	(i)If the applicant is applying for a Class A license (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 (2) If the applicant will be using propane or open flame, a propane or open flame	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.	See our prior comment. To make an analogy, anybody can get a driver’s license even if they don’t own a car.

	permit issued by FEMS; and (j)Any additional information required by the Director or, for Class A licenses, by the DOH Director.	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. 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.	See prior comment.
504.3	The Director shall not issue a Vending Business License if: (a)The applicant's Vending Business License has been revoked previously; (b)The application for renewal of a Vending Business License has been denied under § 507; or (c)The person either has been: (1)Arrested, cited, or ticketed by MPD for vending without a license; (2)Issued a notice of infraction by DCRA for vending without a license; or (3) Arrested and convicted for a criminal offense while vending with a license.	This provision is both vague and overly restrictive. 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.	See prior comment. Later, this section is qualified to say that the restriction is for one year, which is also problematic. 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. Not to mention the due-process problem here; a ticket or a

		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 approprate 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.	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. Even after four years of effort on this version of the regulation, the process has still not been thought through at all.
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	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: (a)Fraud, misrepresentation, or false statements contained in the license application; (b)Fraud, misrepresentation, or false statements made in connection with the selling of any product, service, merchandise, or food; (c)Violation of any District law or regulation governing the operation of the vending business, including, but not limited to: (1)The possession or sale of counterfeit merchandise; or (2)The offering for sale of illegal goods, substances, or services; (d)The vendor is vending at a location other than the vendor's assigned Vending Location;	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. It also says that every possible violation may result in a permanent revocation of the business license. There is no proportionality. No other business in Washington faces such	Same basic comments. Now the suspension or revocation appears to be for one year.

	(e)Violations of the Clean Hands Certification requirements; (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; (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: (1)Sections 533 through 543; (2)Sections 545 through 559; or (3)Section 562; or (h)The vendor is found to have violated § 544 of this chapter.	regulatory uncertainty.	And how is “attempting to transfer” going to be determined? For some offenses, a vending license is revoked immediately, but for other offenses, you get up to 5 “do-overs” with no punishment?
507.2	The Director may summarily suspend a Vending Business License, without prior notice to the vendor or an opportunity to be heard, for: a)The possession, sale, or offering for sale of counterfeit merchandise; (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;	DCRA should have to pass a burden of proof to show merchandise is counterfeit before seizing a vendor's license. 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	We agree that selling counterfeit merchandise should be grounds for a license revocation. It’s too bad that DCRA doesn’t enforce this provision. We have the records from federal court that proves that DCRA does not take counterfeiting seriously.

	(c)Failure to provide all required certificates of authority upon demand by an authorized District government official; or (d)Any activity or condition that constitutes a threat to the public health or safety, including the health or safety of the vendor.	c) Given the paperwork that DCRA requires vendors to carry, it is unweildy for vendors to keep more than their license and health certificates on their stand. Vendors should be given a grace period to provide documentation beyond those mentioned above. d) This is far too vague to be fairly enforced.	Shouldn't this type of judgement be assigned solely to MPD?
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 *intends* 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?	Actually the requirements for Site Permits are clear, but the authority doesn't come from this regulation—Rather, it is a requirement in law. In §37-131.01, we see that ""Vending locations" means the specific locations designated by the Mayor on sidewalks, roadways, and other public space at a which a person may vend";

			that a ""Vending site permit" means a permit or other authorization issued by the Mayor for a vending location"; and in §37-131.02 we see that "(a) Except as set forth in subsection (b) of this section, a person shall not vend from a sidewalk, roadway, or other public space unless the person holds: (1) a basic business license 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." Later we'll discuss how the terms of this regulation are inconsistent with the standing law.
508.2	A Vending Site Permit shall not be required for: (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 (b)Persons authorized to sell products, merchandise, food, or services at a licensed or permitted Special Event.		
508.3	The Vending Site Permit shall authorize the permittee to occupy a specific Vending Location for the purpose of vending.	"Vending Location" needs to be clearly defined in the regulations, and on the	

		individual site permits. We have seen vendors being ticketed for being only inches too close or too far from the curb.	
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:		

	(a)The vendor is seeking to change his or her Vending Location; or (b)The vendor is seeking to add an additional Vending Location.		
509.3	The application for a Vending Site Permit shall be made on a form prescribed by the Director and shall include such information and documents as may be required by the Director.	We continue to believe this process is completely unworkable.	We still don't understand how it makes to apply for a permit for a site that hasn't even been designated, and also, when a lottery is somehow involved in this process. It is beyond reason.
510	**VENDING SITE PERMIT: ISSUANCE**		
510.1	Upon the submission of a completed application, the Director shall issue a Vending Site Permit if: (a)The applicant holds: (1)A valid Vending Business License; or (2)A current receipt for payment of all relevant Vending Business License fees; (b)The applicant has applied for a Vending Site Permit for an available Vending Location; (c)The applicant has been selected for the available Vending Location pursuant to a lottery or such other method or such selection authorized under this chapter, including through the creation of a Vending Development Zone, provided, that a vendor shall have a right of preference for the issuance of a Vending Site Permit for a Vending Location if:	Ok Why would a vendor have a receipt for payment, and not have the license in-hand? How will this be communicated? Lotteries are a completely inappropriate way to assign vendors to sites. No business would select a location based on a lottery of existing commercial	Same comment Same comment. These vending locations have not been identified, so how can anybody know what is available? However with the provision that DCRA plans to "contract-out" the lottery with no independent oversight, we have a pretty good idea where this is headed.

		space. We don't have the space here to explain how wrong-headed a lottery process is to assign vending sites.	This whole lottery idea is intended to punish long-time vendors working at well-established sites.
	(1)The vendor received a site permit for the same location pursuant to the District of Columbia Department of Transportation and Department of Consumer and Regulatory Affairs Vending Consolidation of Public Space and Licensing Authorities Temporary Act of 2006, effective March 8, 2007 (D.C. Law 16-252; 54 DCR 3037);	This process, by the way, missed a number of long-time vendors, and mysteriously opened up new sites for new vendors, even as a vending license moratorium was in place.	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.
	(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 (3)The vendor is vending in a location that is in compliance with this chapter;	DCRA has no way to know whether any transfers occurred, because they most certainly occurred privately. And what duration of time constitutes "continuously"?	
	(d)The merchandise, food, or services is authorized to be vended at the available Vending Location;	We find nothing in these regulations to specify the basis by which certain goods or services are "authorized" to be sold a certain locations. Who is this "central planner" that can maximize the utility for vending and for all other uses of public	

	(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 10th 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	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:		Same comment
	(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;	This is a tautology. By definition, a vendor cannot GET a site permit that is not eligible. Can they?	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.
	(b)The DDOT Director eliminated the Vending Location associated with the Vending Site Permit;		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?
	(c)The Vending Location, or the vending-related activities at the Vending Location, constitute a threat to public safety; or	As defined how, and by whom? Do federal officials have standing to make such a determination? Under what regulations?	Same comment. We think that ONLY MPD should have the authority to make this kind of determination.
	(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,	There *are* no "terms or conditions" relating to	Same comment

	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 *before* 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	A health inspection certificate shall not be granted until after: (a)An inspection of the vending vehicle, cart, or stand, and all equipment and utensils used in the food vending operation; (b)An inspection of the storage facilities for the vehicle, cart, or stand, all equipment and utensils, and the food supplies; (c)A review of the preparation and holding procedures for the food; including overnight refrigeration and overall compliance with the Food Code; and (d)DOH has issued its approval of any plans for health-related compliance.	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 on-site 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	No person shall operate a vending vehicle, cart, or stand that uses propane or open flames without meeting the following standards: (a)The person shall hold a valid propane or open flame permit from FEMS; and (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.		
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.		
	SUBCHAPTER C: VENDING LOCATIONS **PART 1: GENERAL**		
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	The DDOT Director may eliminate a previously designated Vending Location if: (a)The DDOT Director determines that the designated Vending Location is no longer in compliance with District law or regulations; (b)The DDOT Director determines that the operation of a vending business at the location constitutes a threat to the public safety; or (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.	If a vending business is operated in an unsafe manner, that means that the vending site needs to be eliminated? "Better served?" How is this determination reached? Is there to be an appeals process?	Same comment 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.
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.
	PART 2: SIDEWALK VENDING LOCATIONS		
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; (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;	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.

		For residential buildings located on a corner, does that mean both facades are off limits?	Same comment
	(2)On the median strip of a divided roadway, unless the strip is intended for use as a pedestrian mall or plaza;		
	(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;	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?	Same comment
	(4)In a location that is on or that impedes free access to service or ventilation grates or covers;	What does"impedes free access" mean?	
	(5)On a restricted street designated in § 522.3; or		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.

	(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;	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...	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.
	(d)Within the Central Vending Zone, sidewalk vending shall be prohibited on sidewalks unless:		Same comment. This waiver should be on a Site Permit, not in the middle of a regulation.
	(1)A ten foot (10 ft.) clear passageway is maintained;	This is arbitrary. Clear space requirements should be based more on pedestrian traffic.	
	(2)The street is specifically exempted in § 522; or (3)The DDOT Director waives this restriction pursuant to § 521.2.	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.	
	(e)Outside the Central Vending Zone, sidewalk vending shall be prohibited on sidewalks unless:		
	(1)A seven foot (7 ft.) clear passageway is maintained;		

	(2)The sidewalk is specifically exempted in §§ 523, 524, or 525; or (3)The DDOT Director waives this restriction pursuant to § 521.2. (f)No sidewalk Vending Location shall be designated within: (1)Twenty feet (20 ft.) of the driveway entrance to a police or fire station; (2)Ten feet (10 ft.) of any other driveway; (3)Ten feet (10 ft.) of an alley; (4)Ten feet (10 ft.) of another sidewalk Vending Location; (5)Twenty feet (20 ft.) of the street-level entry to a Metrorail escalator; (6)Ten (10 ft.) of the street-level door to a Metrorail elevator; (7)A marked loading zone, entrance zone, or parking space designated for diplomatic parking, or other curbside location restricted for certain vehicles or uses; (8)One hundred feet (100 ft.) of the entrance to a District of Federal courthouse, or within such greater distance as may be designated by the DDOT Director upon the written request of the courthouse administrator; (9)Five feet (5 ft.) of a fire hydrant; (10)One hundred feet (100 ft.) of the main entrance to a building that is predominantly	This is arbitrary. What does this mean in practice? This places vending stands closer to Metro entrances than they are now! Same comment. Presumably the DDOT Director won't approve a request to prohibit vending within a half-mile of a courthouse or a school...	Same comment At least it doesn't say, 20 feet from the Metro parapet, as the current regulation does…. What does the new language mean? Same comment Same comment as for Courthouses

	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. 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. (11)Twelve feet (12 ft.) of any crosswalk when on the vehicle approach side of the Vending Location and crosswalk; and (12)Five feet (5 ft.) from any crosswalk when not on the vehicle approach side of the Vending Location and crosswalk.	There should be a definition of crosswalk added to these regulations.	We appreciate that DCRA went back to the old standard here.
521.2	Upon the request of the 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	The Central Vending Zone shall have the following boundaries: (a)Beginning at the northeast corner of Massachusetts Avenue, NW at 11th Street, NW; (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; (c) North along the center of the alley to the south curb of M Street, NW; (d) East along the south curb of M Street, NW to the west curb of 9th Street, NW;	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,	Note: did not update punctuation or numbering in this section. 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

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

	(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;		

	(jj)South along the west bank of the Anacostia River, SE to the east bank of the Potomac River, SW; (kk)North along the east bank of the Potomac River, SW to the west curb of the Potomac Parkway to Rock Creek Parkway; (ll)North along Rock Creek Parkway in a straight line to the north curb of N Street, NW; (mm) East along the north curb of N Street, NW to the west curb of New Hampshire Avenue, NW; (nn)Northeast along the west curb of New Hampshire Avenue, NW to the west curb of 20th Street, NW; (oo)North along the west curb of 20th Street, NW to the north curb of P Street, NW; (pp)East along the north curb of P Street, NW to west curb of Dupont Circle, NW; (qq)North along the west curb of Dupont Circle, NW to the north curb ofMassachusetts Avenue, NW; and (rr)East along the north curb of Massachusetts Avenue, NW to the northeast corner of Massachusetts Avenue, NW and 11th Street, NW.		
522.2	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: (a)East and west sides of 19th Street, NW between Constitution Avenue, NW and C Street, NW; (b) East and west sides of 20th Street, NW between Constitution Avenue, NW and C Street, NW; and (c) East and west sides of 21st Street, NW between Constitution Avenue, NW and C Street, NW.	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.

	560, no sidewalk Vending Locations shall be designated on the following streets in the Central Vending Zone: (a)East side of 2nd Street, SW between East Capitol Street and M Street, SE; (b)East side of 2nd Street, NE between K Street, NE and East Capitol Street; (c)East side of 10th Street, NW between E Street, NW and Pennsylvania Avenue, NW (Federal Bureau of Investigation building); (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)); (e)East side of 12th Street, NW between I Street, NW and K Street, NW; (f)East side of 12th Street, NW between New York Avenue, NW and G Street, NW; (g)East side of 13th Street, NW between L Street, NW and Massachusetts Avenue, NW; (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); (i)East side of 22nd Street, NW between F Street, NW and G Street, NW; (j)East side of 24th Street, NW between Pennsylvania Avenue, NW and L Street, NW; (k)East side of 24th Street, NW between Virginia Avenue, NW and G Street, NW; (l)East side of 25th Street, NW between H Street, NW and I Street, NW; (m)East side of 26th Street, NW between I Street, NW and K Street, NW; (n)East and west sides of Delaware Avenue, SW between M Street, SW and H Street, SW; (o)East and west sides of Half Street, SE between M Street, SE and I Street, SE;	on their face. b) Restricting vending sites through regulation reduces the discretion of the DDOT Director to open new sites. c) Such a regulatory system does not account for the dramatic changes that occur over time in Washington DC.	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? 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)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;		

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

	(uu) North and south sides of D Street between 4th Street, SW and 3rd Street, SE; (vv) North and south sides of E Street, SW between South Capitol Street and Interstate 395; (ww) North and south sides of E Street, SW between 2nd Street, SW and 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;		

	(iii)North and south sides of K Street, SW between Wesley Place, SW and Delaware Avenue, SW; (jjj)North and south sides of K Street, NW between 25th Street, NW and 26th Street, NW; (kkk)North and south sides of L Street in a straight line between 3rd Street, SW and 3rd Street, SE; (lll)North and south sides of L Street, NW between 24th Street, NW and 25th Street, NW; (mmm)North and south sides of M Street, NW between 21st Street, NW and Connecticut Avenue, NW; (nnn)North and south sides of M Street, NW between 23rd Street, NW and 28th Street, NW; (ooo) North and south sides of Massachusetts Avenue, NW between Thomas Circle, NW and 11th Street, NW; (ppp)North and south sides of N Street, NW between 18th Street, NW and Bataan Street, NW; (qqq) North and south sides of N Street, NW between 21st Street, NW and 25th Street, NW; (rrr) North and south sides of Sunderland Place, NW between 19th Street, NW and 20th Street, NW; (sss)North and south sides of F Street, NW between 6th Street, NW and 7th Street, NW (Verizon Center); (ttt) North and south sides of H Street, NW between 6th Street, NW and 7th Street, NW (Verizon Center); (uuu) North and south sides of G Street, NW between 3rd and 4th Streets, NW;		

	(vvv)North and south sides of F Street, NW between 3rd Street, NW and 4th Street, NW; (www) South side of C Street, SW between 12th Street, SW and 14th Street, SW; (xxx) South side of E Street, NW between 9th Street, NW and 10th Street, NW; (yyy)South side of G Street, NW between 7th Street, NW and 9th Street, NW; (zzz)South side of G Street, NW between 23rd Street, NW and 24th Street, NW; (aaaa) South side of H Street, NW between 23rd Street, NW and 24th Street, NW; (bbbb) South side of K Street, NW between 24th Street, NW and 25th Street, NW; (cccc) West side of 5th Street, NW between D Street, NW and E Street, NW; (dddd) West side of 9th Street, NW between E Street, NW and Pennsylvania Avenue, NW; (eeee) West side of 17th Street, NW between Constitution Avenue, NW and C Street, NW; (ffff) West side of 17th Street, NW between D Street, NW and E Street, NW; (gggg) West side of 21st Street, NW between New Hampshire Avenue, NW and N Street, NW; and (hhhh) West side of 23rd Street, NW between Virginia Avenue, NW and G Street, NW.		
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.	

	(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	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: (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: (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	The Neighborhood Vending Zones shall consist of the following streets: (a)Capitol Hill area: (1)H Street, NE from 3rd Street, NE to 15th Street, NE (Zones C-2-A,C-2-B, and C-3-A); (2)Pennsylvania Avenue, SE from 2nd Street, SE to Potomac Avenue,SE (Zones C-2-A and C-2-B); (3)8th Street, SE from D Street, SE to I Street, SE (Zone C-2-A); (4)15th Street, NE from A Street, NE to East Capitol Street (Zone C-2-A); (5)Benning Road, NE from Bladensburg Road, NE to Oklahoma Avenue, NE (Zones C-2-A and C-2-B); and (6)East Capitol Street from 19th Street, SE to 22nd Street, SE (Zone GOV): The following restriction applies: (A) Only the south side of East Capitol Street shall be included in the Neighborhood Vending Zone. (b)Far Northeast and Southeast area: (1)Benning Road, SE from 44th Street, SE to A Street, SE (Zone C-3- A); (2)Branch Avenue, SE from Q Street, SE to S Street, SE (Zone C-1); (3)Central Avenue, SE from 56th Street, SE to Southern Avenue, SE(Zone C-1); (4)Dix Street, NE from 60th Street, NE to Eastern Avenue, NE (ZoneC-2-A); (5)Minnesota Avenue, NE from Blaine Street, NE to Grant Street, NE (Zone C-3-A); (6)Nannie Helen Burroughs Avenue, NE from 51st Street, NE to Division Avenue, NE		We would also like to see DCRA publish these areas as maps instead of legal descriptions.

	(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);

	(8)12th Street, NE from Irving Street, NE to Randolph Street, NE (Zones C-1 and C-2-A); and (9)Benning Road, NE from Bladensburg Road, NE to Oklahoma Avenue, NE (Zones C-2-A and C-2-B).		
525	**VENDING LOCATIONS: NATIONALS PARK VENDING ZONE**		
525.1	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: (a)East side of First Street, SE between N Street, SE and N Place, SE: two (2) Vending Locations; (b)East side of First Street, SE between N Place, SE and O Street, SE: two (2) Vending Locations; (c)West side of Half Street, SE between M Street, SE and N Street, SE: seven (7) Vending Locations; and (d)North side of N Street, SE between Half Street, SE and Van Street, SE: three (3) Vending Locations.	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.
	PART 3: ROADWAY VENDING LOCATIONS		
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	The authorized roadway Vending Locations shall be on the streets and in the numbers set forth as follows: (a)400 Independence Avenue, SW (National Air & Space Museum) - Numbers one (1) through six (6); (b)600 Independence Avenue, SW (National Air & Space Museum) - Numbers seven (7) through twelve (12); (c)700 Independence Avenue, SW (Hirshhorn Museum) - Numbers thirteen (13) through eighteen (18); (d) 1400 Constitution Avenue, NW (National Museum of American History) - Numbers nineteen (19) and twenty (20);	This is the same defective scheme that has been rife with corruption, (buying and selling of sites, etc,) of which DCRA is well aware. 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.	Same comment. The level of regulatory capture here is breathtaking.

	(e) 1200 Independence Avenue, SW (Freer and Sackler Gallery) - Numbers twenty-one (21) and twenty-two (22); (f) 600 Constitution Avenue, NW (National Gallery of Art) - Numbers twenty-three (23) through twenty-six (26); (g)700 Constitution Avenue, NW (National Gallery of Art) - Numbers twenty-seven (27) through thirty (30); (h)900 Constitution Avenue, NW (National Museum of Natural History) - Numbers thirty-one (31) through thirty-five (35); (i)1200 Constitution Avenue, NW (National Museum of American History) - Numbers thirty-six (36) through forty-one (41); (j)200 15th Street, NW (Ellipse East) - Numbers forty-two (42) through fifty (50); (k)400 15th Street, NW (Ellipse East) - Numbers fifty-one (51) through fifty-nine (59); (l)200 17th Street, NW (Ellipse West) - Numbers sixty (60) through sixty-seven (67); (m)400 17th Street, NW (Ellipse West) - Numbers sixty-eight (68) and sixty-nine (69); and (n)500 17th Street, NW (State Place) - Numbers seventy (70) through seventy-two (72). (o)1500 Constitution Avenue, NW - Numbers seventy-three (73) through seventy-four (74). (p)2100 H Street NW – Numbers seventy-five (75) and seventy-six (76).		
527.2	The DDOT Director shall designate specific portions of the streets listed in § 527.1, in the numbers set forth in § 527.1, as authorized roadway Vending Locations.	Roadway vendors are still exempt from paying for parking under this regulation—while other vendors must pay for their parking. It's another example of DCRA's regulatory capture by the roadway vending lobby.	Same comment

528	**VENDING LOCATIONS: ROADWAY VENDING LOCATIONS: ADDITIONAL LOCATIONS**		
528.1	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:		At the start of this regulation, the DDOT Director has the clear authority to set the standards and approve vending site locations. 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.
	(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;	See our prior comment, where technically ALL of DC is under the jurisdiction of the US government.	
	(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;		
	(c)On a snow emergency route designated under section 4024 of title 18 of the District of Columbia Municipal Regulations;	This is draconian. Just prohibit roadway vendors from operating during snow emergencies...	Same comment. Prohibiting vending on snow emergency routes the year-round is just plain protectionism for the Mall Vendors against the food trucks.
	(d)Within forty feet (40 ft.) of an intersection;	This should be 20 feet.	Parking spaces go to 20 feet of the intersection, or less. The standard is not defensible. .
	(e)Along the length of a Metrobus Stop Zone, a commuter bus zone, an intercity bus zone,		

	or other curbside zone specifically designated and demarcated as being for transit use; (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; (g)Within twenty feet (20 ft.) of an alley; or (h)Within forty feet (40 ft.) from any crosswalk. (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.		Actually, the purpose is clear. Make it impossible for food trucks to compete with Mall Vendors Same comment Same comment 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.
528.2	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. .	We understand the desire to improve food options in DC, but this is not the right way to do it.	This language is appropriate in a licensing regulation?
	PART 4: ASSIGNMENT OF VENDING LOCATIONS		
529	**ASSIGNMENT OF SIDEWALK VENDING LOCATIONS**		
529.1	Unoccupied sidewalk Vending Locations shall be assigned to licensed sidewalk vendors through a lottery conducted by the Director.	Lotteries are not the right way to assign specific vendors to specific sites.	First, there is no database of un-occupied sites, nor is there any plan or procedure here to make one. Second, randomly assigning vendors to a universe of "legal" sites is a recipe designed to put

			licensed vendors out of business.
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 *District of Columbia Register* 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	Roadway Vending Locations shall be assigned as follows: (a)All roadway Vending Locations shall be allocated by lottery; (b)The lottery shall be conducted monthly, with Vending Locations allocated to a vendor by the following days of the week; (1) Mondays; (2) Tuesdays (3) Wednesdays; (4) Thursdays; (5)Fridays; (6) Saturdays; or (7) Sundays. (c)There shall be equal allocation in the lottery of Class A and Class B licenses; and	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 *exactly* how open DCRA is to oversight and review.
	PART 5: MISCELLANEOUS		
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

	(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 (b) Comply with any standards imposed by DOH or other relevant agencies.		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.		
	SUBCHAPTER D: DESIGN STANDARDS, OPERATIONAL STANDARDS, AND INSPECTIONS		
	PART 1: DESIGN STANDARDS		
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	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: (a)Four feet six inches (4 ft. 6 in.) in width unless the vendor vends food from the vending cart, in which case the cart shall not exceed five feet (5 ft.) in width; (b)Seven feet (7 ft.) in length, unless the vendor vends food from the vending cart, in which case the cart shall not exceed eight feet (8 ft.) in length; and (c)Eight feet six inches (8 ft. 6 in.) in height, measured from the bottom of the tire.	These dimensions reflect the current regulation. They are arbitrary at best; they are too small to allow food carts to carry sufficient equipment and product; they eliminate the potential for appropriate weather protection, and they effectively serve to grandfather in worn-out equipment that should be replaced.	The new draft has slightly modified these size standards, which are arbitrary at best. To the top of what? The umbrella? The cart?
534.2	A vending cart shall be covered by either: (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 (b)One (1) canopy which shall not overhang more than six inches (6 in.) in any direction from the body of the cart.	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	Any umbrella or canopy used to cover a vending cart: (a)Shall be made of water-resistant canvas with wood or metal frames; and (b)Shall not contain any advertising other than advertising allowed under § 538.	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

		vendor from displaying product (which they are required to carry) in the only available display areas. (the side and back of a stand).	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.
534.5	No food or merchandise hung or otherwise displayed on the front of the vending cart shall extend more than two feet (2 ft.) from the front of the vending cart or extend past the sides of the vending cart.	See prior comment.	See prior comment from 2010 in 534.4
534.6	All food, merchandise, and equipment, other than food or merchandise hung or displayed on the front of the vending cart, shall be contained within or beneath the body of the vending cart, provided that up to two (2) coolers or containers with food may be placed immediately adjacent to the vending cart, at least four inches (4in.) off the ground, and in compliance with DOH food storage regulations; provided further, that the total size of the coolers or containers taken together shall not exceed the length of the cart (eight feet (8 ft)).	See prior comment.	DCRA here allows hot dog carts (mostly) to operate as usual. The prohibition in 534.5 seems to dis-allow the standard practice of hanging chips off the sides of the carts. It's a detail, but this is pretty much a defective regulation.
534.7	The cart shall be placed on one (1) or more wheels; provided, that: (a)The wheels shall not exceed two feet eight inches (2 ft. 8 in.) in diameter; (b)The wheels shall be a wood or metal frame with rubber trim for tires; and (c)The cart may include stabilizing legs in addition to the wheel or wheels.	Why does DCRA want to grandfather in the current crop of worn-out hot dog carts, and prohibit workable food vending solutions? For example, the On the Fly carts are illegal under this provision, and yet they park on the sidewalk. The DC Central Kitchen cart is another example of an over-size cart...	See prior comment. (As an aside, we've always admired the "one or more wheels" language). If it is not obvious by now, these regulations confuse the kinds of "carts" that we used to see in shopping mall common area space in the 70's, with hot dog "carts" we see on the street of DC today. This is ridiculous and

			unnecessary.
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	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:	Again, DCRA is grandfathering in—actually requiring-- a vending stand design that almost everyone agrees can and should be improved.	Same comment
	(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;	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?	Same comment. This all comes from the PADC regs which are obsolete.
	(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.);	Weather-resistant lumber is full of toxic chemicals. It is not meant to be handled on a daily basis.	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.
	(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.);	This is the current standard. Why not move to a 4x8 standard? The area is roughly the same and the materials are standardized at that dimension.	

	(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. 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; (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 (f)No free standing racks or other free-standing forms of display shall be allowed around the stand.	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?	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. We are thankful that the color of the table skirt will be no longer prescribed by regulation. Should this always be true?
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.

	(a)A fresh water tank with at least a five gallon (5 gal.) capacity or more; (b)A waste water tank with a capacity fifteen percent (15%) or larger than the required fresh water tank;	DOH flexibility in approving individual units for specific purposes. We hope that DOH is prepared to use that discretion thoughtfully.	
	(c)A three (3) compartment sink with hot and cold running water;		3 compartment sinks only necessary when washing, rinsing, and sanitizing is part of the vending operation.
	(d)A separate hand washing sink with mixing faucet; (e)Walls, ceiling, and floors that are smooth and easily cleanable; (f)Natural or electrical lighting to provide a minimum of fifty (50) candles of light on work surfaces;		
	(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;	This is too limiting a requirement. For many purposes, a cold-plate is just as effective as a generator powered refrigerator.	We need some generator regulations in this draft. Having said that, different vending operations need different requirements.
	(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 (i)Adequate ventilation.		Most vending units will not need to hold food at freezing temperatures.
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 *on* 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 *District of Columbia Register* 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.		
	PART 2: OPERATIONAL STANDARDS		
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	Vendors may operate only during the following hours: (a)Sunday through Thursday, from 5:00 a.m. to 10:00 p.m.; and (b)Friday and Saturday from 5:00 a.m. to 1:00 a.m. the next day; provided, that vendors operating in Residential Zones, as specified in the District of Columbia Zoning Regulations, shall not vend past 10:00 p.m. on any night of the week.	These hours are overly restrictive in some circumstances. There is a market to provide food for clientele leaving nightclubs at closing time—and there are common sense reasons why offering food to this market may improve public safety. This regulation prohibits that, for no good reason.	
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		

	shall be in compliance with: (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 *et seq*. (2009 Repl. & 2011 Supp.)); (b)Title 25 of the District of Columbia Municipal Regulations; (c)Any other applicable law or regulation related to the preparation, handling, transportation, or storage of food; (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 (d)Any applicable standards established by DOH.		
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	All vending vehicles operating with propane or open flames shall meet the following standards: (a)All propane compartments shall be secured and placarded; (b)No smoking signs shall be posted on the vehicle; and (c)Propane or open flame permits shall be clearly posted on the vehicle.		
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.		
	PART 3: INSPECTIONS		
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 *every* inspector. Notice this provision is not about punishment; it's about solving a problem and moving on.**
	PART 4: OTHER STANDARDS OF OPERATION		
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

	(a)Shall be registered and inspected by the District of Columbia Department of Motor Vehicles or by the motor vehicle department of another state or municipality with appropriate jurisdiction; (b)Shall display all current tags on the vehicle or cart; and (c)Shall not vend any food, merchandise, or services if the vehicle has temporary tags.	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.	*Another* "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	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: (a)The name, address, and telephone number of the person; (b)The name and license number of the vendor for whom the person will act as an employee or independent contractor; (c)The signature of the person; (d)The notarized signature of the vendor; (e)The application fee, which shall be fifty-five dollars ($55); and (f)Any additional information or documentation required by the Director.	No photograph? Vendor employees are required to have telephones, and that information then becomes public record controlled by DCRA? 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? Notarized? Why? 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?	See prior comments about the differences between employees and "independent contractors. 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. Same comment Same comment 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.
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	An employee or independent contractor: (a)Shall conspicuously wear his or her Vendor Employee Identification Badge when the employee or independent contractor is operating the vendor's vending business; and (b)Shall not represent any licensed vendor other than the vendor whose name appears on the employee's or independent contractor's Vendor Employee Identification Badge.	And yet, Licensed Vendors themselves are not required to wear District authorized identification badges.	Same comment
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;		

	(d) 15th Street, NW, between Independence Avenue, NW, and H Street, NW; (e) 14th Street, NW, between Constitution Avenue, NW, and Independence Avenue, NW; (f) 7th Street, NW, between Constitution Avenue, NW, and Independence Avenue, NW; (g) 4th Street, NW, between Constitution Avenue, NW, and Independence Avenue, NW; (h) 3rd Street, NW, between Constitution Avenue, NW, and Independence Avenue, NW; (i) 1st Street, NE, between Constitution Avenue, NE, and Independence Avenue, NE; (j) East Capitol Street, NE, between 1st Street, NE, and 2nd Street, NE; (k) Madison Drive, NW, between 15th Street, NW, and 3rd Street, NW; (l) Jefferson Drive, NW, between 15th Street, NW, and 3rd Street, NW; (m) Pennsylvania Avenue, NW, between 15th Street, NW, and 1st Street, NW; (n) Maryland Avenue, SW, between Independence Avenue, SW, and 3rd Street, SW; and (o) Within a Vending Development Zone created pursuant to § 560, unless specifically authorized by the Vending Site Permit.		
556.5	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: (a) Within one hundred feet (100 ft.) of a traffic circle. (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. (c) Any of the locations enumerated in §556.4; (d) Any location that is not a legal parking space.		As we've stated earlier, this provision seems to be a pretty far stretch from the the current law, 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 every vendor must have a vending site permit. But that is so 2009. 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 ***some*** vendors need to have a permit to describe exactly where they will vend—spots that don't exist, and never will;

			permits that don't exist, and never will—but ***other*** vendors can have a "site permit" that describes simply where they will not be allowed to vend. <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 ***get*** 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. 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.
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

	suspension or revocation of a Vending Site Permit.	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”.	
558.2	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.		
558.3	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.		
558.4	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		

	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	The Director may establish Vending Development Zones (VDZ) to promote new and innovative vending practices designed to achieve the following objectives: (a) For communities to utilize vending and public markets to create unique and attractive destinations and increase foot traffic in commercial corridors; (b) For communities to have expanded capability to manage vending and public markets in unique high-density hospitality zones; (c) Provide opportunities for vendors to expand their creativity and entrepreneurship in both their products and their carts stands or vehicles; (d) Expand vending and public market opportunities for small and local businesses; (e) Improve the safety, appearance, and use of public space; and (f) Allow for greater expansion of the creative economy through the addition of entertainment and artistic business ventures in public space.		The goals seem worthy. The term “communities” in this section seems wrong, because Vending Development Zones will obviously be “top-down” things created by BIDs as opposed to “bottom-up” proposals generated by the “community”. These VDZ’s are nothing more than the privatization of public space, and DCRA and the BIDs can use whatever language they like to make it sound better.
560.2	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: (a)Location of vendors in public space , provided, that no category of Vending Business License is specifically excluded;		A meaningless provision…

	(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; (c)Design standards for vending vehicles, vending carts, roadway vending vehicles, and vending stands; (d)Hours of operation; (e)Length of time for which a Vending Site Permit shall be issued; and (f)Special performance and entertainment requirements of Chapter 13 of Title 19 of the District of Columbia Municipal Regulations.		Since the permits under §556 don't "include" anything, this allows a VDZ to keep food trucks out…. This is potentially good… This could be good or bad… This is potentially good or bad… 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.
560.3	The Director may establish a VDZ upon the approval of an application submitted by a business association, community organization, or District government agency.	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.	See prior comment.
560.4	The Director shall administer the process for reviewing applications in consultation with the following Coordinating Agencies: (a)Department of Small and Local Business Development;	Good. This is the first mention of inter-agency consultation within this regulation.	See prior comment.

	(b)Department of Health; (c)District Department of Transportation; and (d)Office of Planning.		
560.5	A VDZ application shall be reviewed in a two (2)-part process: (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: (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; (2) The purpose and intent of establishing a VDZ, including aspects of placemaking and creative economy planning; (3) A map delineating the proposed boundaries of the VDZ and all current Vending Locations; and (4) The partner organizations collaborating on the application. (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: (1) A description of the proposed innovative vending strategy or expanded management opportunity; (2) A map showing proposed vending and public market locations;	We are fundamentally opposed to DSLBD, DOH, DDOT,OP or DCRA (or any other DC agency) getting into the vending management business.	See prior comment. These standards for a pre-application are weak. But that's a feature, not a bug, in this Kabuki Dance. This is a paper exercise. No penalties accrue to the BID who proposes, organizes, and fails to deliver on a VDZ. Meanwhile, existing vendors will be eliminated, potential vendors will be turned down, and almost certainly promises will be broken.

	(3) An implementation plan that may include, but is not limited to: (A)Financial assistance, equipment assistance, storage assistance, technical advice, or business planning support for existing and potential new vendors; (B)Marketing strategy for placemaking, coordinated design, semi-permanent fixtures, entertainment, or creative economy programming; (C)Partnership opportunities; and (D)Diversity of products or services offered; (4)A plan for coordinating with existing vendors and businesses located within the proposed VDZ; and(5)Any other information that the Director requires.		In theory, this could work. But there needs to be checks and balances.
560.6	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, (a)The Director shall forward each VDZ application to the Coordinating Agencies for evaluation based upon: (1)Compliance with objectives defined in § 560.1; and (2) The ability of the applicant to achieve the proposed innovative vending strategy. (b)Each Coordinating Agency shall review the application concurrently within forty-five (45) days and forward any issues to the Director. (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 (d)The Director may deny an application if the applicant is unable to resolve any issues identified by the Coordinating Agencies.	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?	Same comment. 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”?
560.7	Within forty-five (45) days of receiving favorable reports from all coordinating agencies,		But of course, now that it’s all

	DCRA shall hold a public hearing to solicit public comments on the VDZ application. The Director shall publish notice of the hearing in the *District of Columbia Register* 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	The Director shall discontinue a VDZ if: (a)The VDZ vending strategy fails to achieve the purpose and intent of the VDZ; or (b)The Director determines that it is not in the best interest of the public to continue the VDZ, based on such factors as: (1)Poor management of the VDZ; (2)Unsafe conditions resulting from the VDZ; and (3)Failure to follow or maintain the vending plan contained in the VDZ application.	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	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 (a)The boundaries of this VDZ may be revised without the need for additional rulemaking; and (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.		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. We do know that, even though

			the PSPMC's board voted to dissolve the organization, it's incorporation in DC has been maintained by the Downtown DC BID. Only recently has the Downtown DC BID allowed the PSPMC's 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.		
	SUBCHAPTER F: STREET PHOTOGRAPHY		
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.		
	SUBCHAPTER G: SOLICITING		
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.	???	
	SUBCHAPTER H: MISCELLANEOUS PROVISIONS		

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 *et seq* (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 *et seq.*).		
	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 maintians 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.		

Penn Quarter
Neighborhood Association

13 October 2012

Helder Gil, Esq.
Legislative Affairs Specialist
DC Department of Consumer and Regulatory Affairs
Room 5164
1100 4th Street, SW
Washington, DC 20024

Re: Comments on Third Proposed Rulemaking for Title 24, Chapter 5, Vendors

Dear Mr. Gil:

We are commenting on the October 5, 2012 Proposed Vending Regulations, which if adopted would change DCMR Title 24, Chapter 5. We have reviewed the proposed regulations and have attached specific changes, to the sections cited. But we also have some general comments that follow below.

Generally, we think this draft an improvement over the January draft that this superseded.

- We previously mentioned that we had a problem in that the proposed regulations allow food trucks to park their vehicles wherever a car can legally park. In the current draft there are certain limitations related to distances from alleys, driveways, transit stops, and crosswalks but there was no attempt to limit their locations vis-à-vis the uses in front of which they park. Thus, a lobster truck could park directly in front of a lobster shack whose owner pays rent and taxes to the city. This is not fair competition; it favors the truck over the fixed location. As we previously pointed out, fixed vending locations are highly regulated. But unlike your regulations for sidewalk vending locations, vending trucks can still park at any free meter. Except for the potential for management in Vending Development Districts, there is little management and virtually no review of where the trucks can locate,. The city established the Public Space Committee to review proposals for use of public space, with the public's safety, mobility, and compatibility with other uses as criteria for determining if an applicant's use should be approved, modified, or rejected. Thus the location and design of sidewalk cafes, bike racks, benches, and even trash cans have to be presented to the Public Space Committee for review and action. Why not the food trucks? We made several suggestions how that can be accomplished that I won't reiterate here. As we wrote previously, it is ironic that food establishments whose overhead costs (rent, taxes, pass throughs) are higher, who can be easily inspected by the health department, and who help energize the city are ignored, while those who remit little to the city and would be difficult to find to inspect without advance notice are exempt from such review.

  We do applaud you for hearing us and simplifying the process to establish a Vending Development Zone and for grandfathering in the work that the Downtown BID had done to attempt to improve vending in our neighborhood.

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Baring a VDZ, and it is likely that it will take some time for these to form, this could be remedied, at the least it would be of great help. To be most effective it would require DCRA, DDOT, and the Public Space Committee to work together in consultation with other departments such as Fire and Police to develop and include pre-approved locations for mobile food vending and mobile non-food vending in the regulations. These locations would be selected after all are satisfied that they will ensure that there is

- Adequate sidewalk space for pedestrians, including those who are handicapped and those walking dogs, as well as space for truck customers;
- Access by fire trucks and ambulances to hydrants, stand pipes, entrances, and fire control rooms is not compromised due to customer lines in combination with the vehicle's size and positioning;
- Space on each block front available for vehicles other than food trucks, which may require that the number of food trucks that can park on block fronts in certain areas of the city or along certain streets in such areas need to be limited;
- No infringement on spaces designated for residential parking in commercial zones.

Numerous food trucks could use each approved location and each food truck could park in several approved locations in a day. Further, the regulations could provide that these approved locations could be changed via a VDZ plan and, further, that DCRA, DDOT, and the Public Space Committee will re-examine the approved locations every other year (or perhaps every five years) and modify the list of locations as appropriate should a VDZ not be in place for the area.

- We recommend that the proposed regulations include a requirement that food trucks have to notify DCRA how they will alert their potential client base to their location each day and allow inspectors from DCRA and other regulatory departments having oversight over food trucks to have access to such notifications. Unlike a vendor in a fixed location where an inspector can return the next day or week to see if the violation is corrected, a food truck travels around to sell its food. Thus, it will take some time for the inspector to catch up with that vehicle unless inspectors are required to check Twitter and the food trucks are required to accept them as followers. And a food truck could possibly show up in several other locations without correcting the violation for an extended period.

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- Fees for violations are often regarded as the cost of doing business; they do not prevent violating a law or regulation. The proposed regulations should stipulate that fees should not be nominal but steep enough to deter unlawful actions and, further, should increase with each repetition of the offense for which the food truck or driver is being cited. Further, there should be a requirement to issue violations/tickets and not warnings. I understand that these are being tracked and that DCRA can revoke a license for a specified period of time if four violations have been issued.

- We request that the proposed regulations be amended to prevent food trucks from parking adjacent to sidewalks where there are outdoor cafes and the remaining sidewalk width available for pedestrians to walk unencumbered, which would exclude that portion of the sidewalk where there are tree pits, bicycle racks, benches, and trashcans, is ten feet or less. We believe that most non-criminal laws and regulations are not well enforced and that there are not enough enforcement officials to check the crowded urban centers to see if food trucks are voluntarily observing the vague language in the proposed regulations. It is just the sort of language that will require a law enforcement officer or other individual able to enforce the regulation to be present to see if pedestrian passage is blocked – if they even appear and if they do, if they appear in time to see the violation, given that food trucks move around and customer lines grow or shrink by the minute. Unfortunately, our experience has been that most of the time officers do not appear when one calls 311 or evenings and weekends 911 as they are busier with more significant infractions of the law. When they do appear, they report that they must see the violation. Obviously, in the presence of an officer the offender corrects the violation or, if he/she doesn't see the officer, the officer tells the offender to correct the violation, at which time he/she corrects it. If the officer leaves, the problem is as likely as not to re-occur; if the officer remains to see it is not repeated, often an officer will not issue a violation. In almost all instances, the violator is off the hook and the actions repeat without fear of being cited.

- We request that the proposed regulations be amended to prohibit a food truck from parking along a block front where an establishment that sells prepared food that is not pre-packaged for carryout, whether or not the establishment also serves food on the premises, if the food it sells is similar to the food that the food truck offers. By this we do not mean that if the food truck sells cupcakes it cannot park near a carry out that sells Hostess Cupcakes or apple pie. But it would be restricted from parking on the block front where Crumbs, Georgetown Cupcakes, or Red Velvet Cupcakes sell cupcakes – like food packaged for carry out. Similarly, a pizza food truck or a pasta food truck could not park in the block where Vapiano's is located as Vapiano's asks when ordering if the food is for here or to go. It could however park by Tosca, a white table cloth Italian restaurant where people may take leftovers with them but where one does not go for carry out food. There should be one exception to this. If a restaurant also has its own food truck and wants to park it for the purpose of selling food items from it by their establishment or stocking the truck, they should be allowed to do so.

  By adding this regulation, DCRA would be limiting the direct but quite unequal competition for like goods. Luke's Lobster pays rent and all pass throughs – that would be utilities, property taxes, the BID tax, and condo fees. None of these would a food truck need to pay. In addition, Luke's Lobster pays sales tax and at least for some employees unemployment and social security, and, of course, actual sales tax. The overhead for Luke's Lobster is enormous compared to the overhead for a lobster truck. This provision would allow a lobster truck across the street, around the corner or in the next block, but it would not allow it right on the same block front, certainly a reasonable compromise and one that should be able to pass muster with the courts.

- Last, the regulations for Vending Development Zones are not sufficiently clear; we recommend they be edited at the least. We also believe the process for establishing a VDZ is so difficult and time consuming that it will prevent any from being created. The result then would be the government shirking its responsibility to oversee and properly manage vending for the benefit of everyone.

  I was not able to determine how the VDZ proposed plan would be affected by the other regulations; it required some discussion with you to obtain some clarity. There are still a myriad

of questions that I did not have time to ask. But if the proposed regulations are that unclear, they need to be looked at again and revised before they are published as final. We would suggest having people who have not participated in writing the regulations be consulted to identify where the proposed regulations lack clarity. Our concern is that once adopted there will be great difficulty in changing that which is a problem; and if the special event regulations are any indication of the future, nothing will be enforced because it is unclear who should and what can be enforced. Thus, total government irresponsibility.

Thank you for the opportunity to comment on the proposed regulations. I remain,

Very truly yours,

Jo-Ann Neuhaus
Executive Director

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Comments on the Proposed Vending Regulations
Section by Section

Vending Locations Sidewalk Vending
Section 521.1(c)(1)

This provision states that

(c) "No sidewalk Vending Location shall be designated:

(1) In front of a predominately residential building outside the Central Vending Zone;"

By excluding residential buildings in the Central Vending Zone, the city is saying that these residents, many of them new to the city, are of a different class than residents elsewhere in the city. Over the past two decades thousands of new and renovated buildings have sprung up within the area designated as the Central Vending Zone; are the residents in these buildings deserving of different treatment than the residents in Adams Morgan, Woodley Park, Columbia Heights, or other neighborhoods outside the area designated as the Central Vending Zone? Regulations should not discriminate against a resident who has no idea when moving into a home or apartment that someone would be permitted to vend at his/her front door because the residence happens to be within a designated vending zone that most have not even heard existed**. We request that you delete the phrase "outside the Central Vending Zone."**

Vending Locations Central Vending Zone
Section 522.3

Since there seems to be no organization to the listing of excepted streets where sidewalk vending is not permitted, please add the following locations to the streets listed, if these streets are not already on the list:

- Modify the exclusion of the north side of Pennsylvania Avenue, NW between 9th Street, NW and 10th Street, NW by inserting in place of "between 9th Street, NW and 10th Street, NW" the words "between 3rd Street, NW and 15th Street, NW." and changing the beginning to read "north and south sides" as the entire length of the Avenue is excluded so it makes no sense to list one block front. Further, there is not general knowledge that the sidewalks are part of the Pennsylvania Avenue National Historic Site, which is under the jurisdiction of the National Park Service; therefore, it is our recommendation to list the entire length of Pennsylvania Avenue, NW between 3rd Street, NW and 15th Street, NW among the streets where vendors may not set up and vend, even though Section 521.1(c)(6) also specifically excludes vending from "Within any area under the exclusive jurisdiction of the United States Park Police . . . or any other agency of the United States government;" which would include the National Park Service. If you do not agree, we recommend deleting Pennsylvania Avenue, NW between 9th Street, NW and 10th Street, NW from the list in this section because it is totally misleading to list only this block of Pennsylvania Avenue, NW.

- The north side of F Street, NW between 7th Street, NW and 9th Street, NW (National Portrait Gallery and Smithsonian American Art Museum; at a minimum, the 8th Street, NW vista must be kept free of vertical encroachments on a daily basis – an occasional market of festival is okay, but it should be a free vista for the most part – see next entry)

- The east and west sides of 8th Street, NW between E Street, NW and F Street, NW (requires approval of NCPC under the Pennsylvania Avenue Plan, which is still in effect, and the design guidelines may not produce the ambience contemplated in The Plan for this street, separately listed as a historic landmark)

- The south side of D Street, NW between 7th Street, NW and 9th Street, NW (because of the two residential entrances, the entrance to two garages serving the residences, and the need to keep open the historically important 8th Street vista)

- Both sides of F Street, NW between 9th Street, NW and 10th Street, NW (residential entrance, historic booth alley, outdoor cafes, welcomed pedestrian congestion due to its recent tenanting with a series of retail shops and casual restaurants – there is just no more room here for people, dogs, and vendors and the first two are ensconced for which the city should be grateful)

- Look at xx and xxx – you have listed E Street, NW between 9th Street and 10th Street twice by singling it out (xxx); this FBI block was already covered at xx, which covers E Street, NW between 5th and 14th streets.

- South side of Indiana Avenue, NW between 6th Street, NW and 7th Street, NW (Residential building and the Argentine Naval Commission and Indiana Plaza)

Section 530 Vending Locations: Mobile Roadway Vending Locations: Authorized Locations

Please add the following to Section 530.8, "An MRV location shall not be established," and to Section 531.2, "A Mobile Roadway vehicle operating outside of a designated Mobile Roadway location shall not park and vend:"

- In front of a predominately residential building

In our comments on the previous draft regulations, we commented that

Section 536 Farmers' Markets

Section 536.5 Appears to not allow a farmers market to operate without first obtaining a DOH health inspection certificate. ("No Class C Vending Business License holder shall operate a farmer's market on public or private space without first obtaining a DPH health inspection certificated and food safety compliance inspection in accordance with subtitle A of Title 25 of the DCMR.") I believe this needs to be spelled out more clearly assuming you mean that after being set up (each day or for a season or for the year – totally unclear), the health inspectors will make their rounds and determine what alterations need to be made, if any, to be in compliance with the regulations, and if either no changes are needed or the changes are made or the offending vendor leaves, the market will be issued the proper certificate to operate. If this is not what was anticipated, I think it is not possible to inspect the market before it is set up and ready to vend their products,

Further, does this apply to farmers markets on federal property or not; I think this is not addressed?

Section 538 Design Standards: General

I would change the title to Vending Stand Specifications since these are hardly design standards, being no different than what currently exists, which hardly produces a consistently attractive vending stand.

Section 539.4 There is a typo: the word "the" is unintentionally omitted; it should read "from the back of the vending cart." in lieu of "from back of the vending cart."

Section 564 Vending Development Zones

Section 564.9 The last phrase (here in italics) in this section needs to be rewritten so one reading it can understand its meaning; it is not at all clear. It reads: "the DCRA Director shall *manage the site delegation and distribution of Vendor Locations* to vendor site applicants." What is the meaning of "manage the site delegation?" Does "distribution of Vendor Locations to vendor site applicants" mean the director will tell the vendors who applied for a space where they will be located?

In this section we recommend adding a provision that would allow the VDZ applicant to submit one or more amendments to his/her VDZ plan for review and approval as he/she learns more and either wishes to explore additional options or sees opportunities for improvement or better ways of achieving the objectives.

November 13, 2012

As a District resident who works downtown in the Golden Triangle Business Improvement District, I am writing to voice my support for the Food Truck Association in favor of food truck regulations that are clear, tailored to address specific needs, and make common sense.

In particular, the proposed rules restrict food trucks where there is less than 10 feet of "unobstructed" sidewalk--without clearly defining what an "obstruction" is and threatening to limit food trucks in popular parts of downtown. I would be especially disappointed if food trucks were no longer able to operate at Farragut Square.

Food trucks add to the vibrancy of our great city, and now that they are collecting sales tax, to our city coffers as well.

Please do everything in your power to ensure that any new regulations improve choices, quality, safety, and value for consumers, not limit them.

Thank you for considering my comments.

Sincerely yours,
Liz Pomper

RAMW
Restaurant Association Metropolitan Washington®

November 13, 2012

Helder Gil,
Legislative Affairs Specialist
Department of Consumer and Regulatory Affairs
1100 Fourth Street, SW
Room 5164
Washington, DC 20024
DCVendingRegs@dc.gov

RE: **Notice of Third Proposed Rulemaking Concerning Chapter 5 (Vending) of Title 24 (Public Space and Safety) Published October 5, 2012 Comment Letter**

Dear Mr. Gil:

Our organization, Restaurant Association Metropolitan Washington ("RAMW"), has over 700 members and is the principal representative of sit-down restaurants in the District of Columbia. We have reviewed the Notice of Third Proposed Rulemaking in connection with the above captioned regulations. The proposed regulations provide a reasonable framework for the operation of vending businesses, both sidewalk vendors and stationary roadway vendors, in the District of Columbia. With respect to Mobile Roadway Vendors, however, the proposed regulations are utterly inconsistent with the Vending Regulation Act of 2009 (the "Vending Act"), which requires that vending site permits be issued for specific locations. Indeed, the very definition of a Mobile Roadway Vendor is "a vendor who operates in unassigned locations."

Specific locations are mandated by the Vending Act for three equally important reasons. First, management of public space requires that in designating vending locations, consideration be given to other uses of public space which may be impacted by vending. Currently, every inch of public space is managed with reasoned decisions made concerning the locations of bus shelters, loading zones, tree boxes, sidewalk cafes, street signs, valet parking zones and plantings in public space. In making the decisions, DDOT considers the locations of the proposed use, adjacent uses of public space and the impact of the proposed use on vehicular traffic and on the pedestrian passageway. Ignoring the provisions of the Vending Act which require designated locations upsets the management of public space and provides an unfair preference for food trucks over all other public space uses.

For example, presume a brick and mortar restaurant desires an unenclosed sidewalk café adjacent to its restaurant. The application must be reviewed by the Public Space Committee which will make a determination as to whether the proposed café has an impact on the needed pedestrian passageway. Likewise, the location of vendors, other than Mobile Roadway Vendors, must be approved after consideration of the need for pedestrian passageway and other uses of public space in the area.

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The second reason the Vending Act requires designated spaces relates to the history of vending in the District of Columbia which led to the passage of the Vending Act. The Report of the Committee on Public Services and Consumer Affairs on Bill 18-257, the "Vending Regulation Action of 2009," repeatedly references the need for assigned vending spaces because the lack of designated vending locations led to violence, as the more profitable sites were hotly contested.

Furthermore, in the absence of fixed locations, the report indicates that DCRA was unable to locate vendors to determine regulatory compliance, putting the public at risk. The risk to the public is highlighted by the concerns expressed by the Department of Health, that without fixed locations, trucks cannot be located for random health inspections. In the event a Mobile Roadway Vendor **is** inspected, and critical violations are found, the Department of Health has no meaningful way to close the business operation: the Mobile Roadway Vendor can merely locate to another part of the District of Columbia and resume operations. The Department of Health does not have the resources to follow the truck and assure that it is taken out of service until the critical violations are corrected. If the proposed regulations are not to be amended such as to comply with the Vending Act, then the recommendation by the Department of Health that Mobile Roadway Vending trucks be outfitted with mandatory GPS systems so DOH can locate them at all times should be taken seriously and made part of the regulations.

In addition to the general foregoing comments, RAMW has the following specific comments. The numbers relate to the Section numbers in the proposed regulations:

Section	Comment
501(g)	Maximum hours of operation for vendors should be set by the regulations, and not left to the whim of DCRA, without guidelines as to how such authorized hours should be established.
504.3	Change the introduction to (c) to: "The applicant, any officer, director, member, or owner of applicant or any business in which they have had an interest, has been:" Otherwise, a violator need only to set up an new entity to evade the restrictions against licensure for previous violations.
504.4	Change "until one year after" to "within three years of."

504.5 Change the word "person" to the word "individual." The term "person" is broadly construed under the basic business licensing statute. The minimum age should be for individuals, not business organizations.

507.1 Change the word "may" to "shall." The regulations otherwise contain no standard by which the Director might exercise discretion concerning whether a license should be revoked, suspended, or denied. The revocation, suspension or denial should therefore be mandatory.

514 In addition to the information required, a Mobile Roadway Vendor should be required to identify restroom facilities available for its employees in the District of Columbia. It is understandable that requiring Mobile Roadway Vendors to meet restroom requirements for patrons is unworkable, but Mobile Roadway Vendors should be required to provide basic sanitation for employees by way of restroom facilities. Dallas, Texas is an example of a jurisdiction with such a requirement. There, vendors must show a written agreement with one or more businesses for restroom access as a condition of licensure.

515.2 Health inspection certificates issued to Mobile Roadway Vendors should be conditioned upon the vendor installing and maintaining such GPS system as shall be approved by DOH, so that DOH, shall at all times, know the Mobile Roadway Vendor is in the District of Columbia and it may be located for purposes of inspection or enforcement. Without such tracking, DOH is powerless to conduct random inspections, and, more importantly, powerless to ensure that Mobile Roadway Vendors with critical violations do not continue to operate after suspension of their health inspection certificate.

529.1 There are technical problems with this subsection in using the term "person" holding a vending business license. "Persons" includes corporations and limited liability companies. Accordingly, the first reference to "persons" should be changed to "Individual" such that the Mobile Roadway Vendor will either have an Individual Class A, Class B or Class D license on the vehicle, or, if the Vending Business License holder is an organization, the Mobile Roadway Vendor will have a vendor employee with an identification badge inside the vehicle. Without this change, Mobile Roadway Vendors which are organizations (corporations or limited liability companies), could merely have officers or members of the organization on the vehicle, and they technically would be in compliance.

529.6 Add a new subsection:

A Mobile Roadway Vendor may not vend in the Central Business District, except in a designated Mobile Roadway Vending location.

530.2 Strike "at least." Three Mobile Roadway Vendors on any block face is an appropriate number such that disruption of sidewalk space is minimized and there is sufficient vehicle parking for other users. If more Roadway Vendors are desired, than rules may be liberalized by way of a Vending Development Zone.

530.8(b) Add, as a prohibited zone, valet parking zones.

530.8(c) Amend as follows:

Where the adjacent unobstructed sidewalk is less than 10 feet wide, provided if the DDOT Director finds that during the hours of 11:00 a.m. to 3:00 p.m., on weekdays, the flow of pedestrian traffic at a location is sufficiently light to permit a passageway narrower than 10 feet, a Mobile Roadway Vending location outside the Central Business District, with a passageway as narrow as seven feet, may be approved.

This is consistent with the determination made by the Public Space Committee in reducing the required ten foot clearance for sidewalk cafes.

530.8(j) Add the following:

(j) Any location that is adjacent to a duly permitted sidewalk café.

530.8(k) Add the following:

(k) Within (ten) 10 feet of the entrance way of a licensed business. The entrance way shall be defined as the area between two parallel lines, extending perpendicular from each side of the entrance to the building where the business is located.

531.2(b) Add, as a prohibited zone, valet parking zones.

531.2(j)	Add the following:
	(j) On any block in which a designated Mobile Roadway Vending location has been established.
531.2(k)	Add the following:
	(k) Any location that is adjacent to a duly permitted sidewalk café
531.2(l)	Add the following:
	(l) Within (ten) 10 feet of the entrance way of a licensed business. The entrance way shall be defined as the area between two parallel lines, extending perpendicular from each side of the entrance to the building where the business is located.
531.2(m)	Add the following:
	(m) On any block where two or more Mobile Roadway Vending vehicles are parked.
531.2 (o)	Add the following:
	(o) Within twenty (20) feet of another Mobile Roadway Vending vehicle.
533.1	Add the following:
	In addition, the DDOT Director shall not modify or remove any Mobile Roadway Vending Location which, through changed circumstances, no longer complies with the requirements of Section 530.8.
546.1	Vending should be limited to midnight (12:00 a.m.) on Friday and Saturday nights, as it is the hour by which service must end in most outdoor dining facilities, including sidewalk cafes and rooftop patios.

551.1 Strike "as a means of advertising." Otherwise, music can be played that is not a "means of advertising" but nonetheless disrupts residences and neighboring businesses.

559.2 Between the two sentences, add the following, "Vendors shall store litter in a sealed container in their carts and trucks until it can be disposed of in a trash or garbage container maintained with someone whom the vendor has a contract for trash disposal."

564.3 Clarify that both ANCs and BIDs may submit applications for Vending Development Zones.

569 Penalties for violation of parking regulations should be sufficient to deter conduct, and not such that they will be paid by the vendor as a "cost of doing business." A minimum fine of $500.00 is appropriate. A separate violation of "non-compliance with parking regulations while in the act of vending" should become part of the traffic regulations. There should be escalating fines for repeat violators, just as there are for regulatory infractions committed by other businesses.

Although the press has reported the possibility of higher fines, as we suggested in our comments to the last proposed set of vending regulations, thus far, we have seen no new proposed traffic regulations that cover this issue. As vendors have seemed to flaunt even the few existing regulations governing their conduct, it would seem regulations providing for higher traffic fines should have been proposed even before these regulations. RAMW is concerned that we not see a repeat of the situation we have seen with taxicabs: the higher fares have been put in place, but the promised improvements in taxis have been delayed. It is only fair that penalties for appropriating public space for commercial advantage in violation of traffic and parking regulations applicable to all, be put in place immediately.

Thank you for giving RAMW the opportunity to submit comments. We are happy to work with you to resolve these serious issues and concerns.

Very truly yours,

Andrew J. Kline
Legislative Representative, RAMW

cc: The Honorable Vincent Gray, Mayor
Nicholas Majett, Director, DCRA
Phil Mendelson, Chair, DC Council
Michael Brown, At-Large Councilmember
David Catania, At-Large Councilmember
Vincent Orange, At-Large Councilmember
Jim Graham, Councilmember, Ward 1
Jack Evans, Councilmember, Ward 2
Mary Cheh, Councilmember, Ward 3
Muriel Bowser, Councilmember, Ward 4
Kenyan McDuffie, Councilmember, Ward 5
Tommy Wells, Councilmember, Ward 6
Yvette Alexander, Councilmember, Ward 7
Marion Barry, Councilmember, Ward 8
David Grosso, At-Large Councilmember-elect
Janene Jackson, Director, OPLA
Alice Kelly, Manager, Policy Branch, DDOT
Lynne Breaux, President, RAMW
Kathy Hollinger, President-elect, RAMW
Greg Casten, Chair, RAMW

November 13, 2012

Good afternoon, my name is Sung Sik Chu and I am a small business owner at 1100 New York Ave NW Washington D.C. 20005.

I have been doing business in this area since July of 2007. I know it is very tough everywhere over the nation as far as the Economy is concerned, yet I truly believe we can go through this and prevail altogether. Meanwhile due to the fact that every people are going through this hard time, people are trying to find the way to make more money and save more money. Therefore, personally, I believe this whole situation has driven numbers of people to the food truck business, which has been providing good amount of incomes with less amount of money to spend for the business such as taxes, labor costs, and more over the rent. This business strategy seems very successful and such an amazing approach. Also, I can tell that these people are working hard to provide for their families. I truly respect that value and sacrifice that they are making for their families. In fact, I found out that one of my friends is actually doing the food truck business every Wednesday right in front of the Metro Center area, which is a block away from my store. I respect his working in the food truck business because I know he is a man with strong faith and values of sacrificing for the family.

Since the last year, I can tell the numbers of food truck has been increasing dramatically, and I cannot deny the fact that it is impacting negatively on my business along with the rest of local small businesses. I cannot complain about the fact that I am losing numbers of my customers to the other businesses, because of failure to provide better customer services or goods in lower costs. It is very understandable that the numbers of customers coming to the store can vary over the time period, and it is my workers and my jobs to bring them back to my store with better strategy, services, and goods. However what concerns me the most is that, along with other small business owners in this area, we have been paying taxes and tremendous amount of rents to the landlords during those years. Basically it is neither fair nor just to compete with the food truck vendors with what we pay the right amounts of spending while they are not.

The fact is that we, the small business owners in this area, are also doing our best to increase our profits and cut our personal spending in order to provide better for our families and for our community. We have been doing business over years and years with paying the taxes and the high rents in this area especially, because it is the right way to do the business. After all, we believe in the idea of fair chances and fair competition, and what those food truck vendors are doing is not fair for us at all.

Therefore I support Mayor Gray's proposal on food truck regulations because I believe in that every single business owners need fair and just chances and competitions. I truly wish this

proposal can bring and provide local business owners to do our business in fair manners again once for all.

Thank you for your time and works.

Sincerely,

Sung Sik Chu

November 13, 2012

America was once great because free enterprise was allowed to flourish with minimal government intervention. new ideas and products that customers desire should not be regulated out of business because other businesses are not willing to compete with them! we would still be riding in horses and buggies and writing on stone tablets if that were the case! please allow these food truck owners to compete in the free market. the trucks are a product of a slow economy and serve a purpose for those who can no longer afford dining in brick and mortar restaurants. it should be those restaurants that change their business model in order to compete with the food trucks. my son has put everything he owns along with his heart and sole, coupled with very long work days, into the start-up of his food truck. is it right that everything he, and other food truck owners, have worked so hard for be regulated out of business? who exactly has that right, Sir?
a concerned Mom and citizen

Laurie Steele

November 13, 2012

While I agree with your proposed regulations, I don't think they go far enough. While the so called "10 foot rule" is a great first step, there are plenty of places -- like Metro Center -- where the sidewalks are 15, even 20 feet wide, yet they become completely impassable during lunch hours.

Regardless, thank you so much for fighting for our safety and daily comfort. These regulations are a good first step

Sincerely,

Samuel Stoddard

November 13, 2012

I'm hoping something could be crafted in the legislation that would prevent the food trucks from idling their vehicles while waiting on/waiting for their customers. Nearly all the vehicles parked on Connecticut Avenue during the lunch hour are idling their vehicles. Not sure if this is what they have to do to keep the food equipment working, but this seems terribly bad for the environment and a significant drain on our energy supplies.

Respectively,

Joseph E. Stoshak

November 13, 2012

Mr. Helder Gil
Legislative Affairs Specialist
Department of Consumer and Regulatory Affairs
1100 Fourth Street, SW Room 5164
Washington, D.C. 20024

Dear Mr. Gil,

As a co-owner of the Pleasant Pops food truck and Pleasant Pops Farmhouse Market and Cafe, I appreciate the opportunity to comment on the Third Proposed Rulemaking to Amend Chapter 5 (Vendors) of Title 24 (Public Space and Safety).

I am a DC resident of five years and currently reside in Ward 5. In 2009, my business partner Roger Horowitz and I wanted to open a brick and mortar shop in the Mount Pleasant neighborhood of Ward 1. After evaluating our finances and the capital required to open a store, we decided to work closely with the farmers' market and food truck communities to launch our business. Three years later, because of that opportunity to vend on the streets of DC, we were able to open our first brick and mortar at 1781 Florida Avenue, NW.

Last month we hosted Mayor Gray and Councilmember Graham at our new brick and mortar for a ribbon cutting. I couldn't have been prouder to show what we've built over the past few years. When I spoke with the Mayor, he said, "hey, I remember you. we met at Columbia Heights day at the popsicle cart." That's what all great businesses do - start small and keep the focus. Mobile vendors in Washington, DC have that opportunity now and it would be a shame to close those doors to new, creative food startups.

The current proposal in Sec. 529 –531 that proposes limiting vending to where there is 10 feet of “unobstructed” sidewalk in the Central Business District would greatly hinder our ability to operate downtown. On many days, we are parking our food truck in metered parking spots to work private catering events indoors. If this restriction passes, we would have to purchase a second non-food truck licensed vehicle to operate as a caterer downtown.

Further, the proposed MRV zones are not well-suited to mobile sweet trucks like us. We will often make 2-4 stops per day and banning vending from regularly metered locations in an MRV location would prohibit us from doing business at all.

We look forward of being a part of the city's growth for years to come. Thank you for your consideration of these comments and working with us to improve our industry.

Sincerely,

Brian Sykora
Pleasant Pops

November 10, 2012

Mr. Helder Gil, Legislative Affairs Specialist
Department of Consumer and Regulatory Affairs
1100 Fourth Street, SW, Room 5164
Washington, D.C. 20024

Dear Mr. Gil:

As owner of Feelin' Crabby Food Truck, I am pleased for the opportunity to provide comments on the Notice of Third Proposed Rulemaking for a new Chapter 5 (Vendors) of title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations.

I grew up in Montgomery County Maryland and went to culinary school at Baltimore International College after high school. Over the past few years I have worked at local restaurants including The Wine Market in the Locust Point neighborhood in Baltimore, MD and Cava Mezze on Capitol Hill. I later moved to Washington State to work for James Beard Award winner and Iron Chef Tom Douglas. I had a dream to open a restaurant in DC by the time I turned 24 years old. In October of 2010 I returned to DC and realized that my best path to restaurant ownership was to begin with a food truck. Some of my potential investors were concerned for my business plan because of the regulatory uncertainty associated with the current regulations. But I was and still am a hopeful optimist that the DCRA would update and modernize the regulations and that the DC councilmembers and the Mayor who represent the citizens in DC would pass new regulations. I am in the process of licensing my second truck and have plans to open a restaurant in the District in the next few years.

I am concerned about the proposed regulations and their impact on my small business and the businesses of other food truck operators. In particular there is far too much uncertainty around the selection and implementation of MRV spaces. The 10' and 7' restrictions are too limiting and there is too much discretionary power in the hands of one District department. This version of the rules does not reflect a reasonable balance between effective space management and nurturing an increasingly popular lunch option for DC residents and workers. Over the past few years food trucks have grown in popularity and have provided consumers in the District with choice and competition for their lunch options. These regulations will choke off those choices and limit competition and will ultimately hurt DC residents and workers.

Improvements in the Proposed Regulations

- Elimination of the "Ice Cream Truck" rule: This is a great improvement over past regulations as it allows businesses to operate without the constant fear of being asked to move.

- Allowing Employee Badges: Allowing employees to have employee badges instead of vending licenses allows vendors to operate much more efficiently.

Sections in the Proposed Regulations that Require Modification

- 501.3 The Metropolitan Police Department (MPD) shall be responsible for: (c) Assisting, as appropriate, with the enforcement of the provisions of this chapter. This section is not well defined. MPD should only have jurisdiction over unlawful activity and should not be responsible for enforcing other provisions of this chapter, such as those that fall under the jurisdiction of the health department. Specifically, they should ensure that licenses are properly displayed and worn by all staff.

- 530 VENDING LOCATIONS: MOBILE ROADWAY VENDING LOCATIONS: AUTHORIZED LOCATIONS

  530.1 The DDOT Director shall designate MRV locations where Mobile Roadway Vendors, with valid MRV parking permits, may park in order to legally vend from public space. This section should have specified the process for how sites will be chosen and how permits will be issued.

  530.3 There shall be no more than one MRV location per block on any one side of a street. Restricting MRV Locations block by block is anti-competitive and should be removed from the regulations.

  530.8 An MRV location shall not be established:

  (c) Where the adjacent unobstructed sidewalk is less than ten feet (10 ft.) wide in the Central Business District or seven feet (7 ft.) wide outside the Central Business District;

  "Unobstructed" is not defined. As written, this may include parking meters, customers, trees, even trash on the sidewalk. This rule could be used to conceivably create a protected zone of all of the Central Business District, while making Georgetown and other areas outside the CBD completely off limits.

  (g) Within forty feet (40 ft.) of any crosswalk;

  There is no evidence or explanation of why 40 ft is the appropriate amount of space between the MRV and the crosswalk. Why wouldn't 20' or 15' provide enough distance for public safety?

  These issues appear again in 531.2 (c) and (g)

  532.1 An applicant may submit an application to DDOT to create a new Mobile Roadway Vending location, provided that the applicant specifies a location that is not in conflict with the above standards. All applications are subject to DDOT review and approval. The regulations should include a detailed description of the process for how MRV's are reviewed and approved. The current language is vague and puts too much control in the hands of one District department.

  533.1 The DDOT Director has the discretion to add, modify or remove a Mobile Roadway Vending location at any time. This provision gives unsupervised and unregulated power to one individual to add or remove MRV's without public comment or a defined process. This provision

should be removed or modified to include procedures to include provisions for public comment and an appeals process. Without proper procedures, this could be used by an individual or department to severely limit competition and favor one business type over another.

I would like to see changes to the current regulations and would be interested in applying for a MRV if it would allow me to park in different locations to provide my products to residents and workers in the densely populated areas of the District. The Food Truck industry is creating consumer choice, competition and healthy lunch alternatives to workers all over the city. My fear is that the currently proposed regulations will destroy my small business by severely limiting the spaces where I can vend.

The purpose of regulations is to protect public safety, ensure fair business practices and promote economic growth. I only ask that a revised version of these regulations be created to accurately reflect these principles. Thank you for your consideration and hard work on making DC a better place to live and work.

Ultimately, the consumers win when food trucks are allowed to flourish. I applaud your agency's efforts to update these regulations. I hope that the Councilmembers and the Mayor will quickly revise the new regulations to continue to allow the food service industry in DC to grow and prosper.

Sincerely,

Alex Tsamouras
Owner, Feelin' Crabby
14504 Georgia Avenue
Rockville, MD 20853
301-801-6540

FOJOL BROS.

Justin Vitarello

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www.fojol.com

November 13, 2012

Mr. Helder Gil
Legislative Affairs Specialist
Department of Consumer & Regulatory Affairs
1100 Fourth St SW
Room 5164
Washington, DC 20024

Dear Mr. Gil,

I am a lifelong resident of Ward 1 and I started the first food truck in DC in this new movement of mobile restaurants and am proud to have inspired many of these new businesses. More residents & workers in the District now eat a wider array of foods and share precious free time in an outdoor eating environment, networking with their friends and colleagues. As stated by one of our followers in an interview during the first Curbside Cookoff, the lines waiting for food trucks are synonymous to a live social network. Eating from food trucks is now an integral part of the culinary cultural landscape of the District, with thousands of people enjoying and appreciating our service & quality on a daily basis. The people are going to resist a step backwards in this part of their life.

Mayor Gray's proposed vending regulations on Oct 5th, 2012 threaten what the people want in this city. While there are steps in the right direction, the following elements need to be renegotiated:

1.) No hour restrictions (i.e. need to have the right to sell 24 hours a day). The food business is challenging enough, especially in the competitive, low margin quick-service arena. We need to be able to sell whenever there is a market that wants to eat from us. In addition, there probably will be a pressure relief from downtown lunch business if food trucks can sell whenever they want (just like any other restaurant). Safety will also be increased because sober eyes and ears will be on the street.

2.) The sidewalk rule of 10' does not work as evidenced by the study of the FTA board. This can be managed by the food trucks to ensure safe, clear passage along the sidewalks.

3.) We need a better understanding of the MRV's with both sides at the table for the negotiation.

My final comment has to do with the licensing. Sole proprietorship model needs to change immediately. If my license holder gets sick, I am out of business. If my license holder goes to a competitor, I am out of business. If we are going to be taxed like a business, we need to be treated and legally recognized as one. Thanks for all your work.

Justin Vitarello
fojol bros.

November 11, 2012

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

Re: Comments on Third Proposed Rulemaking for Vending Regulation

Dear Mr. Gil:

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

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely yours,

Theodore Walker
DC Vending Caucus

	CHAPTER 5 VENDORS (Current Proposal	2010 Comments	2012 Comments	2012 Comments Updated
	SUBCHAPTER A: GENERAL PROVISIONS 500 PURPOSE 501 AGENCY RESPONSIBILITIES **SUBCHAPTER B: VENDING LICENSES, PERMITS, AND AUTHORIZATIONS** 502 GENERAL LICENSURE REQUIREMENTS 503 VENDING BUSINESS LICENSE: CLASSES OF LICENSES 504 VENDING BUSINESS LICENSE: APPLICATION AND FEES 505 VENDING BUSINESS LICENSE: ISSUANCE 506 VENDING BUSINESS LICENSE: EXPIRATION AND RENEWAL 507 VENDING BUSINESS LICENSE: DENIAL, SUSPENSION, REVOCATION, AND SEIZURE 508 VENDING SITE PERMIT: GENERAL REQUIREMENTS AND FEES 509 VENDING SITE PERMIT: APPLICATION 510 VENDING SITE PERMIT: ISSUANCE 511 VENDING SITE PERMIT: EXPIRATION AND RENEWAL		. 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. 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. 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. The vending moratorium lives on, 14 years after it was implemented.	This draft is even worse. The food truck special pleading has been recognized in Part 4, but badly. See the Washington Post This draft continues to retain the worst features of the current regulation—and adds far more complexity and uncertainty that is necessary or appropriate. Built on a bad outline and bad premises, this regulation is doomed to fail. →This comment remains correct. These regulations retain that defect. →Looks like 15 years is going to be the current number for a "temporary moratorium.

	512 VENDING SITE PERMIT: DENIAL, SUSPENSION, REVOCATION, AND SEIZURE 513 HEALTH INSPECTION CERTIFICATE: GENERAL 514 HEALTH INSPECTION CERTIFICATE: APPLICATION 515 HEALTH INSPECTION CERTIFICATE: ISSUANCE 516 HEALTH INSPECTION CERTIFICATE: SUSPENSION 517 FOOD PROTECTION MANAGER CERTIFICATE 518 PROPANE AND OPEN FLAME PERMIT 519 HOOD SUPPRESSION SYSTEM APPROVAL **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: STATIONARY ROADWAY VENDING LOCATIONS** 526 VENDING LOCATIONS: STATIONARY ROADWAY VENDING LOCATIONS: GENERAL 527 VENDING LOCATIONS: STATIONARY ROADWAY VENDING LOCATIONS: AUTHORIZED LOCATIONS 528 VENDING LOCATIONS: STATIONARY ROADWAY VENDING LOCATIONS: ADDITIONAL LOCATIONS **PART 4: MOBILE ROADWAY VENDING** 529 VENDING LOCATIONS: MOBILE ROADWAY VENDING LOCATIONS: GENERAL 530 VENDING LOCATIONS: MOBILE ROADWAY VENDING LOCATIONS: AUTHORIZED 531 VENDING LOCATIONS: MOBILE ROADWAY VENDING LOCATIONS: ADDITIONAL LOCATIONS ASSIGNMENT OF SIDEWALK VENDING LOCATIONS 532 VENDING LOCATIONS: MOBILE ROADWAY VENDING LOCATIONS: ADDITIONAL LOCATIONS 533 DIRECTOR'S DISCRETION **PART 45: ASSIGNMENT OF VENDING LOCATIONS**			

	534~~0~~ ASSIGNMENT OF SIDEWALK VENDING LOCATIONS 535 ASSIGNMENT OF STATIONARY ROADWAY VENDING LOCATIONS **PART ~~5~~6: MISCELLANEOUS** 536~~1~~ ~~PUBLIC~~ FARMERS MARKETS 537~~2~~ TEMPORARY RELOCATION OF VENDORS **SUBCHAPTER D: DESIGN STANDARDS, OPERATIONAL STANDARDS, AND** **INSPECTIONS PART 1: DESIGN STANDARDS** ~~533~~538 DESIGN STANDARDS: GENERAL ~~534~~539 DESIGN STANDARDS: VENDING CARTS ~~535~~540 DESIGN STANDARDS: VENDING VEHICLES ~~536~~541 DESIGN STANDARDS: VENDING STANDS ~~537~~542 DESIGN STANDARDS: FOOD VENDING CARTS AND VEHICLES ~~538~~543 DESIGN STANDARDS: ADVERTISING ~~539~~544 DESIGN STANDARDS: PHASE-IN PERIOD **PART 2: OPERATIONAL STANDARDS** ~~540~~545 OPERATIONAL STANDARDS: GENERAL			

	~~541~~546 OPERATIONAL STANDARDS: AUTHORIZED HOURS OF OPERATIONS ~~542~~547 OPERATIONAL STANDARDS: PLACEMENT OF VENDING VEHICLES, VENDING CARTS, AND VENDING STANDS ~~543~~548 OPERATIONAL STANDARDS: PLACEMENT OF EQUIPMENT AND RELATED ITEMS ~~544~~549 OPERATIONAL STANDARDS: FOOD PREPARATION AND HANDLING ~~545~~550 OPERATIONAL STANDARDS: FIRE SAFETY ~~546~~551 OPERATIONAL STANDARDS: USE OF AMPLIFICATION SYSTEMS **PART 3: INSPECTIONS** ~~547~~552 INSPECTIONS: FOOD PREPARATION AND HANDLING ~~548~~553 INSPECTIONS: DESIGN STANDARDS ~~549~~554 INSPECTIONS: FIRE SAFETY **PART 4: OTHER STANDARDS OF OPERATION** ~~550~~555 MAINTENANCE STANDARDS ~~551~~556 DISPLAY OF LICENSES, PERMITS, AND CERTIFICATES ~~552~~557 MOTOR VEHICLE REGISTRATION AND INSPECTION OF VENDING VEHICLES AND			

CARTS

~~553~~558 EMPLOYEES OF LICENSED VENDORS

~~554~~559 LITTERING AND CUSTOMER LINES

~~555~~560 DISPLAY OF SAMPLE ITEMS

~~556 MOBILE ROADWAY VENDING~~

~~557~~561 PURCHASE OR RECEIPT OF STOCK

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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 No. 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	Same comment as before. Actually, these are not really "regulations" at all. The slop in the system is a feature, not a bug! The insertion of "DCRA" Director in the new draft is intended to consolidate power at the Vending Coordinator level. Who is acting on DCRA's behalf in all this? The Vending Coordinator. DC has lived under the 'King of Vending' system far too long already, and the inability of DCRA to draft even a grammatically correct—let alone, coherent regulation—shows the 'King' system is flawed.
500.3	Nothing in this chapter is intended to interfere with the exercise of activities pursuant to the First Amendment	Good.	Same comment as before	Good.

	Assemblies Act of 2004, effective April 13, 2005 (D.C. Law 15-352; D.C. Official Code §§ 5-331.01. *et seq (2008 Repl.)).*			
501	**AGENCY RESPONSIBILITIES**			
501.1	The Director of the Department of Consumer and Regulatory Affairs (~~hereinafter~~ DCRA Director) shall be responsible for:			
	a) Coordinating all vending activities in the District of Columbia;	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 "*guidelines*") it looks like the former....	Same comment as before	Same comment.
	(b) Reviewing applications for, and issuing, Vending Business Licenses to vendors in the District;	If DDOT is responsible for approving sites, why isn't DDOT (in collaboration with OP) identifying them? What give DCRA this special expertise?		DCRA **is** the licensing and enforcement agency, so ok.
	(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 ;		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?	This is disingenuous at best. DCRA drafted this regulation, and puts the onus onto DDOT to take the heat for its defects. The standards aren't established by DDOT. They are established by DCRA, and they are indefensible from a planning or operational point

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

			appropriate.	
	(h) Establishing standards regarding the design, maintenance, and operations of vendors and vending equipment.	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.	We see that the standards have been modified to allow all the current vending operations, *except sidewalk merchandise vendors,* to operate exactly as they do today. (Until the BIDs kick them off the street via VDZs).	Same comments
501.2	The DDOT Director shall be responsible for: (a)Designating, modifying, and waiving, as appropriate, the standards for Vending Locations, pursuant to § 520 ~~and~~ § 528, and §§529 through 533;	As we read these regulations, there are no "standards" whatsoever for vending locations, merely locations where vending is prohibited. DDOT may not be the right agency to figure this out, either, although their Public Space Management role gives them some expertise. We have long thought that OP should be involved in this process.	Same comment as before.	Same comment as before. This is DCRA's regulation, we doubt whether DDOT or OP was consulted about the "standards" for vending locations, because the current standards are basically identical to the current "standards" which dates to the 1980s
	(b)Approving locations on public space where public markets may be located and issuing public space permits for public markets on public space;		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" Which is it? Does DDOT set standards for vending locations, or is it responsible for identifying	Although it says Public Markets here, throughout the rest of the regulation the wording has been changed only to discuss farmers markets. Why? We bet it has something to do with the BIDs wanting to run Vending Development Zones.

			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.	Once again, DCRA is claiming ALL authority and NO responsibility! The problem du jur is food trucks. DCRA sets incomprehensible limits on DDOT in these regulations, and then asks DDOT to apply them. Will not work in practice, and it is unfair to DDOT.
	(c)~~Creating and maintaining a database and map of all approved~~ Issuing Mobile Roadway Vending ~~Locations~~parking permits pursuant to §530; and (d)Assisting, as appropriate, with the enforcement of the provisions of this chapter.			This CAN be made to work: the DC Vendors Caucus outlined a workable solution to DDOT Director Bellamy earlier this year. However, these rules make our workable approach impossible to implement.
501.3	The Metropolitan Police Department (MPD) shall be responsible for: (a)Enforcing District laws and regulations prohibiting unlicensed vending activities;	By diminishing MPD's role in vending enforcement, DCRA sets the stage to expand its own internal enforcement staff. A classic bureaucratic move...	Same comment as before.	Same comment as before.

	(b)Enforcing any criminal laws, including laws regarding assault, harassment, and intimidation, in connection with vending; and (c) Assisting, as appropriate, with the enforcement of the provisions of this chapter.		*We'd also like to point out that there is no process or procedure here to coordinate with federal officials to strip licenses of vendors who have been found guilty of selling counterfeit goods. We have numerous court records of licensed vendors repeatedly convicted of this crime, and yet they still have DC vending licenses! This is a long-standing failure by DCRA, and these regulations should correct it.*	Well, we are still on point with our January comment, vendors convicted under federal law for selling counterfeit merchandise are still fully licensed and operating in DC, because DCRA lets them operate. To quote Peggy Noonan, "It would be irresponsible not to speculate!" Why the addition of the phrase "as appropriate"? Is MPD supposed to take direction from DCRA?
501.4	The ~~Department of Health~~ (DOH) Director shall be responsible for: (a)Designating the categories of food that may be vended ~~under a specific class~~ in accordance with subtitle A (Food and Food Operations) of Title 25 ~~of Vending Business License and, where authorized under this chapter, designating specific categories of food that may be vended at a specific Vending Location;~~ of the District of Columbia Municipal Regulations (DCMR); (b)Reviewing and either approving or denying applications for ~~licenses~~ food vendors holding Class A and Class C Vending Business Licenses or other certificates of authority required ~~under the Food Code~~ in accordance with chapter 37, subtitle A (Food and Food	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	It appears that this draft has corrected the defects we identified. Presumably, the ONLY potential reason for a denial of licensure would be the depot setup, the HACCP plan, or equipment defects.

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

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

	valid (~~c~~a)Health inspection certificate issued by the DOH Director, ~~if the person vends food;~~ (~~d~~b)~~DOH issued food protection manager certificate and a DOH issued certified food protection manager identification card, if the person vends food; provided, that a vendor may employ a person who holds a valid DOH issued food protection manager certificate and DOH issued certified food protection manager identification card; and~~ Food Protection Manager Certificate issued by the Conference of Food Protection Standards for Accrediation of Food Protection Manager Certification Program in accordance with§203.1 of subtitle A (Food and Food Operations) of Title 25 of the District of Columbia Municipal Regulations (DCMR); (c) Certified Food Protection Manager Identification Card issued by DOH in accordance with§203.1 of subtitle A (Food and Food Operations) of Title 25 of the District of Columbia Municipal Regulations (DCMR);, provided, that a vendor without such certification may employ a person who holds a valid: (1) Food Protection Manager Certificate issued by the Conference of Food Protection Standards for Accrediation of Food Protection Manager Certification Program in accordance with§203.1 of subtitle A (Food and Food Operations) of Title 25 of the District of Columbia Municipal Regulations (DCMR) and (2) Certified Food Protection Manager Identification Card issued by DOH in accordance with§203.1 of subtitle A (Food and Food Operations) of Title 25 of the District of Columbia Municipal Regulations (DCMR); (d) Required food safety analysis and plans in accordance with §3701 of subtitle A (Food and Food Operations) of Title 25 of the DCMR; and (e)Permit from FEMS, if the vendor uses propane gas or			plain English

	solid fuels, such as wood pellets or charcoal.			
502.3~~2~~	The licenses and permits required under §§ 502.1 and 502.2 shall be subject to any conditions imposed by the District agency issuing or assigning the license, permit, or certificate.	The conditions ought to be spelled out in regulation.	Same comment as before	Same comment as before. There needs to be authority in the regulations for DC to impose additional conditions on some vendors and not others.
502.4~~3~~	A Vending Business License shall not be required for: (a)Employees of licensed vendors; (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~~ farmer's market licensed under § ~~531~~536; (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; (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 *et seq*. (2008 Repl.)); or (e)Persons authorized to sell products, merchandise, food, or services at a licensed or permitted Special Event.	Ok ok ok Good ok		What does this mean for the exhibitors who sell at the Georgetown Flea Market or at Eastern Market? Are they now to be required to get vendors licenses? Under this draft, it appear so, (the Class C license is only for Farmers Market operators). This could be an effort to push vendors out of the Hines School site to facilitate the redevelopment of that site.
~~502.4~~50 2.5	A Vending Business License is issued only to the licensee and may not be sold, transferred, conveyed, or otherwise assigned to any other person.		We agree that the license should be linked to the owner and the tax obligation. We'll have more to say about this later.	We also note the past abuse of the "sole-proprietor" requirement that DCRA (illegally) required in the

				past. Business licensure is (and always has been) available to individuals, partnerships, & corporations under the DC Code.
503	**VENDING BUSINESS LICENSE: CLASSES OF LICENSES**			
503.1	The DCRA Director shall issue the following classes of Vending Business Licenses: (a)Class A Licenses – A Class A Vending Business License shall authorize a person to vend food, other than food prohibited from public or private space under §503.3(a) or (m); provided, that the vendor holds any food licenses and certificates required under title 25 of the District of Columbia Municipal Regulations;	The basic structure of this licensing scheme makes sense.		It should be possible to get a food vending license without owning a food truck. Some hot dog vendors lease equipment from depots. Obviously the equipment should be inspected, but the connection between the two procedures needs to be clarified.
	(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;	Merchandise ought to include non-potentially-hazardous packaged food & beverage items.	Same comment as before	Same comment as before
	(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, as designated by the DOH Director, and other non-food merchandise, or services ~~that~~ as designated by the DCRA Director ~~designates~~;		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.	By eliminating public markets here, what IS the licensure requirement for vendors at flea markets? Presumably they now have to pay the license fee, and (until the tax law is changed)

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

	vendor's vending cart or stand; (e)Household appliances, including refrigerators, microwave ovens, dishwashers, stoves, and televisions with screen sizes greater than seven inches (7 in.); (f)Alcoholic beverages or other alcoholic items for consumption; (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. *et seq*. (2005 Repl. & 2011 Supp.)); (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.)); (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.)); (j) Any offensive merchandise, including pornographic or obscene materials; (k) Any counterfeit merchandise; (l)Any adulterated food, as the term is defined in section		See our prior comment. DCRA just let's the sale of counterfeit merchandise go under the current enforcement regime…	

	9901 of subtitle A (Food and Food Operations) of Title25 of the ~~District of Columbia Municipal Regulations~~DCMR; and (m) Categories of foods that are determined by DOH to be not "generally recognized as safe" (gras) as interpreted by the United States Food and Drug Administration (FDA); and (n~~m~~) Any plants, other than non-controlled and non-hazardous cut flowers, dried flowers, and potted plants.			
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	Application for a Vending Business License shall be made on a form prescribed by DCRA and shall include the following information: (a)The name and address of the owner of the vending business; (b)The class of Vending Business License being sought; (c)A description of the type of merchandise, ~~food~~, or service to be offered for sale;	"or classes" - Let's avoid duplication of effort.... If vending were ever to be properly planned in Washington, this becomes a very important provision.	Presumably a vending business can hold more than one class of license.	Same comments as before.

	(d)A description of the vending vehicle, vending cart, or vending stand to be used (not applicable to Class C license applicants);	As does this.		
	(e)An indication of the Vending Locations the applicant wishes to occupy, in their order of preference (not applicable to Class Ce license applicants);	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...	Same comment as before. Without a universe of designated/ “approved” vending sites, how does a vendor know which sites are available? We have always said that this whole “lottery” scheme is unworkable.	Same comment as before.
	(f)A Clean Hands Certification;	Good		
	(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;			
	(h)If the applicant is not a resident of the District of Columbia:			
	(1)The name and address of a registered agent upon whom service of process and other legal notices may be delivered; or	We presume the “registered agent” must have a DC address. Otherwise, why this provision?		
	(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;		We have never understood how a vendor can designate the Mayor to accept legal notices and services of process on behalf of the vendor.	

	(i)If the applicant is applying for a Class A or Class C license, the applicant shall complete all forms required by ~~(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~~ ~~(2)~~(1) DCRA, as specified in §§ 504.1 and 504.2; and ~~(3) If the applicant will be using propane or open flame, a propane or open flame permit issued by FEMS; and~~ (2) DOH, as specified in §502.2; and j)Any additional information required by the Director or, for Class A licenses, by the DOH Director.	This is unfair, and contrary to current practice. What this says is no man or woman can apply for a food vending business license without equipment. Many vendors rent food equipment. We say that the licensing of the individual vendor, and the approval of his or her equipment are two separate issues. DCRA approves the license. DOH approves the equipment. They are separate processes. 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.	See our prior comment. To make an analogy, anybody can get a driver's license even if they don't own a car. See prior comment.	
504.3	The DCRA Director shall not issue a Vending Business License if: (a)The applicant's Vending Business License has been revoked previously; (b)The application for renewal of a Vending Business License has been denied under § 507; or	This provision is both vague and overly restrictive. There is no indication about how far	See prior comment. Later, this section is qualified to say that the restriction is for one year, which is also problematic. For example, a restaurant may fail an inspection, but it is only	Same comments. Note here the use of "shall"—elsewhere in this draft it becomes "may". These kinds of inconsistencies are all over this draft.

	(c)The ~~person either~~applicant has been: (1)Arrested, cited, or ticketed by MPD for vending without a license; (2)Issued a notice of infraction by DCRA for vending without a license; ~~or~~ (3) Arrested and convicted for a criminal offense while vending with a license. (4) Issued a notice of infraction by DOH for vending without a food vending license; or (5) Failed to pay fines for violations of subtitle A (Food and Food Operations) of Title 25 of the DCMR issued by DOH.	backward this goes...And we are well aware about the accuracy of DCRA's vending-related record-keeping through the years. The standard here, by the way, should be "convicted"...	closed until the defects are cured. Vendors are put out of business for a year. Not to mention the due-process problem here; a ticket or a citation is not the same as a conviction.	Our prior comments have not been addressed.
504.4	An applicant whose license application is rejected pursuant to §§ 504.3 (a), (b) or (c1) through (c)(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.	Same comments
504.5	~~No person shall~~ An applicant must be at least eighteen (18) years of age to 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 (Basic Business License Schedule of ~~title~~ Fees) of Title 17 of the ~~District of Columbia Municipal Regulations.~~DCMR.		How were these fees established? Under DC law, these fees should be reasonably associated with the enforcement costs.	Same comment
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 DCRA Director of the issuance or denial of the license.	There is NO reason why there needs to be a 45 day waiting period to get a vending business license.	See prior comment	Same comment
505.2	If the application is approved, the DCRA Director shall issue a Vending Business License to the applicant; provided, that if the applicant has applied for a Class A or Class C Vending Business License, no license shall be issued by the DCRA 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 approprate permits and approvals from DOH or FEMS.	See our prior comments on this.	Why this cannot be a concurrent process, as opposed to a sequential process is beyond us.
505.3	The Vending Business License shall include the vendor's name, the class of license, and the date of expiration.	No photo? No Date of Birth? This seems like it makes it impossible for an enforcement official to determine if the person holding the license is in-fact the licensed individual.	See prior comment. One would actually think the application should ask for both the business information, and for the applicant's personal information. DCRA has finally come to the realization that not every vendor will or should do business as a sole proprietorship.	Same comments
505.4	~~All~~ Except for Class A and Class C Food Vending Licenses, all Vending Business Licenses shall be valid for two (2) years from the date of issuance, unless the DCRA Director designates a shorter time period in writing.	Are the fees pro-rated if the designated period is less than two years?		Same comment. Also, does the director have discretion to give some people a 3 month license and others a 2 year license, or is it the same

				for everybody?
505.5	If the application is denied, the DCRA Director shall follow the procedures set forth in § 507.			
505.6	The DCRA Director and DOH 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 or Mobile Roadway Vending Parking Permit 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.	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. Even after four years of effort on this version of the regulation, the process has still not been thought through at all.	This is the Catch-22 which has prevented any new sidewalk vendors from being licensed. In short, the temporary vending moratorium is well into it's 14th year. We have been saying for years this system of sites and lotteries conducted by the government will never, ever work.
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?	Same comments
506.2	Not less than forty-five (45) days before the expiration of the Vending Business License, ~~a~~ the licensee shall submit a renewal application to DCRA on a form prescribed by the DCRA Director, and the DOH Director if vending food, as specified in §504.2(i).	Will a notice be sent to vendors as they are to other business license holders?	Same comment	Same comments
506.3	No application to renew a Vending Business License shall be approved if the applicant does not hold the valid			

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

	(2)The offering for sale of illegal goods, substances, or services; (d)The vendor is vending at a location other than the vendor's assigned Vending Location; (e)Violations of the Clean Hands Certification requirements; (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~~in violation of §502.~~4~~ 5and 510.4, respectively; (g)The vendor is found to have ~~violated~~ committed the same violation of the following sections of this chapter six (6) or more times in a continuous twelve (12) month period: (1)~~Sections~~ §§ ~~533~~ 538 through ~~543~~548; (2)~~Sections~~ §§ ~~545~~ 550 through ~~559~~562; or (3)~~Section~~ § ~~562~~565; or (h)The vendor is found to have violated § ~~544~~ 549 of this chapter.		And how is "attempting to transfer" going to be determined? For some offenses, a vending license is revoked immediately, but for other offenses, you get up to 5 "do-overs" with no punishment?	Typically, DCRA groups violations into 4 classes, with the penalties generally related to the seriousness of the violation. We do not understand why that approach was not used in these regulations.
507.2	The Director may summarily suspend and seize a Vending Business License, without prior notice to the vendor or an opportunity to be heard, for: a)The possession, sale, or offering for sale of counterfeit merchandise;	DCRA should have to pass a burden of proof to show merchandise is counterfeit before seizing a vendor's license.	We agree that selling counterfeit merchandise should be grounds for a license revocation. It's too bad that DCRA doesn't enforce this provision.	Same comments.

			We have the records from federal court that proves that DCRA does not take counterfeiting seriously.	
	(b)The sale of adulterated food, as the term is defined in section 9901 of subtitle A of ~~title~~ Title 25 of the ~~District of Columbia Municipal Regulations~~DCMR, when a determination is made by the DOH Director that the food is adulterated;	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		
	(c)Failure to provide all required certificates of authority upon demand by an authorized District government official; ~~or~~	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. Vendors should be given a grace period to provide documentation beyond those mentioned above.		
	(d)Any activity or condition that constitutes a threat to the public health or safety, including the health or safety of the vendor; or~~.~~ (e) Failure to pay fines assessed by the Office of Administrative Hearings for violations of subtitle A of Title 25 of the DCMR issued by DOH.	d) This is far too vague to be fairly enforced.	Shouldn't this type of judgement be assigned solely to MPD?	
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 DCRA Director's intent to revoke		We don't understand this language. First it says that the licenes is revoked or suspended. Then the vendor gets a notice	Same comment

	or suspend the license and stating that they are entitled to appeal the revocation or suspension to the Office of Administrative Hearings.		saying the Director intends to revoke or suspend the license, and here is your hearing date. This section needs to be rewritten	
507.4	If a person's Vending Business License is summarily suspended pursuant to § 507.2, or pursuant to section 4409 by the DOH Director for Food Code violations of subtitle A of Title 25 of the DCMR, or if a person's application for initial issuance or renewal of a license is denied, the person may appeal the summary suspension or denial to the Office of Administrative Hearings.	Meanwhile, they are out of work for a period of weeks or months, and they have no control over the timing of the hearings, which DCRA itself can (and does) delay endlessly. That is why there needs to be a time-certain for a "temporary suspension". (e.g. until the defect is cured) That way a vendor can fix the problem, continue to work until his guilt or innocence can be proven at the hearing.		Same comment.
507.5	A notice issued by the DCRA 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 DCRA Director may immediately seize the person's Vending Business License and Vending Site Permit.	See above. This provision is completely one-sided in DCRA's favor. The choice offered a vendor is essentially this: we'll put you out of business for months on end, or you can just pay your $2000 ticket. That is unjust.		Same comment
507.7	A vendor shall surrender his or her Vending Business License and Vending Site Permit promptly to the DCRA 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 DCRA Director shall provide notice of the			

	revocation or suspension to the Office of Tax and Revenue, DDOT, MPD, and, if the business holds a Class A License, to DOH.			
507.9	If a person's Class A or Class C Vending Business License is summarily suspended or seized pursuant to §507.2~~€~~ and in accordance with § 4714 of subtitle A of Title 25 of the DCMR, the DOH Director shall provide notice of the summary suspension or seizure ot DCRA, the Office of Tax and Revenue, DDOT, and MPD.			
508	**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 DCRA Director pursuant to this chapter; except that ~~that~~ a holder of a Class C ~~Public~~ Farmers' Market ~~managers~~ Vending License may manage vendors from public space upon the issuance of a Public Space Permit issued to the holder by DDOT and Mobile R~~r~~oadway vending vehicles may operate pursuant to §§ 529-533~~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?	Actually the requirements for Site Permits are clear, but the authority doesn't come from this regulation—Rather, it is a requirement in law. In §37-131.01, we see that ""Vending locations" means the specific locations designated by the Mayor on sidewalks, roadways, and other public space at a which a person may vend"; that a ""Vending site permit" means a permit or other authorization issued by the Mayor for a vending location"; and in §37-131.02 we see that "(a) Except as set forth in subsection (b) of this section, a person shall not vend from a sidewalk, roadway, or other public space unless the person holds: (1) a basic business license	There isn't a problem with "site permits" per se. The problem is that there is not a list of designated sites, which DCRA was required to do when the vending moratorium went into effect, and in 14 years, DCRA still hasn't designated sites. Instead, they made the rules, then put it on DDOT to make it work. The language about "lotteries" makes this much, much worse. The one place where lotteries have been used over time is the roadway vending (now, "stationary roadway vending") by the National Mall. Anybody who knows

			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." Later we'll discuss how the terms of this regulation are inconsistent with the standing law.	that system knows that it has been rife with corruption, side deals, and payola. Why this system is being attempted city-wide is beyond us.
508.2	A Vending Site Permit shall not be required for: (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~~pursuant to this chapter; or (b)Persons authorized to sell products, merchandise, food, or services at a licensed or permitted Special Event.			Now we are back to "public" market—but only farmers are exempt from the site permit requirement. We are confused by this.
508.3	The Vending Site Permit shall authorize the permittee to occupy a specific Vending Location for the purpose of vending.	"Vending Location" needs to be clearly defined in the regulations, and on the individual site permits. We have seen vendors being ticketed for being only inches too close or too far from the curb.		
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~~ authorities cited in § 520~~.2~~, the DCRA Director, the DDOT Director, or MPD may	With notice?	Asked and answered in this draft	

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

509.3	The application for a Vending Site Permit shall be made on a form prescribed by the DCRA Director and shall include such information and documents as may be required by the DCRA Director and the District agency issuing or assigning the license, permit, or certificate.	We continue to believe this process is completely unworkable.	We still don't understand how it makes to apply for a permit for a site that hasn't even been designated, and also, when a lottery is somehow involved in this process. It is beyond reason.	Same comment
510	**VENDING SITE PERMIT: ISSUANCE**			
510.1	Upon the submission of a completed application, the DCRA Director shall issue a Vending Site Permit if: (a)The applicant holds: (1)A valid Vending Business License; or (2)A current receipt for payment of all relevant Vending Business License fees; (b)The applicant has applied for a Vending Site Permit for an available Vending Location; (c)The applicant has been selected for the available Vending Location pursuant to a lottery or such other method or such selection authorized under this chapter, including through the creation of a Vending Development Zone, provided, that a vendor shall have a right of preference for the issuance of a Vending Site	Ok Why would a vendor have a receipt for payment, and not have the license in-hand? How will this be communicated? Lotteries are a completely inappropriate way to assign vendors to sites. No business would select a location based on a lottery of existing commercial space. We don't have the space here to explain how wrong-headed a lottery process is to	Same comment Same comment. These vending locations have not been identified, so how can anybody know what is available? However with the provision that DCRA plans to "contract-out" the lottery with no independent oversight, we have a pretty good idea where this is headed.	Same comments as before

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

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

	Vending Site Permit, other than for stationary roadway vending or Nationals Park Vending Zone vending sites, at least forty- five (45) days prior to the expiration date on the permit.	notice of renewal just as they do for other licensees?		
511.3	Upon expiration of a vendor's Vending Site Permit and in the absence of an application to renew the permit, the Vending Site Permit ~~is~~ shall no longer be valid and the vendor shall immediately surrender the Vending Site Permit to the DCRA Director. If the Vending Site Permit is not immediately surrendered, the DCRA 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~~561.	Does the Director have authority to seize DOH issued permits, as well, under 506.5?		Are site permits to expire concurrently with the license, or will the terms be different? They need to align.
512	**VENDING SITE PERMIT: DENIAL, SUSPENSION, REVOCATION, AND SEIZURE**			
512.1	The DCRA 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: (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; (b)The DDOT Director has eliminated the Vending Location associated with the Vending Site Permit;	This is a tautology. By definition, a vendor cannot GET a site permit that is not eligible. Can they?	Same comment 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. 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?	Fixed! This presumes there is a list or a register of sites, but alas, there is none.

	(c)The Vending Location, or the vending-related activities at the Vending Location, constitute a threat to public safety;	As defined how, and by whom? Do federal officials have standing to make such a determination? Under what regulations?	Same comment. We think that ONLY MPD should have the authority to make this kind of determination.	Obviously, Homeland Security will claim ground around their installations, and that's just how it will be.
	(d)The vendor is operating in a manner that is in violation of the terms or conditions of the Vending Site Permit or in violation of this chapter, including an attempt to transfer, convey, or sell the Vending Site Permit to another person.	There *are* no "terms or conditions" relating to performance at a Vending Site Permit in these regulations that we can find.	Same comment	Same comment
512.2	In situations other than those enumerated in § 512.1, upon the suspension or revocation of a vendor's Vending Site Permit, the DCRA 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 *before* the action.	Upon re-reading this, it appears that there are enumerated grounds for immediate seizure. Presumably, the seizure of a Site Permit is subordinate to a Notice of Infraction for violating the rules. But that is not clear. Once could read these rules to say that the DCRA Director can seize a license after a hearing, and the grounds for the hearing are a Notice of Infraction. But it ALSO appears, in this provision, that the DCRA Director can just suspend or revoke a Site permit for any reason, or no reason at all, and then there will be a hearing. With nothing in the regs to stop the Director, and nothing in the Regs for the

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

512.7	If a vendor's Vending Business License is suspended or revoked, any Vending Site Permit associated with that Vending Business License shall also be suspended or revoked.	And thrown immediately back into the hopper? Or do we wait until the Office of Administrative Hearings has made their determination?	Same comment	Same comment. Does getting a ticket = losing a good site forever?
512.8	If a person's Vending Site Permit is revoked or suspended (including summarily suspended) under this section, the Director shall provide notice of the revocation or suspension to DDOT, MPD and, if the business holds a Class A License, to DOH.			
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, or farmer's market-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 or Class C Vending Business License or a Vending Site Permit for a Class A or Class C Vending Business License until the person receives a health inspection certificate from DOH.	This is backwards-- in the normal sequence of business, a business owner would a) identify his or her business; b) find a location where it might be successful; c) secure a lease on the space; d) secure equipment and permits (simultaneously). But under these regulations, that's impossible, because locations are determined "by lottery".	Same comment	We do not like the sequential procedures here. Again, if a food vendor wanted to rent equipment, they would have to pay rent for weeks or months from the DOH inspection to DCRA licensure
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	This should be a separate process from Vending licensure.	Same comment	Same comment

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

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

	standards: (a)The person shall hold a valid propane or open flame permit from FEMS; and (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.			
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.			
	SUBCHAPTER C: VENDING LOCATIONS **PART 1: GENERAL**			
520	**VENDING LOCATIONS: GENERAL**			
520.1	The DDOT Director shall approve Vending Locations that meet the standards for locations on streets, sidewalks, and other public spaces where vending may be permitted pursuant to §§ 521, 528, 529 and § ~~528~~531.	Good. Seeing as how the current Director of DDOT used to be in the vending business, and still has a stake in "On-the Fly", (just as he does in "Zip Car") we think it is a good news/bad news story. While others may complain about possible "conflicts of interest"on the part of the DDOT Director--we won't. Instead, we would argue for greater autonomy for the DDOT Director in designating vending sites. His	It is nice that the Director approves the sites. The question is, who compiles that list in the first place? Under these regulations, NO ONE is responsible for that little job, and until that job is done, Site Permits cannot be issued, (except, inexplicably, for food trucks, even though the law requires they have Site Permits,	The other point is that the standards that have been set, including the restricted streets, was codified in the current regs in the 1980s. DC has changed. Should the map change as well? Under this draft, the answer is no. In fact, this new draft is even more restrictive than

		experience should be valued in the determination of vending sites.	too). So the result is that the moratorium for sidewalk vending sites lives on, and on, and on.	before. It makes no sense.
520.2	The DDOT Director may eliminate a previously designated Vending Location if: (a)The DDOT Director determines that the designated Vending Location is no longer in compliance with District law or regulations; (b)The DDOT Director determines that the operation of a vending business at the location constitutes a threat to the public safety; or (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.	If a vending business is operated in an unsafe manner, that means that the *vending site* needs to be eliminated? "Better served?" How is this determination reached? Is there to be an appeals process?	Same comment 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.	Same comments. Shouldn't the Office of Planning as well as DDOT work together to determine which uses of public space "best serve" the public. Even more, shouldn't the photos of lines of people on public space waiting for food trucks show that the market—not bureaucrates—are the best judges about the best use of public space?
520.3	The DDOT Director shall ~~create and maintain an accurate and updated map of approved~~re-evaluate a Vending Location when a vendor issued a Vending Site Permit under § 510.1© ceases to vend at that Vending Location~~s~~. In its re-evaluation, the DDOT Director shall utilize the provisions of §520.2 ~~This information shall be published on the websites of DDOT (ddot.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.	A good provision (that somebody *finally* make a map, so that permits might finally be issued) is gutted. Why should DDOT "re-evaluate" a site when a vendor leaves it? What's the point? A site that is lousy for souvenirs might be great for food. Let the market sort it out.
	PART 2: SIDEWALK VENDING LOCATIONS			
521	**VENDING LOCATIONS: SIDEWALK VENDING**			
521.1	All sidewalk Vending Locations shall be in accordance with the following standards:	Did the DDOT Director actually sign off	Same comment. Earlier, we see	Same comments. The zone

		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.	system is archaic.
	(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 Neighborhood Zone, he or she had to get a Neighborhood Zone permit. In other words, DCRA charged two permit fees to one vendor, based on location. Now, with the Site permits, there should be one license fee, and the Neighborhood Zone, Central Zone distinction should just go away. Presumably, DCRA just wants to keep the income stream.	The better approach is to be inclusive and ALLOW vending generally in Commercial, Industrial, University, and Government Zones, and then apply restrictions as needed through the permit process
	(b)No more than three (3) sidewalk Vending Locations shall be designated on any side of any city block;	For residential buildings located on a corner, does that mean both facades are off limits?		

	(c)No sidewalk Vending Location shall be designated:		Same comment	
	(1)In front of a predominately residential building outside the Central Vending Zone;	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?		
	(2)On the median strip of a divided roadway, unless the strip is intended for use as a pedestrian mall or plaza;		Same comment	
	(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;			
	(4)In a location that is on or that impedes free access to service or ventilation grates or covers;	What does"impedes free access" mean? Sidewalk cafes get 24 hours to clear the site, and they are on top of manholes, too.		
	(5)On a restricted street designated in § 522.3; or		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.	

	(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;	Depending upon how you read the US Constitution and the Home Rule Charter, one could make the case that Congress, at the end of the day, has exclusive jurisdiction over the entire District of Columbia...		
	(d)Within the Central Vending Zone, sidewalk vending shall be prohibited on sidewalks unless: (1)A ten foot (10 ft.) clear passageway is maintained;	This is arbitrary. Clear space requirements should be based more on pedestrian traffic.	See prior comment. There is evidence to suggest that 7-8 feet of clear space is all that is really needed, given DC's pedestrian counts. See William Whyte.	
	(2)The street is specifically exempted in § 522; or (3)The DDOT Director waives this restriction pursuant to § 521.2.	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.	Same comment. This waiver should be on a Site Permit, not in the middle of a regulation.	
	(e)Outside the Central Vending Zone, sidewalk vending shall be prohibited on sidewalks unless: (1)A seven foot (7 ft.) clear passageway is maintained; (2)The sidewalk is specifically exempted in §§ 523, 524, or 525; or (3)The DDOT Director waives this restriction pursuant to § 521.2. (f)No sidewalk Vending Location shall be designated within: (1)Twenty feet (20 ft.) of the driveway entrance to a			

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

	after school has been dismissed at the end of the school day. 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. (11)Twelve feet (12 ft.) of any crosswalk when on the vehicle approach side of the Vending Location and crosswalk; and (12)Five feet (5 ft.) from any crosswalk when not on the vehicle approach side of the Vending Location and crosswalk.	There should be a definition of crosswalk added to these regulations.	We appreciate that DCRA went back to the old standard here.	
521.2	Upon the request of the DCRA 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 DCRA Director shall note on the Vending Site Permit the issuance of the waiver by the DDOT Director.	Shouldn't requests for waivers come from vendors, as a way to determine whether potential new sites might be opened?	Same comment.	Same comment
521.3	The passageway required by §§ 521.1(d) and 521.1(e) shall be measured from the closest allowable projection of the vending cart or stand to the nearest building, private property line, or interruption of the public space by a public amenity or fixture, whichever is nearest.	This should be in the definitions section of the regulations.	Same comment. "Clear passageway is…"	Same comment
522	**VENDING LOCATIONS: CENTRAL VENDING ZONE**			
522.1	The Central Vending Zone shall have the following boundaries: (a)Beginning at the northeast corner of Massachusetts	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	Note: did not update punctuation or numbering in this section. See prior comment. The right	Same comment. No need to stick with the archaic system here. We will submit a proposal about how to

	Avenue, NW at 11th Street, NW; (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; (c) North along the center of the alley to the south curb of M Street, NW; (d) East along the south curb of M Street, NW to the west curb of 9th Street, NW; (e) North along the west curb of 9th Street, NW to the north curb of N Street, NW ; (f) East along the north curb of N Street NW, to the east curb of 6th Street, NW; (g) South along the east curb of 6th Street, NW to the north curb of Massachusetts Avenue, NW; (h) East along the north curb of Massachusetts Avenue, NW to the west curb of North Capitol Street, NW; (i) North along the west curb of North Capitol Street, NW to the north curb of Q Street, NW; (j) East along the north curb of Q Street, NE to the west curb of Eckington Place, NE; (k) North along the west curb of Eckington Place, NE to the north curb of R Street, NE; (l) East along the north curb of R Street, NE in a straight line to the north curb of New York Avenue, NE;	site, and since each site is unique, the DDOT Director should have discretion to open up sites in Commercial, Industrial, University and Government zones.	way to do this is to open up potential locations in the Commercial, Industrial, University and Government zones, whereby vendors would Finally, these zones have changed since the 2010 version. It is impossible to visualize these areas without a map. DCRA should publish a map of these areas on it's website, in a format that allows people to zoom into the detail, such as a .pdf file.	manage vending sites using appropriate technology as part of our comments.

	(m) East along the north curb of New York Avenue, NE to the east curb of 9th Street, NE; (n) South along the east curb of 9th Street, NE to the east curb of Brentwood Parkway, NE; (o) South along the east curb of Brentwood Parkway, NE to the east curb of 6th Street, NE; (p)South along the east curb of 6th Street, NE to the south curb of M Street, NE; (q)West along the south curb of M Street, NE to the east curb of 5th Street, NE; (r)South along the east curb of 5th Street, NE to the south curb of H Street, NE; (s)West along the south curb of H Street, NE to the east curb of 3rd Street, NE; (t)South along the east curb of 3rd Street, NE to the north curb of Independence Avenue, SE; (u)West along the north curb of Independence Avenue, SE to the east curb of 2nd Street, SE; (v)South along the east curb of 2nd Street, SE to the south curb of C Street, SE; (w)West along the south curb of C Street, SE to the east curb of 1st Street, SE; (x)South along the east curb of 1st Street, SE to the south curb of D Street, SE;			

	(y)West along the south curb of D Street, SE to the east curb of New Jersey Avenue, SE; (z)South along the east curb of New Jersey Avenue, SE to the south curb of Interstate 695; (aa) East along the south curb of Interstate 695 to east curb of Water Street, SE; (bb) South from the east curb of Water Street, SE in a straight line to the west bank of the Anacostia River, SE; (cc) West along the north bank of the Anacostia River, SE to the east curb of 11th Street, SE; (dd) South along the east curb of 11th Street, SE to the east curb of Martin Luther King, Jr. Avenue, SE; (ee) South along the east curb of Martin Luther King, Jr. Avenue, SE to the north curb of Suitland Parkway, SE; (ff) North along Suitland Parkway, SE to the South Capitol Street Bridge; (ff) West along the South Capitol Street Bridge to the east bank of the Anacostia River, SE; (hh)South along the west bank of the Anacostia River, SE to the east bank of the Potomac River, SW; (ii)North along the east bank of the Potomac River, SW to the west curb of the Potomac Parkway to Rock Creek Parkway; (jj)North along Rock Creek Parkway in a straight line to			

	the north curb of N Street, NW; (kk) East along the north curb of N Street, NW to the west curb of New Hampshire Avenue, NW; (ll)Northeast along the west curb of New Hampshire Avenue, NW to the west curb of 20th Street, NW; (mm)North along the west curb of 20th Street, NW to the north curb of P Street, NW; (nn)East along the north curb of P Street, NW to west curb of Dupont Circle, NW; (oo)North along the west curb of Dupont Circle, NW to the north curb ofMassachusetts Avenue, NW; and (pp)East along the north curb of Massachusetts Avenue, NW to the northeast corner of Massachusetts Avenue, NW and 11th Street, NW.			
522.2	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: (a)East and west sides of 19th Street, NW between Constitution Avenue, NW and C Street, NW; (b) East and west sides of 20th Street, NW between Constitution Avenue, NW and C Street, NW; and (c) East and west sides of 21st Street, NW between Constitution Avenue, NW and C Street, NW.	See prior comment.	This exception is for a particular group of vendors. It should be codified on their site permit, not in these regulations.	Same comment
522.3	Except for Vending Locations approved as part of a Vending Development Zone under § 564, no sidewalk	a) These restrictions are random on their face.	Same comment. If DDOT is responsible for	Same comments

	Vending Locations shall be designated on the following streets in the Central Vending Zone: (a)East side of 2nd Street, SW between East Capitol Street and M Street, SE; (b)East side of 2nd Street, NE between K Street, NE and East Capitol Street; (c)East side of 10th Street, NW between E Street, NW and Pennsylvania Avenue, NW (Federal Bureau of Investigation building); (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)); (e)East side of 12th Street, NW between I Street, NW and K Street, NW; (f)East side of 12th Street, NW between New York Avenue, NW and G Street, NW; (g)East side of 13th Street, NW between L Street, NW and Massachusetts Avenue, NW; (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); (i)East side of 22nd Street, NW between F Street, NW and G Street, NW;	b) Restricting vending sites through regulation reduces the discretion of the DDOT Director to open new sites. c) Such a regulatory system does not account for the dramatic changes that occur over time in Washington DC.	setting standards for sites, have they reviewed these prohibited locations, or did they just let DCRA copy from the current regulations? Has the Office of Planning reviewed this list? Do they agree that all of these areas should be off-limits to all vending?. And if so, on what basis have they made that judgement? In our view, DCRA is the wrong agency to make planning decisions.	

	(j)East side of 24th Street, NW between Pennsylvania Avenue, NW and L Street, NW; (k)East side of 24th Street, NW between Virginia Avenue, NW and G Street, NW; (l)East side of 25th Street, NW between H Street, NW and I Street, NW; (m)East side of 26th Street, NW between I Street, NW and K Street, NW; (n)East and west sides of Delaware Avenue, SW between M Street, SW and H Street, SW; (o)East and west sides of Half Street, SE between M Street, SE and I Street, SE; (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; (ee)East and west sides of 6th Street, NW between F Street, NW and H Street, NW; (ff)East and west sides of 7th Street, NW between F Street, NW and H Street, NW;			

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

	Capitol Street, SE and 3rd Street, SE; (rr)North and south sides of C Street, SW between 6th Street, SW and South Capitol Street, SW; (ss)North and south sides of C Street, NW between 21st Street, NW and 23rd Street, NW; (tt)North and south sides of Connecticut Avenue, NW between N Street, NW and Dupont Circle, NW; (uu) North and south sides of D Street between 4th Street, SW and 3rd Street, SE; (vv) North and south sides of E Street, SW between South Capitol Street and Interstate 395; (ww) North and south sides of E Street, SW between 2nd Street, SW and 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; (iii)North and south sides of K Street, SW between Wesley Place, SW and Delaware Avenue, SW; (jjj)North and south sides of K Street, NW between 25th Street, NW and 26th Street, NW; (kkk)North and south sides of L Street in a straight line between 3rd Street, SW and 3rd Street, SE; (lll)North and south sides of L Street, NW between 24th Street, NW and 25th Street, NW; (mmm)North and south sides of M Street, NW between 21st Street, NW and Connecticut Avenue, NW; (nnn)North and south sides of M Street, NW between 23rd Street, NW and 28th Street, NW; (ooo) North and south sides of Massachusetts Avenue, NW between Thomas Circle, NW and 11th Street, NW;			

	(ppp)North and south sides of N Street, NW between 18th Street, NW and Bataan Street, NW; (qqq) North and south sides of N Street, NW between 21st Street, NW and 25th Street, NW; (rrr) North and south sides of Sunderland Place, NW between 19th Street, NW and 20th Street, NW; (sss)North and south sides of F Street, NW between 6th Street, NW and 7th Street, NW (Verizon Center); (ttt) North and south sides of H Street, NW between 6th Street, NW and 7th Street, NW (Verizon Center); (uuu) North and south sides of G Street, NW between 3rd and 4th Streets, NW; (vvv)North and south sides of F Street, NW between 3rd Street, NW and 4th Street, NW; (www) South side of C Street, SW between 12th Street, SW and 14th Street, SW; (xxx) South side of E Street, NW between 9th Street, NW and 10th Street, NW; (yyy)South side of G Street, NW between 7th Street, NW and 9th Street, NW; (zzz)South side of G Street, NW between 23rd Street, NW and 24th Street, NW; (aaaa) South side of H Street, NW between 23rd Street,			

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

	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	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: (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: (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;		Has DDOT approved these sites, or has DCRA merely copied them from the current regulation?	Same comment

	(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.			
524	**VENDING LOCATIONS: NEIGHBORHOOD VENDING ZONES**			
524.1	The Neighborhood Vending Zones shall consist of the following streets: (a)Capitol Hill area: (1)H Street, NE from 3rd Street, NE to 15th Street, NE (Zones C-2-A,C-2-B, and C-3-A); (2)Pennsylvania Avenue, SE from 2nd Street, SE to Potomac Avenue,SE (Zones C-2-A and C-2-B); (3)8th Street, SE from D Street, SE to I Street, SE (Zone C-2-A); (4)15th Street, NE from A Street, NE to East Capitol Street (Zone C-2-A); (5)Benning Road, NE from Bladensburg Road, NE to Oklahoma Avenue, NE (Zones C-2-A and C-2-B); and		We would also like to see DCRA publish these areas as maps instead of legal descriptions.	Same comment

	(6)East Capitol Street from 19th Street, SE to 22nd Street, SE (Zone GOV): The following restriction applies: (A) Only the south side of East Capitol Street shall be included in the Neighborhood Vending Zone. (b)Far Northeast and Southeast area: (1)Benning Road, SE from 44th Street, SE to A Street, SE (Zone C-3- A); (2)Branch Avenue, SE from Q Street, SE to S Street, SE (Zone C-1); (3)Central Avenue, SE from 56th Street, SE to Southern Avenue, SE(Zone C-1); (4)Dix Street, NE from 60th Street, NE to Eastern Avenue, NE (ZoneC-2-A); (5)Minnesota Avenue, NE from Blaine Street, NE to Grant Street, NE (Zone C-3-A); (6)Nannie Helen Burroughs Avenue, NE from 51st Street, NE to Division Avenue, NE (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); (8)12th Street, NE from Irving Street, NE to Randolph Street, NE (Zones C-1 and C-2-A); and (9)Benning Road, NE from Bladensburg Road, NE to Oklahoma Avenue, NE (Zones C-2-A and C-2-B).			
525	**VENDING LOCATIONS: NATIONALS PARK VENDING ZONE**			

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

	~~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.~~		Williams. We do not believe that it complies with the original intent of the legislation introduced by Councilmember Barry when the Ballpark first opened.	gone.
	PART 3: ROADWAY VENDING LOCATIONS			
526	**VENDING LOCATIONS: ROADWAY VENDING LOCATIONS:** **GENERAL**			
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.~~ A Stationary Roadway Vendor must vend from a fixed location with a valid vending site permit in an assigned roadway vending location as designated in §527.			
526.2	~~A roadway Vendor shall be subject to the provisions of § 556.~~ A Stationary Roadway Vendor may not vend in any roadway location other than an authorized Roadway Vending Location for which the Stationary Roadway Vendor holds a valit Vending Site Permit.			
527	**VENDING LOCATIONS: ROADWAY VENDING LOCATIONS: AUTHORIZED LOCATIONS**			
527.1	The authorized roadway Vending Locations shall be on the streets and in the numbers set forth as follows: (a)400 Independence Avenue, SW (National Air & Space Museum) - Location Numbers one (1) through six (6); (b)600 Independence Avenue, SW (National Air & Space Museum) - Location Numbers seven (7) through twelve (12);	This is the same defective scheme that has been rife with corruption, (buying and selling of sites, etc,) of which DCRA is well aware. 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	Same comment. The level of regulatory capture here is breathtaking.	Same comment. The ONLY reason this business model continues to exist is because DCRA enables it, and due to the location, private actors do not comment because they do not have standing as adjacent property owners. This whole system is

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

	(m)400 17th Street, NW (Ellipse West) - Location Numbers sixty-eight (68) and sixty-nine (69); and (n)500 17th Street, NW (State Place) - Location Numbers seventy (70) through seventy-two (72). (o)1500 Constitution Avenue, NW - Location Numbers seventy-three (73) through seventy-four (74). (p)2100 H Street NW – Location Numbers seventy-five (75) and seventy-six (76).			
527.2	The DDOT Director shall designate specific portions of the streets listed in § 527.1, in the numbers set forth in § 527.1, as authorized Stationary R~~r~~oadway Vending Locations.	Roadway vendors are still exempt from paying for parking under this regulation—while other vendors must pay for their parking. It's another example of DCRA's regulatory capture by the roadway vending lobby.	Same comment	Well, at least in this version, they pay a little more for the right to earn money on public space. But the cost is less per month than what it would cost to park.
528	**VENDING LOCATIONS: STATIONARY ROADWAY VENDING LOCATIONS: ADDITIONAL LOCATIONS**			
528.1	The DDOT Director, in consultation with the DCRA Director, may designate ~~additional~~ Stationary R~~r~~oadway Vending Locations in addition to those authorized in § 527.1; provided, that no additional Stationary R~~r~~oadway Vending Location shall be designated: (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;	See our prior comment, where technically ALL of DC is under the jurisdiction of the US government.	At the start of this regulation, the DDOT Director has the clear authority to set the standards and approve vending site locations. 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	Same comments

	(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;		about. And surely it must be a coincidence that these provisions effectively prevent the new food trucks from working around the National Mall.	
	(c)On a snow emergency route designated under section 4024 of T~~t~~itle 18 of the ~~District of Columbia Municipal Regulations~~DCMR;	This is draconian. Just prohibit roadway vendors from operating during snow emergencies...	Same comment. Prohibiting vending on snow emergency routes the year-round is just plain protectionism for the Mall Vendors against the food trucks.	
	(d)Within forty feet (40 ft.) of an intersection;	This should be 20 feet.	Parking spaces go to 20 feet of the intersection, or less. The standard is not defensible.	This appears as well for food trucks later in this regulation, and it is untenable and intended to limit economic activity at best, and to make DDOT look bad, at worst.
	(e)Along the length of a Metrobus Stop Zone, a commuter bus zone, an intercity bus zone, or other curbside zone specifically designated and demarcated as being for transit use;		Actually, the purpose is clear. Make it impossible for food trucks to compete with Mall Vendors	
	(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;			
	(g)Within twenty feet (20 ft.) of an alley; or			
	(h)Within forty feet (40 ft.) from any crosswalk.			

	(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.		Here is where the true intent of this section of the regulation is most visible. Note that this provision is a new addition from the 2010 version. The National Mall vendor's goal, to keep food trucks out of their territory, is a worthy one. And DCRA delivered! It cannot be more explicit than this.	
528.2	Upon the designation of additional Stationary R~~r~~oadway Vending l~~L~~ocations, a lottery shall be conducted by the Director to assign these Stationary R~~r~~oadway Vending Locations, but shall be open only to roadway vendors whose vending is limited to fruits and vegetables or other healthy, nutritional food options. Any stationary roadway Vending Locations not assigned during this lottery shall be included in the lottery conducted pursuant to § 530. .	We understand the desire to improve food options in DC, but this is not the right way to do it.	This language is appropriate in a licensing regulation?	There could in theory be a role for a food vendor to try to sell fresh and wholesome food in food deserts, but this whole provision makes no sense.
	PART 4: MOBILE ROADWAY VENDING			
529	**VENDING LOCATIONS: MOBIL ROADWAY VENDING LOCATIONS: GENERAL**			
529.1	Mobile Roadway Vending (hereinafter) MRV vehicles operating in public space under this section shall have either a person holding a valid Class A, Class B, or Class D Vending Business License or a person holding a valid Vendor Employee Identification Badge issued pursuant to §558 inside the vehicle at all times while the vehicle is in operation.			Presumably for food trucks selling potentially hazardous food, there is a requirement for a Person in Charge to hold a Food Handler's Permit, as well

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

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

	Police, or any other agency of the United States government; (b) Within a designated loading zone, entrance zone, parking space designated for diplomatic parking, or other curbside zone restricted for certain vehicles or uses; (c) Where the adjacent unobstructed sidewalk is less than 10 feet (10 ft.) wide in the Central Business Zone or seven feet (7 ft.) wide outside the Central Business District; (d) Along the length of a Metrobus Stop Zone, a commuter bus zone, an intercity bus zone, or other curbside zone specifically designated and demarcated as being for transit use. (e) Within forty feet (40 ft.) of the driveway entrance to a police or fire station or within twenty feet (20 ft.) of any other driveway. (f) Within twenty feet (20 ft.) of an alley. (g) Within forty feet (40 ft.) of any crosswalk; (h) Any of the locations enumerated in § 531.3 or			could be a good location for food trucks. This eliminates that option. This doesn't work for many of the most popular locations, where the US Park Service has especially narrow sidewalks. We're not sure about how this applies to bike lanes. This is an arbitrary and unworkable standard. Should maybe be 10 feet We think there should be a similar standard to sidewalk vendors—12 feet on the approach side, and maybe 10 feet on the departure side Again, random and arbitrary

	(i) Any location that is not a legal parking space.			So Doug Jemal cannot rent a space or two or three to MRV operators in one of his parking lots? Why?
532.1	A Mobile Roadway Vending vehicle operating outside of a designated Mobile Roadway Vending location established pursuant to § 530 must: (a) Vend in a legal parking space that meets the requirements of §531.2; (b) Pay all parking meter fees; and (c) Obey all posted time restrictions			Stationary Roadway Vendors don't pay for their parking
531.2	A Mobile Roadway Vending Vehicle operating outside of a designated Mobile Roadway Vending location shall not park and vend: 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; (b) Within a designated loading zone, entrance zone, parking space designated for diplomatic parking, or other curbside zone restricted for certain vehicles or uses; (c) Where the adjacent unobstructed sidewalk is less than 10 feet (10 ft.) wide in the Central Business Zone or seven			Ok—the streets are DC's. Ok—those aren't parking places This is a problem as food truck vendors have noted.

	feet (7 ft.) wide outside the Central Business District; (d) Along the length of a Metrobus Stop Zone, a commuter bus zone, an intercity bus zone, or other curbside zone specifically designated and demarcated as being for transit use. (e) Within forty feet (40 ft.) of the driveway entrance to a police or fire station or within twenty feet (20 ft.) of any other driveway. (f) Within twenty feet (20 ft.) of an alley. (g) Within forty feet (40 ft.) of any crosswalk; (h) Any of the locations enumerated in § 531.3 or (i) Any location that is not a legal parking space.			Ok, that not a parking spot. There are plenty of legal parking spaces within 20 feet of driveways, and some within 40 feet of police or fire station driveways. Why the arbitrary restriction? Same comment. Same comment.
531.3	Mobile Roadway 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;			How was this list developed. It appears completely arbitrary to us.

	(c) 17th Street, NW between Independence Avenue NW and H Street NW; (d) 15th Street NW, between Independence Avenue NW and H Street NW; (e)14th Street NW between Constitution Avenue NW and Independence Avenue NW; (f) 7th Street NW between Constitution Avenue NW and Independence Avenue NW; (g) 4th Street NW, between Constitution Avenue NW and Independence Avenue NW; (h) 3rd Street NW, between Constitution Avenue NW and Independence Ave NW; (i) 1st Street NE, between Constitution Avenue NE and Independence Avenue, NE; (j) East Capitol Street NE between 1st Street NE and 2nd Street, NE; (k) Madison Drive, NW between 15th Street NW and 3rd Street, NW; (l) Jefferson Drive, NW between 15th Street NW and 3rd Street NW;			

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

	PART ~~4~~5: ASSIGNMENT OF VENDING LOCATIONS			
~~529~~534	**ASSIGNMENT OF SIDEWALK VENDING LOCATIONS**			
~~529.1~~534.1	Unoccupied sidewalk Vending Locations shall be assigned to licensed sidewalk vendors through a lottery conducted by the DCRA Director.	Lotteries are not the right way to assign specific vendors to specific sites.	First, there is no database of un-occupied sites, nor is there any plan or procedure here to make one. Second, randomly assigning vendors to a universe of "legal" sites is a recipe designed to put licensed vendors out of business.	Same comments.
~~529.2~~534.2	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~~534.3	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.	Same comments. This doesn't even pass the laugh test.
~~529.4~~534.4	No more than one (1) vendor may occupy an assigned Vending Location, unless the DCRA Director specifies on the Vending Site Permit that the Vending Location is subject to a shared site agreement between several licensed vendors.	And under what conditions might that occur?	As we said earlier, this option should be on the application.	This should come from the vendor side, not from DCRA

~~529.5~~53 4.5	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.	Same comments.
~~529.6~~53 4.6	The DCRA Director may contract out the function of performing the lotteries for sidewalk Vending Locations.	Why should this be done? To avoid record-keeping requirements and eliminate FOIA requests?	It appears that our suspicions two years ago that the lottery contractor can't be FOIA'ed are indeed true.	Same comments.
~~529.7~~53 4.7	No Vending Site Permit shall be distributed until full payment is received from the vendor or person.			Why should a (let's say) 2 year "lease" (Permit fee) be paid 100% in advance when there is no language here about permit fee refunds?
~~529.8~~53 4.8	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 DCRA Director to rescind the Vending Site Permit offer.		The language here is at best "odd" for a regulation.	In a lottery, entries are "selected". The "winners" here are DCRA.
~~529.9~~53 4.9	The DCRA Director may lottery off unclaimed sidewalk Vending Locations until all sidewalk Vending Locations are claimed.	This is the first time that the Vending Site permit is referred to as a "lease" Will the permit include lease terms in addition to the terms and conditions within these regulations?	Corrected, but still…	"Lottery off" sounds like "auction"… and in some ways, that would be a more fair system!
~~530~~535	**ASSIGNMENT OF STATIONARY ROADWAY VENDING LOCATIONS**			
~~530.1~~53 5.1	For a period of one (1) year from the publication in the *District of Columbia Register* of a notice of final rulemaking adopting this chapter, MPD shall oversee the lottery for stationary roadway Vending Locations. Upon the expiration of the yearlong period, the DCRA Director shall oversee the lottery.		All of these lottery records should be made public so that independent analysts can determine if the lottery results are occurring by chance, or not.	Same comment.

~~530.2~~53 5.2	Stationary Roadway Vending Locations shall be assigned as follows: (a)All Stationary R~~r~~oadway Vending Locations shall be allocated by lottery; (b)The lottery shall be conducted monthly, with Vending Locations allocated to a vendor by the following days of the week; (1) Mondays; (2) Tuesdays (3) Wednesdays; (4) Thursdays; (5)Fridays; (6) Saturdays; or (7) Sundays. (c)There shall be equal allocation in the lottery of Class A and Class B licenses; and (d)No vendor shall be issued Stationary R~~r~~oadway Vending Site Permits for more than two (2) Stationary Roadway ~~roadway~~ Vending Sites at any one time.	First, lotteries are the wrong way to assign vendors to sites. Second, there is no market-oriented reason why food and merchandise units should be equal in number.	Same comment	This is just keeping the Roadway vending system intact, which has been very profitable for a few families because DCRA has set barriers to entry that are basically impossible to overcome. In short, DCRA continues to support this racket.
~~530.3~~53 5.3	No Stationary R~~r~~oadway Vending Site Permit shall be distributed until full payment is received from the roadway vendor or person.			
~~530.4~~53 5.4	A vendor shall have thirty-five (35) calendar days from the billing date to remit payment for the Stationary R~~r~~oadway Vending Locations the vendor has won. Failure to remit payment shall allow the DCRA Director to rescind the offer to the winning vendor.	Presumably the lotteries will be scheduled far enough in advance to unsure that a vendor pays before he or she works. But as an aside, under 507.1, wouldn't non-payment (or late payment) be a cause for suspension or revocation of the Vendor's license?	Same comment	Same comment
~~530.5~~53 5.5	The DCRA Director may lottery off unclaimed roadway Vending Locations until all roadway Vending Locations			How does this work? An instant lottery on any days in

	are awarded.			which all 76 sites aren't filled?
~~530.6~~53 5.6	The DCRA Director shall register licensed roadway vendors for participation in the lottery by assigning each vendor a registration number.	Let's just make this process as opaque and convoluted as possible to eliminate accountability	And that number shall be the same one as pasted onto the side of the defective truck or trailer, that vendors sell to each other all the time to continue to participate in this charade.	Same comments
~~530.7~~53 5.7	No vendor may participate in the lottery for Stationary R~~r~~oadway Vending Locations unless the vendor holds a valid Vending Business License for roadway vending and is registered for the lottery.			
~~530.8~~53 5.8	No vendor may operate on more than one (1) Stationary R~~r~~oadway Vending Location per day, and only one (1) vendor may occupy an assigned Stationary R~~r~~oadway Vending Location as described on the Stationary R ~~r~~oadway Vending Site Permit, unless otherwise specified by the DCRA Director on the Stationary R~~R~~oadway Vending Site Permit.			You would not be surprised to hear that this system is not well enforced.
~~530.9~~53 5.9	No lottery registration or Stationary R~~r~~oadway Vending Location assignment or permits may be transferred from a vendor to any other person.	Practically speaking, this is a) unenforceable, and b) counterproductive to achieving a good result on the street.	Same comment	Same comments.
~~530.1~~53 5.10	The DCRA Director may contract out the function of performing the lottery for Stationary R~~r~~oadway Vending Locations; provided that the lottery may be subject to any government-required audit or review**.**	See prior comment about outsourcing lottery functions	Same comment. The new language tells us *exactly* how open DCRA is to oversight and review.	Same comments. Let's make sure our stuff can't be seen under a FOIA.
	PART 5: MISCELLANEOUS			
~~531~~536	**PUBLIC MARKETS**			
~~531.1~~53 6.1	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~~536.2	No person shall manage a ~~public~~ farmer's market on public or private space without holding a Class C Vending Business License.			Still curious about what's supposed to happen for vendors at public markets who don't sell food. This new draft is particularly unclear about that…
~~531.3~~536.3	No Class C Vending Business License holder shall operate a farmer's market on public space without first obtaining a Public Space Permit from the DDOT Director.			
~~531.4~~536.4	Each person operating at a ~~public~~ farmer's 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?	
536.5	No Class C Vending Business License Holder shall operate a farmer's market on public or private space without first obtaining a DOH health inspection certificate and food safety compliance inspection in accordance with subtitle A of Title 25 of the DCMR.			
536.6~~5~~	Each farmer's market operated by the holder of a Class C Vending Business License that is operating on private space shall obtain a certificate of occupancy from the DCRA Director.	On what grounds would a C of O be approved or denied? And we remain confused by this: vendors working at markets on private property either are, or are not, subject to which laws and regulations?	And where do they pay taxes on the income they earn in DC?	So, License + Public Space Permit (for the public space) + C of O for the private space. That sort of makes sense.
~~531.6~~536.7	A person who is authorized by the Class C Vending Business License holder to operate at a ~~public~~ farmer's market may operate without a Vending Business License or Vending Site Permit; provided that the person shall:		Obviously, this is an air-tight solution to the tax question. It's clearly impossible for vendors at	So, our reading that vendors at public markets DO need to get vending licenses is

	(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 (b) Comply with any standards imposed by DOH or other relevant agencies.		DC markets who live outside of DC to evade this!	correct?
~~531.7~~536.8	A Class C Vending Business License holder shall maintain records of all persons operating at each ~~public~~ farmer's 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~~537	**TEMPORARY RELOCATION OF VENDORS**			
~~532.1~~537.1	The DCRA 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 any other situations where the Vending Location is either unavailable or creates a threat to the public health, safety, or welfare.			
~~532.2~~537.2	Any temporary relocation shall last only until such time as the original Vending Location is determined by the DCRA Director, the DDOT Director, or MPD to be useable again.			
~~532.3~~537.3	A vendor subject to a temporary relocation shall be relocated by the DCRA Director to the closest available location that is deemed allowable for vending.			
~~532.4~~53	In any situation where a temporary relocation will be for			

7.4	at least twenty-one (21) days, the DCRA Director shall issue the affected vendor a new Vending Site Permit for the new Vending Location.			
	SUBCHAPTER D: DESIGN STANDARDS, OPERATIONAL STANDARDS, AND INSPECTIONS			
	PART 1: DESIGN STANDARDS			
~~533~~538	**DESIGN STANDARDS: GENERAL**			
~~533.1~~538.1	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.	Same comment
~~533.2~~538.2	The provisions of sections ~~534, 535, 536, 537, 538~~539, 540, 541, 542, 543 547, 548 and ~~548~~ 553 shall not apply to activities licensed and permitted under § 503.1(c).			
~~534~~539	**DESIGN STANDARDS: VENDING CARTS**			
~~534.1~~539.1	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 DCRA Director on the Vending Site Permit: (a)Four feet six inches (4 ft. 6 in.) in width unless the vendor vends food from the vending cart, in which case the cart shall not exceed five feet (5 ft.) in width; (b)Seven feet (7 ft.) in length, unless the vendor vends food from the vending cart, in which case the cart shall not exceed eight feet (8 ft.) in length; and (c)Eight feet six inches (8 ft. 6 in.) in height, measured from the bottom of the tire.	These dimensions reflect the current regulation. They are arbitrary at best; they are too small to allow food carts to carry sufficient equipment and product; they eliminate the potential for appropriate weather protection, and they effectively serve to grandfather in worn-out equipment that should be replaced.	The new draft has slightly modified these size standards, which are arbitrary at best. To the top of what? The umbrella? The cart?	Same comments. To our knowledge, no sidewalk vendor vends from a "cart". As a historical sidebar, these standards came from the Pennsylvania Avenue Development Corporation in the 70s. They've never been realized, but they do allow for the oversized hot dog carts on Pennsylvania Avenue, so that's good.
~~534.2~~539.2	A vending cart shall be covered by either:	First, it should be "may be covered"; second, these dimensions are completely	Same comment. We should note that the definitions that DCRA	Same comments.

	(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 (b)One (1) canopy which shall not overhang more than six inches (6 in.) in any direction from the body of the cart.	non-functional, as DCRA well knows.	has established to not describe what a "cart" is. So we are not sure what kind of vending operation these regulations refer to.	
~~534.3~~539.3	Any umbrella or canopy used to cover a vending cart: (a)Shall be made of water-resistant canvas with wood or metal frames; and (b)Shall not contain any advertising other than advertising allowed under § ~~538~~543.	Canvas? If DCRA wants to prohibit blue plastic tarps or sheets of plastic, fine. But waterproof canvas is not a good substitute...	Actually, we happen to know that these standards come from a portion of the old regulations, under the old PADC chapter. They were unworkable then, and they are unworkable now. Why they remain in this regulation, we do not know.	Same comments.
~~534.4~~539.4	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 vendor from displaying product (which they are required to carry) in the only available display areas. (the side and back of a stand).	The new language is a step in the right direction. But prohibiting vendors-especially merchandise vendors-from displaying product from the back of the stand – limits vendors unnecessarily. A better approach would be to eliminate the requirement that vending stands be set up parallel to the curb and 2 feet from it. Allow the display from the back of the stand; allow the vendor space to sell from the back of the stand. Set reasonable clear space standards, and call it a day.	Same comments.
~~534.5~~539.5	No food or merchandise hung or otherwise displayed on the front of the vending cart shall extend more than two feet (2 ft.) from the front of the vending cart or extend past the sides of the vending cart.	See prior comment.	See prior comment from 2010 in 534.4	Same comments.

~~534.6~~539.6	All food, merchandise, and equipment, other than food or merchandise hung or displayed on the front of the vending cart, shall be contained within or beneath the body of the vending cart, provided that up to two (2) coolers or containers with food may be placed immediately adjacent to the vending cart, at least four inches (4in.) off the ground, and in compliance with DOH food storage regulations; provided further, that the total size of the coolers or containers taken together shall not exceed the length of the cart (eight feet (8 ft)).	See prior comment.	DCRA here allows hot dog carts (mostly) to operate as usual. The prohibition in 534.5 seems to dis-allow the standard practice of hanging chips off the sides of the carts. It's a detail, but this is pretty much a defective regulation.	Same comments.
~~534.7~~539.7	The cart shall be placed on one (1) or more wheels; provided, that: (a)The wheels shall not exceed two feet eight inches (2 ft. 8 in.) in diameter; (b)The wheels shall be a wood or metal frame with rubber trim for tires; and (c)The cart may include stabilizing legs in addition to the wheel or wheels.	Why does DCRA want to grandfather in the current crop of worn-out hot dog carts, and prohibit workable food vending solutions? For example, the On the Fly carts are illegal under this provision, and yet they park on the sidewalk. The DC Central Kitchen cart is another example of an over-size cart...	See prior comment. (As an aside, we've always admired the "one or more wheels" language). If it is not obvious by now, these regulations confuse the kinds of "carts" that we used to see in shopping mall common area space in the 70's, with hot dog "carts" we see on the street of DC today. This is ridiculous and unnecessary.	Same comments.
~~534.8~~539.8	The vending cart shall be equipped with a chock to be used to prevent the cart from rolling or moving.			Same comments.
~~535~~540	**DESIGN STANDARDS: VENDING VEHICLES**			
~~535.1~~540.1	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 DCRA Director: (a)Eighteen feet six inches (18 ft. 6 in.) in length; (b)Eight feet (8 ft.) in width; and		Extension of the size requested by the roadway vendors is ok with us.	Same comments.

	(c)Ten feet six inches (10 ft. 6 in.) in height, measured from bottom of the tire.			
~~535.2~~540.2	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….	Same comments.
~~535.3~~540.3	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".	Same comments.
~~535.7~~540.4	All vending vehicles shall rest on inflated tires.		Or what!?	No comment is necessary.
~~536~~541	**DESIGN STANDARDS: VENDING STANDS**			
~~536.1~~541.1	The design and operation of all vending stands shall conform with the following requirements, unless otherwise authorized by the DCRA Director on the Vending Site Permit: (a)The stand shall consist of a wood, plastic, or metal	Again, DCRA is grandfathering in—actually requiring-- a vending stand design that almost everyone agrees can and should be improved. A four-foot, six-inch wide table is a) not commercially available, and b) will not fit conveniently in a van or truck. Why is DCRA compelled to regulate the construction of a table that will be fully	Same comment Same comment. This all comes from the PADC regs which are obsolete.	Same comments.

	table with attached folding legs, a stair-stepped structure approved by the Director, or a shoe- shine stand structure approved by the DCRA 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;	covered? Weather-resistant lumber is full of toxic chemicals. It is not meant to be handled on a daily basis. This is the current standard.	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.	
	(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.);	Why not move to a 4x8 standard? The area is roughly the same and the materials are standardized at that dimension.		
	(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.);	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?		
	(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.		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.	
	The uppermost point of the canopy shall not exceed		We are thankful that the color of the table skirt will be no longer prescribed by regulation.	

	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; (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 (f)No free standing racks or other free-standing forms of display shall be allowed around the stand.		Should this always be true?	
~~537~~542	**DESIGN STANDARDS: FOOD VENDING CARTS AND VEHICLES**			
~~537.1~~542.1	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	Same comments.
542.2	If DCRA waives any design standard for a food vending cart or vehicle that is not in compliance with §§539, 540, 541 or 542, a written waiver approving the non-complaint cart or vehicle shall be issued by DCRA, MPD, and DDOT to the DOH Director prior to DOH either conducting a food safety code compliance			This seems complicated.

	inspection pursuant to subtitle A of Title 25 of the DCMR or issuing a health inspection certificate.			
~~537.2~~542.3	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: (a)A fresh water tank with at least a five gallon (5 gal.) capacity or more for food vending carts; (b) a fresh water tank with at least a thirty-eight gallon (38 gal.) capacity or more for food vending vehicles; (~~b~~c)A waste water tank with a capacity fifteen percent (15%) or larger than the required fresh water tank; (~~c~~d)A three (3) compartment sink with hot and cold running water; (~~d~~e)A separate hand washing sink with mixing faucet; (~~e~~f)Walls, ceiling, and floors that are smooth and easily cleanable; (~~f~~g)Natural or electrical lighting to provide a minimum of fifty (50) candles of light on work surfaces; (~~g~~h)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	The actual requirements should be based on the use of the unit. This regulation appears to give DOH flexibility in approving individual units for specific purposes. We hope that DOH is prepared to use that discretion thoughtfully. This is too limiting a requirement. For many purposes, a cold-plate is just as effective as a generator powered refrigerator.	Same comment. 3 compartment sinks only necessary when washing, rinsing, and sanitizing is part of the vending operation. We need some generator regulations in this draft. Having said that, different vending operations need different requirements.	Same comments. Could depend on the proposed operation.

	(1) day of operation; (~~h~~i)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 (~~i~~j)Adequate ventilation.		Most vending units will not need to hold food at freezing temperatures.	
~~538~~543	**DESIGN STANDARDS: ADVERTISING**			
~~538.1~~543.1	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 *on* an adjacent vehicle. Surely this is a mistake.	This was fixed. Thank you.	
~~538.2~~543.2	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.			We'd prefer this be relaxed, but an live with it. Food trucks advertise on all 4 sides, so to make it equitable, we would prefer a revision.
~~538.3~~543.3	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?	Does DCRA really want to get into a First Amendment thing about the content of signs?
~~539~~544	**DESIGN STANDARDS: PHASE-IN PERIOD**			
~~539.1~~544.1	Any vendor issued a Vending Business License prior to the date of publication in the *District of Columbia*			

	Register 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~~539.2; and Subsection ~~534.5~~539.5.			
	PART 2: OPERATIONAL STANDARDS			
~~540~~545	**OPERATIONAL STANDARDS: GENERAL**			
~~540.1~~545.1	A vendor shall comply with, all District and federal laws and regulations applicable to the operation of a vending business.			Why the addition? And why mention federal law in a local ordinance? By definition, it is a given—unless DC intends to use this provision as the reason to revoke the licenses of vendors who sell counterfeit merchandise, in which case, we approve.
~~540.2~~545.3	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~~546	**OPERATIONAL STANDARDS: AUTHORIZED HOURS OF OPERATIONS**			

~~541.1~~546.1	Vendors may operate only during the following hours: (a)Sunday through Thursday, from 5:00 a.m. to 10:00 p.m.; and (b)Friday and Saturday from 5:00 a.m. to 1:00 a.m. the next day; provided, that vendors operating in Residential Zones, as specified in the District of Columbia Zoning Regulations, shall not vend past 10:00 p.m. on any night of the week.	These hours are overly restrictive in some circumstances. There is a market to provide food for clientele leaving nightclubs at closing time—and there are common sense reasons why offering food to this market may improve public safety. This regulation prohibits that, for no good reason.		Same comment. The prohibition of food trucks from private space we've seen earlier in this draft may make this section more critical.
~~541.2~~546.2	Notwithstanding § ~~541~~546.1, the Vending Site Permit for each Vending Location in a Vending Development Zone shall establish the hours of operation for that Vending Location.			Of course. BIDs can do whatever they want.
~~542~~547	**OPERATIONAL STANDARDS: PLACEMENT OF VENDING VEHICLES, VENDING CARTS, AND VENDING STANDS**			
~~542.1~~547.1	No vendor shall vend in a location that is not a Vending Location assigned to the vendor by the DCRA Director.		Redundant	The language changes again
~~542.2~~547.2	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.		Same comment. These are all the dumb regulations currently in place today.
~~542.3~~547.3	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 therefore be "authorized".	Earlier, we said that Metro ventilation grills should be off-limits. And they should. This provision sets yet again a different standard. And it shouldn't.	As we said earlier, outdoor cafes get 24 hours to move. Why the differing standards?

~~542.4~~547.4	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~~547.5	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.	Same comment.
~~543~~548	**OPERATIONAL STANDARDS: PLACEMENT OF EQUIPMENT AND RELATED ITEMS**			
~~543.1~~548.1	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.	Same comments.
~~543.2~~548.2	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	Same comments.
~~543.3~~548.3	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~~547.3.			See above.
~~543.4~~548.4	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~~549	**OPERATIONAL STANDARDS: FOOD PREPARATION AND HANDLING**			
~~544.1~~549.1	All preparation, handling, transportation, and storage of food vended under this chapter shall be in compliance with: (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 *et seq*. (2009 Repl. & 2011 Supp.)); (b)Subtitle A (Food and Food Operations) ofTitle 25 (Food Operations and Community Hygiene of the District of Columbia Municipal Regulations; (c)Any other applicable law or regulation related to the preparation, handling, transportation, or storage of food; (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 (d)Any applicable standards established by DOH.			
~~544.2~~549.2	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?	Same comments.
~~544.3~~549.3	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~~ in charge on site at the time of the preparation, handling, and sale of the food who holds a valid:~~.~~		Hold this thought. This is not obvious elsewhere in these regulations.	Fixed.

	(1) Food Protection Manager Certificate issued by the Conference of Food Protection Standards for Accreditation of Food Protection Manager Certification Programs in accordnace with §203 of subtitle A (Food and Food Operations) of Title 25 of the DCMR; and (b) DOH-issued a Certified Food Protection Manager Identification Card in accordance with §203 of subtitle A (Food and Food Operations) of Title 25 of the DCMR;			
~~545~~550	**OPERATIONAL STANDARDS: FIRE SAFETY**			
~~545.1~~550.1	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~~550.2	All vending vehicles operating with propane or open flames shall meet the following standards: (a)All propane compartments shall be secured and placarded; (b)No smoking signs shall be posted on the vehicle; and (c)Propane or open flame permits shall be clearly posted on the vehicle.			
~~546~~551	**OPERATIONAL STANDARDS: USE OF AMPLIFICATION SYSTEMS**			
~~546.1~~551.1	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~~DCMR.			

~~546.2~~551.2	Activities open to the public and provided for in subsection 2805.2 of ~~title~~ Title 20 of the ~~District of Columbia Municipal Regulations~~DCMR are exempt from the limitations set forth in this section.			
	PART 3: INSPECTIONS			
~~547~~552	**INSPECTIONS: FOOD PREPARATION AND HANDLING**			
~~547.1~~552.1	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~~subtitle A of Title 25 of the DCMR and any conditions imposed by the health inspection certificate.			
~~547.2~~552.2	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~~553	**INSPECTIONS: DESIGN STANDARDS**			
~~548.1~~553.1	A vendor's vending vehicle, vending stand, or vending cart shall be subject to inspection at any time by the DCRA Director to verify compliance with applicable design standards required by this chapter.			
~~548.2~~553.2	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 over their heads.	Same comment	Same comments. The regulation DOES allow for 6 minor infractions of this type, but because of the way it's structured, it's inclear that a minor infraction from one inspector won't turn into a firing offense from another. The penalties need to be clarified.

~~549~~554	**INSPECTIONS: FIRE SAFETY**			
~~549.1~~554.1	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~~554.2	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 *every* inspector. Notice this provision is not about punishment; it's about solving a problem and moving on.**	Same comment. We think that if a license is seized for cause, the license should be returned after the infraction is cured, and the vendor can either pay the fine, or contest the NOI. Meanwhile, he or she continues to work.
	PART 4: OTHER STANDARDS OF OPERATION			
~~550~~555	**MAINTENANCE STANDARDS**			
~~550.1~~555.1	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.			Why are the vendors at the National Mall allowed to continue to drive trucks that resemble those seen in Cuba? Because they have a number stuck on them? There is your lottery system at a glance.
~~550.2~~555.2	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~~556	**DISPLAY OF LICENSES, PERMITS, AND CERTIFICATES**			
~~551.1~~55	A vendor shall conspicuously display on the vendor's	How about "all applicable certifications	And you are forgetting the	This is ridiculous, given the

6.1	vending vehicle, vending cart, or vending stand, ~~his or her:~~ or farmer's market as required, in chapter 37, Subtitle A of Title 25 of the DCMR, his or her: (a)Vending Business License; (b)Vending Site Permit; (c)Health inspection certificate; (d)Food P~~p~~rotection M~~m~~anager C~~c~~ertificate; (e)DCRA-issued vendor identification card; (f)DOH-issued certified food protection manager identification card; and (g)A propane or open flame permit, if the vendor uses propane or open flames in his or her operations.	of authority"...	Authorized Employee Badge… "as required by applicable law or regulation."???	number of "certificates of authority" required. Let a vendor put the certificates in a notebook and let a vendor go to his or her vehicle to fetch said notebook upon request of an authorized government representative. This should all be much simpler, but it is in DCRA's interest to make it very complex.
~~551.2~~55 6.2	The items required by § ~~551~~556.1 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.	Same comment. See above
~~551.3~~55 6.3	No person shall alter, mutilate, forge, or illegally display any license, permit, or other certificate of authority issued pursuant to this chapter.			
~~551.4~~55 6.4	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 that of the vending vehicle, vending stand, or vending cart for which the Vending Business License, Vending Site Permit, or health inspection certificate was issued, the DCRA Director or MPD may summarily	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?	Same comment.

	impound or immobilize the vending vehicle, vending stand, or vending cart on which the Vending Business License, Vending Site Permit, or health inspection certificate is unlawfully displayed.			
551.5	If a summary impounding or immobilization occurs pursuant to § ~~551~~556.4, the DCRA 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 DCRA Director.	Same comment as before....	Same comment as before	Same comment.
551.6	Failure to display any required certificates of authority, or to provide those certificates 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~~ provision of the required certificates of authority.	At least this clarifies the meaning of 507.2(c)...	Same comment as before	Same comments as before. Give a vendor a chance to "cure" the violation.
~~552~~557	**MOTOR VEHICLE REGISTRATION AND INSPECTION OF VENDING VEHICLES AND CARTS**			
~~552.1~~557.1	All vending vehicles and vending carts: (a)Shall be registered and inspected by the District of Columbia Department of Motor Vehicles or by the motor vehicle department of another state or municipality with appropriate jurisdiction; (b)Shall display all current tags on the vehicle or cart; and (c)Shall not vend any food, merchandise, or services if	Why does DC not require that all vending equipment which conducts business in the District be registered and inspected IN DC? How can "roach coach" operators with Maryland tags routinely do business in DC with no District oversight?	Same comment as before	As well, nowhere in this regulation are insurance requirements, which we find baffling….

	the vehicle has temporary tags.			
~~552.2~~557.2	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~~558	**EMPLOYEES OF LICENSED VENDORS**			
~~553.1~~558.1	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.	*Another* "Certificate of Authority".... And the provision allowing "independent contractors" is exploitation of marginal people, waiting to happen....	It is a good idea to have people working at vending stands to have a badge.	It would be good to make this really easy to get.
~~553.2~~558.2	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~~558.3	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 : (a) Food Protection Manager Certificat issued by the Confernde of Food Protections Sandards for Accreditation of Foo Protection Manger Certificat Programs in accordance with § 203 of subtitle A (Food and Food Operations) of Title 25 of the DCMR; and (b) DOH-issued a Certified Food Protection Manager Identification Card in accordance with § 203 of subtitle A (Food and Food Operations) of Title 25 of the DCMR. ~~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~~558.4	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 DCRA Director.	Why should an "Independent Contractor" hold an "employee badge?" The two terms are wholly unrelated in law, and the responsibilities of an employer to an employee are completely different from those a business owner owes to his or her "independent contractor".	Same comment. Having said that, we must remind DCRA of the 20 point test that the IRS uses to determine whether an employee is actually an employee, or an independent contractor. It is pretty clear to us that the so-called "independent contractors" don't really pass the test, as far as vending is concerned.	Same comment. This language is incredibly sloppy.
~~553.5~~558.5	A person shall apply for a Vendor Employee Identification Badge by submitting an application to the DCRA Director, on a form prescribed by the DCRA Director, which shall include: (a)The name, address, and telephone number of the person; (b)The name and license number of the vendor for whom the person will act as an employee or independent contractor; (c)The signature of the person; (d)The notarized signature of the vendor; (e)The application fee, which shall be fifty-five dollars ($55); and (f)Any additional information or documentation required by the DCRA Director.	No photograph? Vendor employees are required to have telephones, and that information then becomes public record controlled by DCRA? Notarized? Why? 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?	Same comment Same comment All employees really should need are a photo ID badge, which, as we argued 6 years ago, ought to be produced by DMV with a utility bill or other ID and $10 to cover the cost.	It makes sense to give an employee of a vendor on public space a badge—just as it makes sense for the principals also to have badges. It makes the visitors to Washington feel better about the whole deal. It should cost employees about $10, and an employee badge should be interchangeable. A requirement that the ownership status of any vending unit should be available for any public space vendor does make sense—it's basically a business card with the permit numbers attached. Those should perhaps be required to make it easy for

		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?		people to contact a vendor—or an appropriate government official—if there is a problem.
~~553.6~~558.6	The Vendor Employee Identification Badge shall include the name of the employee or independent contractor of the vendor, a badge number, the name of the licensed vendor, and the Vending Business License number of the vendor.		It should NOT include the Vending business license number of the vendor, at $55 a pop! My identity doesn't change; I work for vendor A on MWF and vendor B on 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.	We try to explain how to solve this problem above.
~~553.7~~558.7	An employee or independent contractor: (a)Shall conspicuously wear his or her Vendor Employee Identification Badge when the employee or independent contractor is operating the vendor's vending business; and (b)Shall not represent any licensed vendor other than the vendor whose name appears on the employee's or independent contractor's Vendor Employee Identification Badge.	And yet, Licensed Vendors themselves are not required to wear District authorized identification badges.	Same comment	See above.
~~553.8~~558.9	A licensed vendor shall be held responsible for the actions of his or her employees and independent contractors, where such actions are related to the operation of the vending business and, either singularly or in combination, the Vending Business License, Vending Site Permit, Vendor Employee Identification	We'd agree with this provision and in fact would like to see it strengthened....		Same comment

	Badge, and health inspection certificate of the vendor may be suspended or revoked based on those actions.			
~~554~~559	**LITTERING AND CUSTOMER LINES**			
~~554.1~~559.1	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~~559.2	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	Same comment
~~554.3~~559.3	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?	That would be illegal under this draft.
~~555~~560	**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.	Same comments
~~556~~	~~**ROADWAY VENDING**~~			
~~556.1~~	~~Deleted~~	We applaud the new food vendors who	Forgive us if we have a hard time distinguishing between the "Roadway Vending" in Part 3--"Roadway Vending Locations, et.sec, and this section, "Roadway Vending".	

		have entered the vending scene. We encourage their success.	We know this is supposed to be the special section for the Food Trucks, and we know DCRA tried really hard to accommodate both the Roadway Vendors and the Food Truck operators. Unfortunately, we feel obligated to mention that this distinction makes these regulations impossible to understand…. Hear us out…	
~~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~~		That seems workable!	

	~~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.~~			
~~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;~~ ~~(d) 15th Street, NW, between Independence Avenue, NW, and H Street, NW;~~ ~~(e) 14th Street, NW, between Constitution Avenue, NW, and Independence Avenue, NW;~~ ~~(f) 7th Street, NW, between Constitution Avenue, NW, and Independence Avenue, NW;~~ ~~(g) 4th Street, NW, between Constitution Avenue, NW, and Independence Avenue, NW;~~ ~~(h) 3rd Street, NW, between Constitution Avenue, NW, and Independence Avenue, NW;~~ ~~(i) 1st Street, NE, between Constitution Avenue, NE, and~~			

	~~Independence Avenue, NE;~~ ~~(j) East Capitol Street, NE, between 1st Street, NE, and 2nd Street, NE;~~ ~~(k) Madison Drive, NW, between 15th Street, NW, and 3rd Street, NW;~~ ~~(l) Jefferson Drive, NW, between 15th Street, NW, and 3rd Street, NW;~~ ~~(m) Pennsylvania Avenue, NW, between 15th Street, NW, and 1st Street, NW;~~ ~~(n) Maryland Avenue, SW, between Independence Avenue, SW, and 3rd Street, SW; and~~ ~~(o) Within a Vending Development Zone created pursuant to § 560, unless specifically authorized by the Vending Site Permit.~~			
~~556.5~~	~~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:~~ ~~(a) Within one hundred feet (100 ft.) of a traffic circle.~~ ~~(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.~~ ~~(c) Any of the locations enumerated in §556.4;~~ ~~(d) Any location that is not a legal parking space.~~		As we've stated earlier, this provision seems to be a pretty far stretch from the the current law, 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 every vendor must have a vending site permit. But that is so 2009. 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 ***some*** vendors need to have a permit to describe exactly where they will vend—spots that	

			don't exist, and never will; permits that don't exist, and never will—but ***other*** vendors can have a "site permit" that describes simply where they will not be allowed to vend. <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 ***get*** 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. 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.	
~~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 also is confusing when considered against other provisions of this regulation which allow employees or "independent contractors"...	We kept our old comment here because, on face value, there is no reason that a merchandise vendor shouldn't have the same "roaming" rights as a food truck vendor.	
~~556.8~~				
~~557~~**561**	**PURCHASE OR RECEIPT OF STOCK**			
~~557.1~~561.1	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 house parks in a Loading Zone or on a parking meter and make a delivery, does this regulation apply?	Upon re-reading this, this is crazy. Vendor (on cell phone) "I'd like 30 pounds of beef and 20 pounds of chicken" or "I'd like 20 XXL Obama's and 10 XL Obama's" This is illegal?
~~557.2~~561.2	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?	Same comments.
~~558~~**562**	**PLACING VENDING BUSINESS LICENSES ON HOLD**			
~~558.1~~561.1	The DCRA Director shall create a process by which a vending business may voluntarily put its Vending	We understand the purpose of this provision, but it is poorly drafted. It's	See prior comment	Same comment, generally. The restrictions on

	Business License on hold and subsequently retrieve it from hold status to avoid suspension or revocation of a Vending Site Permit.	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".		transferring licensure which are shot through this regulation make a process which ought to informal and workable into something bureaucratic and unwieldy. Since the Director will never get around to implementing this provision—which would imply changes to these regulations—the choice is either to trust the Vending Coordinator to keep track of this stuff, get it right, and not exploit people who are extremely exploitable. The other choice is to re-write the "license transfer" provisions in this regulation, and get it right from the start.
~~558.2~~561.2	A Vending Business License may be placed on hold and in the possession of the DCRA 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.			
~~558.3~~561.3	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.			There should be some language here if there is a Site Permit attached to the license.
~~558.4~~562.4	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 placed on hold shall be subject to the revocation of his or her Vending Business License.			
~~559~~563	**REQUIREMENT TO UPDATE INFORMATION**			
~~559.1~~563	If, pursuant to the provisions of this chapter, a vendor provided information to a District agency and that information changes, the vendor shall, within ten (10) business days after the change in information, provide updated information to the appropriate agency.	Will new certificates of authorization be issued with the updated information? And what will be the charge to the vendors who comply with this provision? And what will be the penalties to the vendors who don't?	See prior comment	Same comment.
	SUBCHAPTER E: VENDING DEVELOPMENT ZONES AND SPECIAL EVENTS			
~~560~~564	**VENDING DEVELOPMENT ZONES**			
560.1	The DCRA Director may establish Vending Development Zones (VDZ) to promote new and innovative vending practices designed to achieve the following objectives: (a) For communities to utilize vending and public markets to create unique and attractive destinations and increase foot traffic in commercial corridors; (b) For communities to have expanded capability to manage vending and public markets in unique high-density hospitality zones; (c) Provide opportunities for vendors to expand their creativity and entrepreneurship in both their products and their carts stands or vehicles; (d) Expand vending and public market opportunities for small and local businesses; (e) Improve the safety, appearance, and use of public space; and (f) Allow for greater expansion of the creative economy through the addition of entertainment and artistic business ventures in public space.		The goals seem worthy. The term “communities” in this section seems wrong, because Vending Development Zones will obviously be “top-down” things created by BIDs as opposed to “bottom-up” proposals generated by the “community”. These VDZ’s are nothing more than the privatization of public space, and DCRA and the BIDs can use whatever language they like to make it sound better.	Same comments.

~~560.2~~56 4.2	Notwithstanding other provisions of this chapter, and of chapter 13 of T~~t~~itle 19 of the ~~District of Columbia Municipal Regulations~~DCMR, the DCRA Director shall allow a VDZ greater flexibility in complying with regulations governing the: (a)Location of vendors in public space , provided, that no category of Vending Business License is specifically excluded; (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; (c)Design standards for vending vehicles, vending carts, roadway vending vehicles, and vending stands; (d)Hours of operation; (e)Length of time for which a Vending Site Permit shall be issued; and (f)Special performance and entertainment requirements of c~~C~~hapter 13 of Title 19 of the ~~District of Columbia Municipal Regulations~~DCMR.		A meaningless provision… Since the permits under §556 don't "include" anything, this allows a VDZ to keep food trucks out…. This is potentially good… This could be good or bad… This is potentially good or bad… 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.	
~~560.3~~56 4.3	The DCRA Director may establish a VDZ upon the approval of an application submitted by a business association, community organization, or District government agency.	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.	See prior comment.	Same comments.
~~560.4~~56	The Director shall administer the process for reviewing applications in consultation with the following	Good. This is the first mention of inter-	See prior comment.	Same comments.

4.4	Coordinating Agencies: (a)Department of Small and Local Business Development; (b)Department of Health; (c)District Department of Transportation; and (d)Office of Planning.	agency consultation within this regulation.		
~~560.5~~56 4.5	A VDZ application shall be reviewed in a two (2)-part process: (a)The applicant shall submit five (5) hard copies or one (1) electronic copy of a pre-application to the DCRA Director who shall forward a copy to each Coordinating Agency. The pre-application shall include the following information: (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; (2) The purpose and intent of establishing a VDZ, including aspects of placemaking and creative economy planning; (3) A map delineating the proposed boundaries of the VDZ and all current Vending Locations; and (4) The partner organizations collaborating on the application.	We are fundamentally opposed to DSLBD, DOH, DDOT,OP or DCRA (or any other DC agency) getting into the vending management business.	See prior comment. These standards for a pre-application are weak. But that's a feature, not a bug, in this Kabuki Dance. This is a paper exercise. No penalties accrue to the BID who proposes, organizes, and fails to deliver on a VDZ. Meanwhile, existing vendors will	Same comments.

	(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 DCRA 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 DCRA Director. The application shall demonstrate how the purpose and intent of the proposed VDZ will be realized and include the following: (1) A description of the proposed innovative vending strategy or expanded management opportunity; (2) A map showing proposed vending and public market locations; (3) An implementation plan that may include, but is not limited to: (A)Financial assistance, equipment assistance, storage assistance, technical advice, or business planning support for existing and potential new vendors; (B)Marketing strategy for placemaking, coordinated design, semi-permanent fixtures, entertainment, or creative economy programming; (C)Partnership opportunities; and (D)Diversity of products or services offered; (4)A plan for coordinating with existing vendors and businesses located within the proposed VDZ; and(5)Any other information that the Director requires.		be eliminated, potential vendors will be turned down, and almost certainly promises will be broken. In theory, this could work. But there needs to be checks and balances.	

~~560.6~~564.6	The DCRA Director and c~~C~~oordinating a~~A~~gencies shall review VDZ applications to identify any issues that the applicant must resolve prior to further processing of the application. Additionally, (a)The DCRA Director shall forward each VDZ application to the Coordinating Agencies for evaluation based upon: (1)Compliance with objectives defined in § ~~560~~564.1; and (2) The ability of the applicant to achieve the proposed innovative vending strategy. (b)Each Coordinating Agency shall review the application concurrently within forty-five (45) days and forward any issues to the DCRA Director. (c)The DCRA 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 (d)The Director may deny an application if the applicant is unable to resolve any issues identified by the Coordinating Agencies.	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?	Same comment. 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"?	
~~560.7~~564.7	Within forty-five (45) days of receiving favorable reports from all coordinating agencies, DCRA shall hold a public hearing to solicit public comments on the VDZ application. The DCRA Director shall publish notice of the hearing in the *District of Columbia Register* 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~~564.8	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~~564.9	The DCRA 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 DCRA Director shall manage the site delegation and distribution of Vendor Locations to vendor site applicants.			
~~560.~~564.10	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~~564.11	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.	Indeed, this heads to Supreme Court territory…
~~560.12~~564.12	The Director shall discontinue a VDZ if: (a)The VDZ vending strategy fails to achieve the purpose and intent of the VDZ; or (b)The Director determines that it is not in the best interest of the public to continue the VDZ, based on such factors as: (1)Poor management of the VDZ; (2)Unsafe conditions resulting from the VDZ; and	Is there a provision to allow a VDZ to amend its plan and change over time?	Is there a time limit on this? The "temporary" moratorium on the issuance of vending licenses was supposed to be for 6 months and we are basically going on 14 years. The VDZ is obviously more stall-ball. How long does a VDZ get to play out the clock?	Same comment.

	(3)Failure to follow or maintain the vending plan contained in the VDZ application.			
~~560.13~~564.13	Before the Director discontinues a VDZ, the DCRA Director shall provide notice to the businesses, organizations, or agencies administering the VDZ of the intent to discontinue the VDZ and the reasons for the discontinuance		Actually, this notice should be made public as well, so that, if it ever should happen that a DCRA Director ever reaches the end of his or her patience, there is a public record of it.	Same comment.
~~560.14~~564.14	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.	Same comment.
~~560.15~~564.15	The DCRA 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 (a)The boundaries of this VDZ may be revised without the need for additional rulemaking; and (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.		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	This remains an odd provision in this regulation. In effect, the Downtown DC BID is getting a Vending Development Zone without going through the procedures laid out above. They just get one, without saying what they are going to do. This little quirk in the regulation needs a tad more scrutiny.

			application process that other VDZ' are required to undertake. We do know that, even though the PSPMC's board voted to dissolve the organization, it's incorporation in DC has been maintained by the Downtown DC BID. Only recently has the Downtown DC BID allowed the PSPMC's incorporation to lapse.	
~~561~~565	**SPECIAL EVENTS**			
~~561.1~~565.1	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~~565.2	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.			In the current regulation, vendors operating within a Special Event Zone (particularly the Inauguration area, but others as well) were automatically grandfathered. We guess that's done, as well.
	SUBCHAPTER F: STREET PHOTOGRAPHY			
~~562~~566	**STREET PHOTOGRAPHY: REQUIREMENTS AND RESTRICTIONS**			With digital cameras, we don't really need to spend much time on this. But this is the DCRA mindset in this regulation….
~~562.1~~566.1	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~~55 66.2	The card required by § ~~562~~566.1 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~~56 6.3	Each finished photograph shall be clear and sharp, and shall show no blur of focus or camera movement which affects the principal subject.			
	SUBCHAPTER G: SOLICITING			
~~563~~567	**SOLICITING: GENERAL PROVISIONS**			
~~563.1~~56 7.1	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~~567.2	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~~567.3	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~~DCMR.	OK.		
~~563.4~~567.4	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~~567.5	Unless issued a valid Class D Vending Business License, n~~N~~o 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.	???		CAN you get a Class D license to sell tickets?
	SUBCHAPTER H: MISCELLANEOUS PROVISIONS			
~~564~~568	**VENDING DEPOTS**			
~~564.1~~568.1	Vending depots servicing vending vehicles or carts with Class A Vending Business Licenses shall provide all of the following services to the vendor in accordance with chapter 37, subtitle A (Food and Food Operations) of Title 25 of the DCMR:	Licensed restaurants ought to have authority to operate food cart out of their licensed kitchens. This regulation does not specifically allow that, and it should.	Same comment	Same comment

	(a)Storage of the vending vehicle or cart; (b)Food preparation, including approved food handling areas, as needed; (c) Proper storage of inventory, such as food, utensils and supplies;; (c)Basic maintenance and cleaning; and including: (1) Hot and cold water; (2) Sloped and properly drained cleaning areas (3) Potable water; and (4) Electrical outlets; and (d)Proper disposal of trash and food waste, such as garbage and liquid.	The definition of "storage" should be defined, as should basic maintenance and cleaning. The current "vending depots" would improve if there were real competition.		
564.256 8.2	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 in accordance with § 3701, subtitle A of Title 25 of the DCMR.			
564.356 8.3	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 § 564568.1.	Good		
564.456 8.4	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 subtitle A of Title 25 of the DCMR and all applicable standards imposed by DOH or other relevant agencies.			
565569	**PENALTIES**			

~~565.1~~569.1	A person violating any provision of this chapter may be issued a civil infraction pursuant to c~~C~~hapter 33 of Title 16 of the ~~District of Columbia Municipal Regulations~~DCMR.			
~~565.2~~569.2	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 *et seq* (2007 Repl. & 2011 Supp.)).		Note that there are four classes of penalties, and history shows that vending violations are generally ticketed at the highest level. These regulations would be much improved if offenses against particular provisions were assigned levels of infraction, from minor to major, according to the DCRA 4-step scale.	Same comment.
~~565.3~~569.3	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.	Same comment
~~566~~570	**SEVERABILITY** I			
~~566.1~~570.1	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.			No question this provision is needed!
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	Same comment

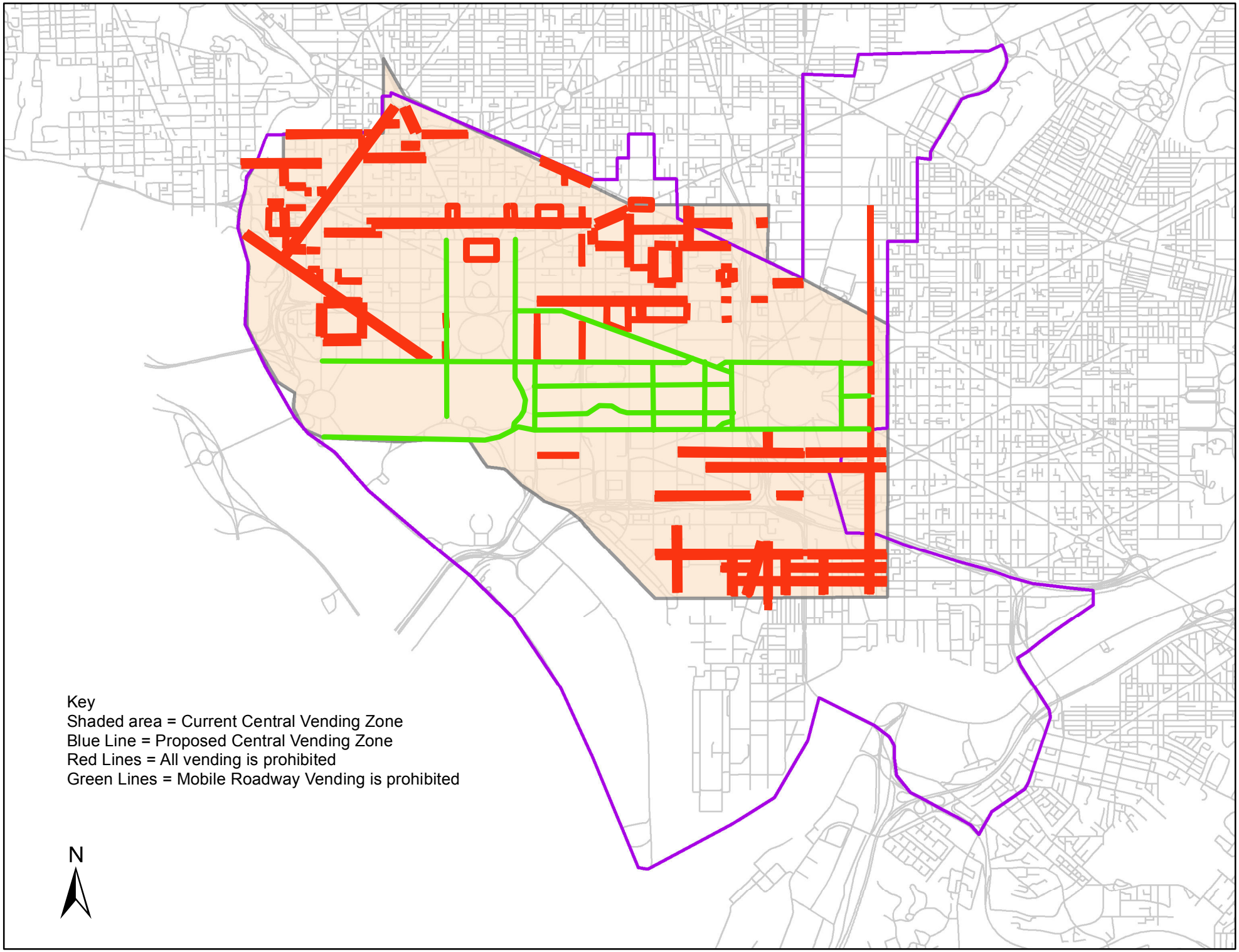
	Central Vending Zone –the area delineated by the boundaries listed in § 522.1.			
	Clean Hands Certification –the certification required by the Clean Hands Before Receiving a License or Permit Act of 1996, effective May 11, 1996 (D.C. Law 11-118; D.C. Official Code §§ 47-2861 *et seq.*).			
	Coordinating 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 maintians 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.			


Key
Shaded area = Current Central Vending Zone
Blue Line = Proposed Central Vending Zone
Red Lines = All vending is prohibited
Green Lines = Mobile Roadway Vending is prohibited
N

November 13, 2012

I am Drew Wende the owner and operator of the food truck Dorothy Moons Gourmet Burgers.

I'll get right to the point. If these new regs are passed it will devastate not only my business but the nearly 120+ food truck businesses around the city. I employ 3 people not including myself. These regs will easily take more than 250 jobs away from DMV citizens in a down economy. I use DC bookkeepers and mechanics as well as local produce for the business. And not to mention my food truck has made It possible to entertain the idea of a brick and mortar location for Dorothy Moon.

Drew Wende
Dorothy Moons Gourmet Burgers

November 13, 2012

I've worked at 21st and M since the late 1980s. The availability of food trucks is one of the best improvements in the quality of work life since I arrived. DC government should be encouraging the expansion of their availability rather than putting in place rules that limit where they can locate and their ability to thrive.

Thanks,

Doug Wissoker

November 13, 2012

I'm concerned that there's a tendency to allow the regulatory process to become a vehicle for anti-competitive behavior and rent seeking. The goal of a regulatory framework should be to encourage as much consumer choice as possible. Restrictions should be aimed at bona fide public safety concerns, not the desire of incumbent business owners to protect their income streams.

Yours,

Matthew Yglesias
Washington, DC 20001

November 13, 2012

As the owners of Curbside Cupcakes, employers, and long-time DC residents, we write to voice our grave concerns about the latest version of food truck regulations released by the Gray administration.

We have put our heart and soul into growing our business. When we opened Curbside Cupcakes in 2009, there were only a few food trucks serving the District. Over the past 3 years, our business has grown, and the food truck phenomenon in DC has also grown. We currently operate 3 trucks and a kiosk at Union Market. We have 8 employees and numerous local vendors that we support with our business.

We have serious concerns about the proposal to grant new, sweeping powers to unelected Department of Transportation officials to decide where food trucks can and cannot serve customers by establishing Mobile Vending Zones that will limit our ability to serve in the city's most popular vending areas.

The new regs propose to restrict food trucks where there are fewer than 10 feet of "unobstructed" sidewalk -- without clearly defining what an "obstruction" is, thereby threatening to limit food trucks in popular parts of downtown.

Initially we were encouraged by some of the improvements in this latest version of the regulations, such as the elimination of the ice cream truck rule. But after closer investigation, we realized that other changes simply don't work. The administration of the Mobile Vending Zones is entirely unclear. In addition, the sidewalk restrictions would essentially ban us from operating our business in our most popular locations. These regulations give the illusion of progress while actually eliminating our ability to compete for customers where folks have come to enjoy and expect food truck options.

The mobile component of our business is critical. Being able to move about the city from spot to spot is at the heart of being a mobile vendor. We choose our locations based on where customers ask us to go. As a mobile business, if you eliminate 80% of the places where we currently vend, you are essentially shutting us down. We suffer, our employees suffer, and the customers that deserve to be able to choose where they spend their money suffer.

Please re-draft the proposed regulations which in effect systematically eliminate the entrepreneurial small businesses that have come to be a very popular part of the dining options here in Washington DC.

Sincerely,

Sam & Kristi Whitfield