

**Comments on Proposed Rulemaking**  
**Chapter 5 of Title 24**  
**District of Columbia Municipal Regulations**  
**Submitted by the Golden Triangle Business Improvement**  
**District**  
**July 22, 2010**

**1. Amend Section 502.1**, which currently states: “No person shall vend any product, service, merchandise, or food from public space in the District of Columbia without obtaining and maintaining a valid . . . (b) Vending Site Permit assigned pursuant to Section 508, unless the vendor is a Mobile Roadway Vendor pursuant to Section 556.”

**Comment: Subsection (b) should be deleted because it contradicts the statute.**

The statute requires that vending take place only in specific designated locations, and it requires that a permit be obtained by all vendors wishing to vend from the public space. Under the Vending Regulation Act of 2009, “a person shall not vend from a sidewalk, roadway, or other public space unless the person holds . . . 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.” (Note the use of the word, “specific.”) The statute also states that “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.” The statute does not exempt mobile roadway vendors.

**2. Amend Section 508.5**, which currently states, “In addition to the authority in Section 520.0, the Director, the DDOT Director, **and** (*emphasis added*) MPD may eliminate a Vending location for public safety **or** (*emphasis added*) transportation requirements, construction requirements, or Special Events operations.”

**Comment: Change the first “and” to “or”**

Changing the “and” to “or” would make the first part of the sentence consistent with the second part of the sentence. The first part of the sentence suggests that approval of all three agencies is required to eliminate a vending location. The second half of the sentence indicates that any one of the reasons could trigger elimination of a site. To require consensus of all three agencies in this case adds unnecessary process requirements.

### **3. Amend Section 520 VENDING LOCATIONS: GENERAL**

**Comment: Add a subsection requiring the DDOT Director to provide an opportunity for public comment before designating vending locations.**

To assign public space to private use (vending) without public input is bad policy. At a minimum, there should be ANC notice, an opportunity for the ANC and the public to respond, and a public comment period before space is designated.

**4. Amend Section 520.1, which states,** “The DDOT Director shall designate locations on streets, sidewalks, and other public spaces where vending **shall** (emphasis added) be permitted.”

**Comment: Change the second “shall” to “may”**

The city’s GIS database does not list all the assets already on the street nor does it list pending requests for sidewalk cafes, valet parking, and other uses. Unless DDOT staff will visually inspect every potential vending location, it is likely that vending spaces will be designated incorrectly. The use of “may” allows discretion in the event of such a mistake. Also, it may be that there are no vendors interested in some specific locations, but there are other potential uses for the space. For example, a restaurant may be interested in opening a sidewalk café in front of their restaurant. “May” would allow the restaurant to continue application, avoiding loss of revenue to the city and undue infringement on the restaurant’s ability to conduct trade.

**Comment: Add a new section 520.4 which states, “The DDOT Director shall re-evaluate a vending location assigned to a grandfathered vendor upon termination of the grandfathered vendor’s license and site permit to ensure that the location is compliant with the provisions of this subchapter.”**

Some of the vending locations assigned to “grandfathered vendors” under the statute were not in compliance with regulations when they were assigned. The statute says, “A vending location identified in subparagraph (A) of this paragraph shall remain assigned to the existing, licensed vendor; provided, that the vendor’s license status remains in effect and in good standing.” It also indicates that “a vendor shall not acquire a property interest in the vending site permit.” So, after the vendor gives up right to the space, it is

reasonable for the space to be reviewed by DDOT to ensure its compliance with before assigning it to another vendor.

**5. Amend Section 528.1, which states,** “The DDOT Director may designate additional Roadway Vending Locations to those authorized in Section 527.1; provided, that no additional Roadway Vending Location shall be designated . . .”

**Comment:** Add “within sixty feet of a business with a fixed address that sells the same type of food.”

**6. Amend Section 556.8, which states,** “No Mobile Roadway Vending Vehicle subject to this section shall be parked within sixty feet (60 ft) of a business with a fixed address that sells the same type of food.”

**Comment:** Define “same type of food.”

**Comment:** Add a new subsection that clearly indicates which agency determines whether the “same type of food” is being served and establish guidelines for making the determination.

**Comment:** Add a process which notifies the ANC, allows the ANC to comment, and allows the general public to comment before locations are designated.

**7. Amend Section 560 Vending Development Zones**

**Comment:** Add a new subsection 560.13 which states, “Unless there is a clear and present danger, the Director shall provide 90 days notice to the VDZ entity of the District’s intent to discontinue the VDZ and state the reason for the discontinuation. The VDZ shall be provided an opportunity to cure the defects identified in the Director’s notice.”

The process for creating a VDZ requires a substantial amount of resources. This section is written in such a way as to discourage well intentioned groups from expending the resources necessary to create a VDZ.