

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs (DCRA), pursuant to the authority under Section 18(e) of Regulation 74-39, enacted December 13, 1974, as amended by D.C. Law 2-82, effective June 30, 1978, Reorganization Plan 1 of 1986, effective September 7, 1987, the Vending Regulation Temporary Act of 2008, effective June 5, 2008, D.C. Law 17-172, 55 DCR 7258, and Mayor’s Order 2008-66, effective April 23, 2008, hereby gives notice of intent to adopt the following amendments to Chapter 5 of Title 24 of the District of Columbia Municipal Regulations in not less than thirty (30) days after the date of publication of this notice in the D.C. Register.

The proposed regulations amend Chapter 5 of Title 24 of the District of Columbia Municipal Regulations to define the vending-related responsibilities of certain District agencies and to revise the vending regulations in order to achieve the safe, efficient, and effective management of vending throughout the District of Columbia. The proposed regulations include regulations governing vending licensure, vendor operations, the designation of sidewalk and roadway vending locations, public markets, vending development zones, publishers’ boxes, and street photography. In addition, the proposed regulations include regulations governing solicitation from public space.

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SUBCHAPTER A: GENERAL PROVISIONS

500 **PURPOSE**

It is the purpose of the Mayor in the adoption of this Chapter to provide clear 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. Nothing in this Chapter is intended to interfere with the exercise of rights granted by the First Amendment Assemblies Act of 2004, effective April 12, 2005 (D.C. Law 15-352; D.C. Official Code § 5-331.01 et seq.).

501 **AGENCY RESPONSIBILITIES**

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

- (1) Coordinating all vending activities in the District of Columbia;
- (2) Reviewing applications for, and issuing, Vending Business Licenses to vendors in the District;
- (3) Distributing Vending Site Permits for Vending Locations authorized by the DDOT Director;
- (4) Enforcing the vending regulations set forth in this chapter, including the requirement that vendors vend only from their assigned Vending Locations; except, the Director shall not be responsible for enforcing the application of the Food Code to vendors.
- (5) Appointing a Vending Coordinator who shall be responsible for:

- (A) Answering questions from citizens, vendors, and other business persons regarding the vending regulations set forth in this chapter; and
 - (B) Acting as Department of Consumer and Regulatory Affairs' (DCRA) main point of contact in carrying out DCRA's responsibilities to coordinate all vending activities in the District; and
 - (C) Coordinating enforcement of the vending regulations set forth in this chapter.
- (6) Creating and maintaining an up-to-date database of each vendor who has been issued a Vending Business License including information regarding whether the vendor has been assigned a Vending Location and, if so, the specific Vending Location assigned to the vendor;
 - (7) Designating the categories of food, 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 food, merchandise, or services that may be vended at a specific Vending Location;
 - (8) Establishing the authorized hours of operation for vendors and, where authored under this chapter, establishing specific hours of operation at a specific Vending Location;
 - (9) Establishing standards regarding the design, maintenance, and operations of vendors and vending equipment.

501.2 The DDOT Director shall be responsible for:

- (1) Designating legally permissible Vending Locations, as set forth in § 520 et seq.;
- (2) Creating and maintaining up-to-date databases and maps of all Vending Locations; and
- (3) Assisting with the enforcement of the requirement that vendors vend only from their authorized Vending Locations.

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

- (1) Enforcing the laws and regulations prohibiting unlicensed vending activity;

- (2) Enforcing the criminal laws, including laws regarding assault and intimidation, in connection with vending; and
- (3) Assisting with the enforcement of the regulations set forth in this chapter.

501.4 The DOH Director shall be responsible for:

- (1) Reviewing and approving or denying applications for licenses or other certificates of authority required under the Food Code for the vending of food from public space;
- (2) Regularly inspecting food vending operations;
- (3) Enforcing the application of the Food Code to vendors.

501.5 The Fire and Emergency Medical Services Department shall be responsible for processing permits for the use of propane gas in food vending operations and making fire safety-related inspections of vending establishments.

**SUBCHAPTER B: VENDING LICENSES, PERMITS,
AND OTHER AUTHORIZATIONS**

502 **GENERAL LICENSURE REQUIREMENTS**

502.1 No person shall vend any service, merchandise, or food from public space in the District of Columbia without obtaining and holding 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 et seq., unless the vendor is a Mobile Roadway Vendor;
- (c) Health Inspection Certificate issued by the DOH Director, if the person vends food;
- (d) Food Protection Manager Certificate and a DOH-issued Certified Food Protection Manager Identification Card, if the person vends food (or employing an employee who holds a valid Food Protection Manager Certificate and a DOH-issued Certified Food Protection Manager identification card); and
- (e) Permit from the Fire and Emergency Medical Services Department, if the vendor uses propane gas.

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 or permit.

502.3 No Vending Business License shall be required for the following:

- (a) Employees of licensed vendors;
- (b) Persons selling agricultural goods or farm products of their own raising at a public market licensed or permitted by the Mayor;
- (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) Vending authorized by the First Amendment Assemblies Act of 2004, effective April 12, 2005 (D.C. Law 15-352; D.C. Official Code § 5-331.01 *et seq.*); and
- (e) Persons authorized to sell merchandise, food, or services at a Special Event licensed or permitted by the Mayor.

502.4 No Vending Site Permit shall be required for the following:

- (a) Persons selling agricultural goods or farm products of their own raising at a public market licensed or permitted by the Mayor;
- (b) Persons authorized to sell merchandise, food, or services at a Special Event licensed or permitted by the Mayor.

503 VENDING BUSINESS LICENSE: CLASSES OF LICENSES

503.1 The classes of Vending Business Licenses shall be as follows:

- (a) **CLASS A LICENSES** – A Class A Vending Business License shall authorize a person to vend food, other than food prohibited under § 503.3, from public space. The authorization to vend food under a Class A license shall be subject to the vendor holding valid 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 under § 503.3, from public space. For the purposes of this provision, 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, food, merchandise, and/or services.
- (d) CLASS D LICENSES – A Class D Vending Business License shall authorize a person to vend services, including photography and shoe shining, from public space.

503.2 No person shall vend except in conformity with the privileges granted by the particular class of Vending Business License issued to the person.

503.3 The following categories of merchandise and food shall not be sold by vendors:

- (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) Furniture;
- (g) Alcoholic beverages or other alcoholic items for consumption;
- (h) 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.);
- (i) A controlled substance as defined by the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-901.01 et seq.);
- (j) Drug paraphernalia, as such term is defined in section 2(3) of the Drug Paraphernalia Act of 1982, effective September 17, 1982 (D.C. Law 4-419; D.C. Official Code § 48-1101(3));
- (k) Any offensive article or merchandise, including pornographic and obscene materials;

- (l) Counterfeit merchandise or adulterated or misbranded food; and
- (m) Plants, other than non-controlled and non-hazardous cut flowers, dried flowers, and potted plants.

504 VENDING BUSINESS LICENSE: APPLICATION & FEES

504.1 A person seeking issuance of a Vending Business License shall meet all licensing criteria applicable to a Basic Business License, shall file an application with the Department of Consumer and Regulatory Affairs, and shall pay the fees prescribed.

504.2 The application for a Vending Business License shall be made on a form prescribed by DCRA and shall set forth or include the following information:

- (a) The name and address of the owner of the vending business;
- (b) The class of Vending Business License applied for;
- (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;
- (e) An indication of the Vending Locations the applicant wishes to occupy in the order of preference;
- (f) A clean hands certification as required pursuant to D.C. Official Code § 47-2861 *et seq.*;
- (g) A copy of the applicant's certificate of registration designating the applicant's sales and use tax number;
- (h) If the applicant is not a resident of the District of Columbia, the name and address of a registered agent upon whom service of process and other legal notices may be delivered or 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, a Health Inspection Certificate issued by the DOH Director (application for which shall be made on a form prescribed by the DOH Director); and

(j) Any additional information required by the Director or, for Class A licenses, the DOH Director.

504.3 If a person's Vending Business License has been revoked, or if a person's application for the issuance or renewal of a Vending Business License has been denied under § 507, or if a person is arrested or ticketed or receives a notice of infraction for vending without a license, the person shall not apply or reapply for a Vending Business License, and 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, whichever is applicable.

504.4 No person shall be eligible to be issued a Vending Business License unless the person is at least eighteen (18) years of age.

504.5 The fees for Vending Business Licenses are as follows:

Vendor Class A (Food)- \$338

Vendor Class B (Non-Food)- \$276

Vendor Class C (Market Manager)- \$400

Vendor Class D (Street Photography & Boot Black)- \$212

Nationals Ballpark Vending Fee- \$123 per month

505 **VENDING BUSINESS LICENSE: ISSUANCE**

505.1 Not later than forty-five (45) days after filing a completed application for a Vending Business License, the applicant shall be notified by the Director of the decision on the issuance or denial of the license.

505.2 If the application is approved, the Director shall issue a Vending Business License to the applicant; provided, if the applicant has applied for a Class A Vending Business License, the Director shall not issue the Vending Business License to the applicant until the applicant has received all necessary licenses, permits, and authorizations from the Department of Health.

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

505.4 All Vending Business Licenses shall be valid for two (2) years, unless a shorter time period is designated in writing by the Director or the license is earlier suspended, revoked, or surrendered.

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

505.6 The Director may return an incomplete application to an applicant without either approving or denying the application.

505.7 A Vending Business License will not be issued until a specific vending site location 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 Application for renewal of a Vending Business License shall be made to DCRA on a form prescribed by DCRA and with such information and documents that may be required by DCRA not later than forty-five (45) days before the then-current license expires.

506.3 No application to renew a Vending Business License shall be approved if the applicant does not hold valid licenses, permits, and/or registrations as required of 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.

506.5 Upon expiration of a person's Vending Business License, the Director may immediately seize the Vending Business License, the Vending Site Permit, and Health Inspection Certificate of the person.

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, after notice, for any of the following:

- (1) Fraud, misrepresentation, or false statements contained in the application for the license;
- (2) Fraud, misrepresentation, or false statements made in connection with the selling of any service, merchandise, or food;
- (3) Violation of any law or regulation of the District of Columbia that was committed in connection with the operation of the vending business, including, but not limited to, the possession or sale of counterfeit merchandise or the offering for sale of illegal goods, substances, or services;

- (4) The vendor is vending at a location other than the vendor's assigned Vending Location;
- (5) Violations of the clean hands requirements set forth at D.C. Official Code § 47-2861 et seq.;
- (6) Fraud committed against the District of Columbia government;
- (7) The vendor is found guilty of two (2) or more violations, during any twelve (12) month period, of §§ 532 through 542, §§ 544 through 558, or § 562 of this chapter; or
- (8) The vendor is found guilty of violating § 543 of this chapter, or the parking restrictions established by the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.01 et seq.) ("Traffic Act") or the regulations promulgated under the Traffic Act.

507.2 The Director may summarily suspend a Vending Business License, without the need for prior notice or opportunity to be heard, for:

- (1) The possession, sale, or offering for sale of counterfeit merchandise; or
- (2) The sale of adulterated or misbranded food, as such term is defined in 25 DCMR § 9901, when a determination is made by the DOH Director that the food is adulterated or misbranded;
- (3) Failure to provide all required certificates of authority upon demand by an authorized D.C. Government Official;
- (3) An activity or condition that constitutes a threat to the public health or safety, including the health or safety of the vendor.

507.3 Before a person's Vending Business License is revoked or suspended under this section (except through summary suspension), the person shall be provided notice of the Director's intent to revoke or suspend the license and the person shall be entitled to the opportunity for a hearing before the Office of Administrative Hearings.

507.4 If a person's Vending Business License is summarily suspended under this section, 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 and the Director shall provide the person notice in writing of the person's right to appeal.

507.5 A notice issued by the Director under this section shall be mailed by certified mail. If the notice establishes a specific date for a hearing, the notice shall be mailed by certified mail at least ten (10) 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.

507.7 A vendor shall surrender his or her Vending Business License and Vending Site Permit promptly to the Mayor upon 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 Director shall provide notice of the revocation or suspension to DDOT, MPD, DOH, and the Office of Tax and Revenue.

508 VENDING SITE PERMIT: GENERAL REQUIREMENTS & FEE

508.1 No person may vend from public space in the District of Columbia without a Vending Site Permit issued by the Director pursuant to this chapter, except Class C Public Markets may vend from public space only upon the issuance of a Public Space Permit issued by the Department of Transportation.

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

508.3 The fee for a Vending Site Permit shall be (\$587) per annum.

508.4 Vendors may vend only at their assigned Vending Location as reflected on the vendor's specific Vending Site Permit.

508.5 The Director and MPD reserve the right to relocate vendors subject to public safety requirements, construction requirements or special event operations.

508.5 The Director may revoke a Vending Site Permit issued pursuant to this chapter at any time and require the previously permitted vendor to vacate his or her Vending Location.

509 VENDING SITE PERMIT: APPLICATION

509.1 A person shall submit an application for the issuance of a Vending Site Permit to the Director with the person's application for an initial Vending Business License. A licensed vendor may submit an application for the issuance of a Vending Site Permit to the Director separately from an application for a Vending Business License if the vendor is seeking to change his or her Vending Location.

509.2 The application for the issuance of 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.

510 **VENDING SITE PERMIT: ISSUANCE**

510.1 A Vending Site Permit shall be issued by the Director after the submission of a completed application for a Vending Site Permit if:

- (a) The applicant holds a valid Vending Business License or will be issued a Vending Business License by the Director at the same time as the Vending Site Permit is issued;
- (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 of such selection authorized under this chapter; provided that vendors who received vending site permits for a vending 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 1616-252; 54 DCR 631), who are vending in a location that is in compliance with this chapter, shall have right of preference for the issuance of a vending site permit for the same vending location;
- (d) The merchandise, food, or services are authorized to be vended at the available Vending Location;
- (e) The applicant provides a clean hands certification as required pursuant to D.C. Official Code § 47-2861 *et seq.*; and
- (f) The applicant has paid the appropriate fees.

511 **VENDING SITE PERMIT: EXPIRATION AND RENEWAL**

511.1 A Vending Site Permit shall be issued for a term of two (2) years unless a shorter time period is designated in writing the Director or the Vending Site Permit is earlier suspended, revoked, or surrendered.

511.2 A vendor shall apply for renewal of the vendor's Vending Site Permit at least forty-five (45) days prior to the expiration date on the permit.

511.3 Upon expiration of a person's Vending Site Permit, the Director may immediately seize the person's Vending Site Permit and Vending Business License.

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

512.1 A Vending Site Permit may be summarily revoked or suspended at any time, without prior notice or an opportunity to be heard, at the discretion of the Director 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, as this chapter and such laws and regulations may be amended from time to time;
- (b) The Vending Location associated with the Vending Site Permit has been eliminated by the DDOT Director;
- (c) The Vending Location, or the vending-related activities at the Vending Location, constitute a threat to public safety; or
- (d) The vendor is conducting business in a manner that is in violation of the terms or conditions of the Vending Site Permit.

512.2 Upon suspension or revocation of a person's Vending Site Permit under this section, the Director may immediately seize the Vending Site Permit and Vending Business License of the person.

512.3 If a person's Vending Site Permit is summarily suspended or revoked under this section, the person may appeal the summary suspension or revocation to the Office of Administrative Hearings and the Director shall provide the person notice in writing of the person's right to appeal.

512.4 A notice issued by the Director under this section shall be mailed by certified mail. If the notice establishes a specific date for a hearing, the notice shall be mailed by certified mail at least ten (10) days prior to the date of the hearing.

512.5 If a person's Vending Business License is suspended or revoked, the person's Vending Site Permit shall also be suspended or revoked.

512.6 A vendor shall surrender his or her Vending Business License and Vending Site Permit promptly to the Mayor upon revocation or suspension of the person's Vending Site Permit.

513 HEALTH INSPECTION CERTIFICATE: GENERAL

- 513.1 No person shall vend food in the District unless a valid Health Inspection Certificate has been issued by the Department of Health 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 before the person receives a Health Inspection Certificate from the DOH Director.

514 HEALTH INSPECTION CERTIFICATE: APPLICATION

- 514.1 A person shall apply for a Health Inspection Certificate with such information and documents required, and pursuant to such procedures established, by the DOH Director pursuant to applicable law and regulations. The DOH Director may require that a vendor submit to the Mayor the address of the supplier of all prepared foods that the person intends to vend.

515 HEALTH INSPECTION CERTIFICATE: ISSUANCE

- 515.1 The DOH Director shall review and approve or disapprove an application for the issuance of a Health Inspection Certificate pursuant to procedures and standards established by the DOH Director.
- 515.2 A Health Inspection Certificate shall not be granted until after a thorough inspection of the vending vehicle, cart, or stand; all equipment and utensils used in the food vending operation; an inspection of the storage facilities for the vehicle, cart, or stand, the equipment and utensils, and the food supplies; a review of the preparation and holding procedures for the food; and approval of any plans for health-related compliance.
- 515.3 The DOH Director shall include on the Health Inspection Certificate the vehicle tag number of the vending vehicle or cart.

516 HEALTH INSPECTION CERTIFICATE: SUSPENSION

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 25 DCMR § 4409.

517 FOOD PROTECTION MANAGER CERTIFICATE

No person shall operate a vending business unless the person, or an individual employed by the person, holds a valid Food Protection Manager Certificate and a DOH-issued Certified Food Protection Manager Identification Card.

518 PROPANE PERMIT

No person shall operate a vending vehicle, cart, or stand that uses propane without meeting the following standards:

- (a) The vendor shall hold a valid propane permit from the District of Columbia Fire and Emergency Medical Services Department; and
- (b) A vending vehicle, cart, or stand that uses propane cylinders in excess of sixty (60) pounds shall have direct approval from the Fire Marshall.

519 HOOD SUPPRESSION SYSTEM APPROVAL

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, in a manner inspected and approved by the District of Columbia Fire and Emergency Medical Services Department.

SUBCHAPTER C: VENDING LOCATIONS

PART 1: GENERAL

520 VENDING LOCATIONS: GENERAL

520.1 The DDOT Director shall designate locations on streets, sidewalks, and other public spaces where vending shall be permitted (“Vending Locations”). The Director may issue a Vending Site Permit to a vendor to occupy a Vending Location.

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

- (a) The DDOT Director determines that the designated Vending Location is not in compliance with law or regulations, as such laws and regulations may be amended from time to time;
- (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.

520.3 A complete, up-to-date map and database of designated Vending Locations shall be created and maintained by the DDOT Director and shall be published on the public website of DCRA.

PART 2: SIDEWALK VENDING LOCATIONS

521 **VENDING LOCATIONS: SIDEWALK VENDING**

521.1 The DDOT Director shall designate sidewalk Vending Locations in accordance with the following standards:

- (a) Sidewalk Locations shall only be located along streets within the Central Vending District, Neighborhood Vending Districts, or Old Georgetown Vending District.
- (b) No sidewalk Vending Location shall be designated on a restricted street designated in § 522.3.
- (c) No more than three (3) sidewalk Vending Locations shall be designated on any side of any block.
- (d) No sidewalk Vending Location shall be designated in front of a predominately residential building outside the Central Vending District.
- (e) No sidewalk Vending Location shall be designated on the median strip of a divided roadway, unless the strip is intended for use as a pedestrian mall or plaza.
- (f) Within the Central Vending District, sidewalk vending shall be prohibited on sidewalks unless a ten foot (10 ft.) clear passageway is maintained, unless the street is specifically exempted in this chapter or the DDOT Director waives this restriction under § 521.3.
- (g) Outside the Central Business District, sidewalk vending shall be prohibited on sidewalks unless a seven foot (7 ft.) clear passageway is maintained, unless the sidewalk is specifically exempted in this chapter or the DDOT Director waives this restriction under § 521.3.
- (h) No sidewalk Vending Location shall be designated along the length of a Metrobus Stop Zone.

- (i) No sidewalk Vending Location shall be designated within twenty feet (20 ft.) of the driveway entrance to a police or fire station or within ten feet (10 ft.) of any other driveway
- (j) No sidewalk Vending Location shall be designated within ten feet (10 ft.) of an alley.
- (k) No sidewalk Vending Location shall be designated within ten feet (10 ft.) of another sidewalk Vending Location.
- (l) No sidewalk Vending Location shall be designated within twenty feet (20 ft.) of the street-level entry to a Metrorail escalator or within ten feet (10 ft.) of the street-level door to a Metrorail elevator.
- (m) No sidewalk Vending Location shall be designated within a marked loading zone, entrance zone, or parking space designated for diplomatic parking.
- (n) No sidewalk Vending Location shall be designated in a location that is on or that impedes free access to service or ventilation grates or covers.
- (o) No sidewalk Vending Location shall be designated within one hundred feet (100 ft.) of the entrance to a courthouse, or within such greater distance as may be designated by the DDOT Director upon the written request of the courthouse administrator.
- (p) No sidewalk Vending Location shall be designated within five feet (5 ft.) of a fire hydrant.
- (q) No sidewalk Vending Location shall be located within one hundred feet (100 ft.) of the main entrance to a building the predominate use of which is for a public or private 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.
- (r) No sidewalk Vending Location shall be designated within twelve feet (12 ft.) from any crosswalk.
- (s) No sidewalk Vending Location shall be designated within geographical areas under the jurisdiction of the United States Park Police, the Capitol Police, or any other agency of the United States government.

521.2 The DDOT Director may waive the minimum passageway requirement of § 521.1(f) or § 521.1(g) on a street where it is determined that a reduction in the minimum passageway will not have an adverse impact on, among other things, pedestrian circulation and public safety.

521.3 The passageway required by §§ 521.1(f) and 521.1(g) 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 following boundaries shall constitute the Central Vending Zone:

- (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 and 10th Streets, NW;
- (c) North along the center or 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 7th Street, NW;
- (g) South along the east curb of 7th Street, NW, to the north curb of L Street, NW;
- (h) East along the north curb of L 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 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 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;
- (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) East 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, Avenue, SE;
- (gg) South along the east curb of Martin Luther King 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 to the north curb of N Street, NW;
- (mm) East along the north curb of N Street, N.W. 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 of Massachusetts Avenue, NW;
- (rr) East along the north curb of Massachusetts Avenue, NW, to the northeast corner of Massachusetts Avenue 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.

However, each vending site listed below shall maintain a seven foot (7 ft.) clear passageway:

- East/West Sides of 19th Street, N.W. between Constitution Avenue and C Street, N.W.
- East/West Sides of 20th Street, N.W. between Constitution Avenue and C Street, N. W.
- East/West Sides of 21st Street, N.W. between Constitution Avenue and C Street, N. W.

522.3 Except for Vending Locations approved as part of a vending development zone under § 559, no sidewalk Vending Locations shall be designated on the following streets in the Central Vending Zone:

NON-VENDING STREETS

Side	Street	Location
East	Side of 2nd St. between E. Capitol St. and M St., SW	
East	Side of 2nd St. between K St., NE and E. Capitol St.	
East	Side of 10th St. between E St. and Pennsylvania Ave., NW	FBI Building
East	Side of 12th St. between Constitution Ave. and Pennsylvania Ave., NW	IRS (southern half of block) and Old Post Office (northern half of block)
East	Side of 12th St. between I and K Sts., NW	
East	Side of 12th St. between New York Ave. and G St., NW	
East	Side of 13th St. between L St. and Massachusetts Ave., NW	
East	Side of 14th St. between Constitution Ave. and D St., NW	John A. Wilson Building, Reagan Building, and Commerce Building
East	Side of 22nd St. between F and G Sts., NW	
East	Side of 24th St. between Pennsylvania Ave. and L St., NW	
East	Side of 24th St. between Virginia Ave. and G St., NW	
East	Side of 25th St. between H and I Sts., NW	
East	Side of 26th St. between I and K Sts., NW	
East/West	Sides of Delaware Ave. between M and H Sts., SW	
East/West	Sides of Half St. between M and I Sts., SE	
East/West	Sides of Half St. between M and I Sts., SW	
East/West	Sides of New Hampshire Ave. NW, between Virginia Ave., NW, and I Street, NW	
East/West	Sides of 1st St. between Independence Ave. and Canal St., SW	
East/West	Sides of 1st St. between M and H Sts., SW	

East/West	Sides of 2nd between M and D Sts., SE	
East/West	Sides of 3rd St. between M and I Sts., SW	
East/West	Sides of 5th St. between H and K Sts., NW	
East/West	Sides of 6th St. between M and G Sts., SW	
East/West	Sides of 8th St. between E St. and Pennsylvania Ave., NW	
East/West	Sides of 9th St. between G St., NW, and H St., NW	
East/West	Sides of 21st St. between C and E Sts., NW	State Department
East/West	Sides of 23rd St. between C and E Sts., NW	State Department
East/West	Sides of 23rd St. between L St. and Washington Circle, NW	
East/West	Sides of 25th St. between I and K Sts., NW	
East/West	Sides of 25th St. between L and M Sts., NW	
East/West	Sides of 6th St. between F and H Sts., NW	Arena
East/West	Sides of 7th St. between F and H Sts., NW	Arena
East/West	Sides of 3rd St. between F and G Sts., NW	
East/West	Sides of 4th St. between 3rd and 4th Sts., NW	
North	Side of D St. between 3rd and 4th Sts., NW	
North	Side of D St. between 5th and 9th Sts., NW	
North	Side of E St. between 1st and 2nd Sts., NW	
North	Side of E St. between 3rd and 4th Sts., NW	
North	Side of F St. between 21st and 22nd Sts., NW	
North	Side of N St. 21st St. and New Hampshire Ave., NW	
North	Side of Pennsylvania Ave. between 9th and 10th Sts., NW	
North	Side of Virginia Ave. between 23rd and 24th St., NW	
North/South	Sides of C St. between South Capitol and 3rd Sts., SE	
North/South	Sides of C St., SW between 6th and South Capitol St.	
North/South	Sides of C St. between 21st and 23rd Sts., NW	
North/South	Sides of Connecticut Ave. between N St. and Dupont Circle, NW	
North/South	Sides of D St. between 4th St., SW and 3rd St., SE	
North/South	Sides of E St. between S. Capitol St. and L'Enfant Plaza Circle, SE	
North/South	Sides of E St. between 2nd and 7th Sts., SW	
North/South	Sides of E St. between 5th and 14th Sts., NW	
North/South	Sides of E St. between 21st and 23rd Sts., NW	

- North/South Sides of F St. between New Jersey Ave., NW and N. Capitol St.
- North/South Sides of G St. between 9th St. and the cul de sac
- North/South Sides of H St. between 6th St. and Massachusetts Ave., NW
- North/South Sides of H St. between New Hampshire Ave. and 24th St., NW
- North/South Sides of I St. between S. Capitol St. and 3rd St., SE
- North/South Sides of I St. between 7th St., SW and S. Capitol St.
- North/South Sides of I St. between 13th and 16th Sts., NW
- North/South Sides of I St. between 26th St. and New Hampshire Ave., NW
- North/South Sides of Jefferson Pl. between 18th and 19th Sts., NW
- North/South Sides of K St. between Half St., SW and 3rd St., SE
- North/South Sides of K St. between Wesley Pl. and Delaware Ave., SW
- North/South Sides of K St. between 25th and 26th Sts., NW
- North/South Sides of L St. between 3rd St., SW and 3rd St., SE
- North/South Sides of L St. between 24th and 25th Sts., NW
- North/South Sides of M St. between 21st St. and Connecticut Ave., NW
- North/South Sides of M St. between 23rd and 28th St., N. W.
- North/South Sides of Massachusetts Ave. between Thomas Circle and 11th St., NW
- North/South Sides of N St. between 18th and Bataan Sts., NW
- North/South Sides of N St. between 21st and 25th Sts., NW
- [Old convention center]
- North/South Sides of Sunderland Pl. between 19th and 20th Sts., NW
- North/South Sides of F St between 6th and 7th Sts., N. W. Verizon Center
- North/South Sides of H St. between 6th and 7th Sts., NW Verizon Center
- North/South Sides of 6th St. between 3rd and 4th Sts., NW
- North/South Sides of F St. between 3rd and 4th Sts., NW
- South Side of C St. between 12th and 14th Sts., SW
- South Side of E St. between 9th and 10th Sts., NW
- South Side of G St. between 7th and 9th Sts., NW

South	Side of G St. between 23rd and 24th Sts., NW
South	Side of H St. between 23rd and 24th Sts., NW
South	Side of K St. between 24th and 25th Sts., NW
West	Sides of 5th St. between D and E Sts., NW
West	Side of 9th St. between E St. and Pennsylvania Ave., NW
West	Side of 17th St. between Constitution Ave. and C St., NW
West	Side of 17th St. between D and E Sts., NW
West	Side of 21st St. between New Hampshire Ave. and N St., NW
West	Side of 23rd St. between Virginia Ave. and G St., NW

523 VENDING LOCATIONS: OLD GEORGETOWN VENDING ZONE

523.1 The following streets within “Old Georgetown”, as defined in § 530.2, shall constitute the Old Georgetown Vending Zone within which the DDOT Director may designate sidewalk Vending Locations; provided, sidewalk Vending locations on these streets shall be allowed only with fifty feet (50 ft.) of the intersections of those streets with Wisconsin Avenue, NW, only on the sidewalks designated below, and only in the direction from Wisconsin Avenue, NW, designated below:

Street	Side	Direction from Wisconsin Ave., NW
P St., NW	Northern sidewalk	East of Wisconsin Ave., NW
P St., NW	Northern sidewalk	West of Wisconsin Ave., NW
O St., NW	Northern sidewalk	West of Wisconsin Ave., NW
O St., NW	Northern sidewalk	East of Wisconsin Ave., NW
Dumbarton St., NW	Northern sidewalk	East of Wisconsin Ave., NW
Dumbarton St., NW	Southern sidewalk	East of Wisconsin Ave., NW
N St., NW	Northern sidewalk	West of Wisconsin Ave., NW
N St., NW	Southern sidewalk	East of Wisconsin Ave., NW
N St., NW	Southern sidewalk	West of Wisconsin Ave., NW
Prospect St., NW	Northern sidewalk	West of Wisconsin Ave., NW
Prospect St., NW	Southern sidewalk	West of Wisconsin Ave., NW

523.2 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 § 523.1:

- (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, and Whitehaven Parkway to 35th Street, south along

the middle of 35th Street to Reservoir Road, west along the middle of Reservoir Road to Glover Archibold Park;

(c) Bounded on the west by Glover Archibold Park from Reservoir Road to the Potomac River; and

(c) Bounded on the south by the Potomac River and the Rock Creek and Potomac Parkway.

524

VENDING LOCATIONS: NEIGHBORHOOD VENDING ZONES

524.1

The Neighborhood Vending Zone shall consist of the following streets:

Capitol Hill Area			
Street	From	To	Zone
H Street, NE	3rd Street, NE	15th Street, NE	C-2-A, C-2-B, and C-3-A
Pennsylvania Avenue, SE	2nd Street, SE	Potomac Avenue, SE	C-2-A and C-2-B
8th Street, SE	D Street, SE	I Street, SE	C-2-A
15th Street, NE	A Street, NE	East Capitol Street	C-2-A
East Capitol Street	19th Street, SE	22nd Street, SE	GOV
Restriction:	South side of East Capitol Street only		
Benning Road, NE	Bladensburg Road, NE	Oklahoma Avenue, NE	C-2-A and C-2-B
Far Northeast and Southeast Area			
Street	From	To	Zone
Benning Road, NE/SE	44th Street, SE	A Street, SE	C-3-A
Branch Avenue, SE	Q Street, NE	S Street, SE	C-1
Central Avenue	56th Street, SE	Southern Avenue, SE	C-1
Dix Street, NE	60th Street, NE	Eastern Avenue, NE	C-2-A
Minnesota Avenue, NE	Blaine Street, NE	Grant Street, NE	C-3-A
Nannie Helen Burroughs Street, NE	51st Street, NE	Division Avenue, NE	C-1
Nannie Helen Burroughs Avenue	Minnesota Avenue, NE	47th Street, NE	C-1 and C-M-1
Pennsylvania Avenue, SE	Alabama Avenue, SE	Fort Davis Street, SE	C-2-A
Pennsylvania Avenue, SE	Fairlawn Avenue, SE	27th Street, SE	C-2-A
Far Southeast and Southwest Area			
Street	From	To	Zone
Martin Luther King Avenue, NE	Good Hope Road, SE	Morris Road, SE	C-3-A
Good Hope Road, SE	Martin Luther King Avenue, SE	13th Street, SE	C-3-A
Naylor Road, SE	Alabama Avenue, SE	Denver Street, SE	C-3-A
Naylor Road, SE	30th Street, SE	Southern Avenue, SE	C-1

Alabama Avenue, SE	15th Street, SE	Stanton Road, SE	C-1 and C-2-B
Livingston Road, SE	3rd Street, SE	South Capitol Street	C-3-A
Martin Luther King Avenue, SE	4th Street, SE	Milwaukee Place, SE	C-2-A
Martin Luther King Avenue, SE	Upsal Street, SE	Halley Place, SE	C-1
South Capitol Street	Martin Luther King Avenue, SE	Chesapeake Street, SE	C-2-A
Savannah Street, SE	22nd Street, SE	23rd Street, SE	C-1
Wheeler Road, SE	Wahler Place, SE	Barnaby Terrace, SE	C-1

Mid-City Area

Street	From	To	Zone
Mount Pleasant Street, NW	Irving Street, NW	Park Road, NW	C-2-A
7th Street, NW	Florida Avenue, NW	T Street, NW	C-2-B
14th Street, NW	Columbia Road, NW	Meridian Plan, NW	C-2-A and C-3-A
6th Street, NW	Fairmont Street, NW	College Street, NW	R-5-B
Restriction:	100 feet south of the Fairmont St. curb - one (1) vendor 150 feet south of the Fairmont St. curb - two (2) vendors 175 feet south of the Fairmont St. curb - one (1) vendor		
14th Street, NW	S Street, NW	Florida Avenue, NW	CR and C-3-A
Columbia Road, NW	Belmont Road, NW	Mozart Place, NW	C-2-B
Georgia Avenue	Euclid Street, NW	Rock Creek Church Road, NW	C-2-A
Rhode Island Avenue, NW	T Street, NW	1st Street, NW	C-2-A
Florida Avenue, NW	Rhode Island Avenue, NW	North Capitol Street, NW	C-2-A
Rhode Island Avenue, NE	4th Street, NE	6th Street, NE	C-2-A

Near Northwest Area

Street	From	To	Zone
Florida Avenue, NW	Rhode Island Avenue, NW	North Capitol Street, NW	C-2-A
P Street, NW	23rd Street, NW	Dupont Circle, NW	C-2-A, C-2-C, C-2-B
20th Street, NW	R Street, NW	S Street, NW	C-3-B
Restriction:	West side of 20th Street, NW, only		
17th Street, NW	Q Street, NW	Riggs Place, NW	C-2-A
14th Street, NW	N Street, NW	U Street, NW	C-3-A
9th Street, NW	M Street, NW	P Street, NW	C-2-A
7th Street, NW	M Street, NW	N Street, NW	C-2-B
7th Street, NW	O Street, NW	Q Street, NW	C-2-A

Rock Creek East Area

Street	From	To	Zone
Georgia Avenue	Rock Creek Church Road, NW	Varnum Street, NW	C-2-A and C-3-A
Blair Road	Whittier Street, NW	5th Street, NW	C-M-1 and C-2-A
Georgia Avenue	Fern Place, NW	Eastern Avenue, NW	C-2-A

Georgia Avenue, NW	Gallatin Street, NW	Van Buren Street, NW	C-2-A and C-3-A
Riggs Road, NE	South Dakota Avenue, NE	Chillum Place, NE	C-2-A
Upshur Street, NW	3rd Street, NW	Rock Creek Church Road, NW	C-1
14th Street, NW	Buchanan Street, NW	Decatur Street, NW	C-1 and C-M-1

Rock Creek West Area

Street	From	To	Zone
Connecticut Avenue, NW	Fessenden Street, NW	Nebraska Avenue, NW	C-1
Connecticut Avenue, NW	Livingston Street, NW	Oliver Street, NW	C-1
Connecticut Avenue, NW	Macomb Street, NW	Porter Street, NW	C-2-A
Connecticut Avenue, NW	Van Ness Street, NW	Albemarle Street, NW	C-3-A
Connecticut Avenue, NW	Calvert Street, NW	26th Street, NW	C-2-A and C-2-B
Connecticut Avenue, NW	Hawthorne Street, NW	Jewett Street, NW	C-2-A
MacArthur Boulevard, NW	Cathedral Avenue, NW	Cathedral Avenue, NW	C-1
MacArthur Boulevard, NW	Arizona Avenue, NW	Dana Place, NW	C-2-A
MacArthur Boulevard, NW	V Street, NW	U Street, NW	C-2-A
Massachusetts Avenue, NW	48th Street, NW	49th Street, NW	C-2-A
New Mexico Avenue, NW	Embassy Park Drive, NW	Lowell Street, NW	C-1
Ordway Street, NW	Alley east of Connecticut Avenue, NW	Alley west of Connecticut Avenue, NW	C-2-A
Restriction:	South side of Ordway Street, NW, only)		
Wisconsin Avenue, NW	Albemarle Street, NW	Brandywine Street, NW	
Wisconsin Avenue, NW	Harrison Street, NW	Western Avenue, NW	C-2-A, C-2-B, and C-3-A
Wisconsin Avenue, NW	Macomb Street, NW	Idaho Avenue, NW	
Restriction:	West side of Wisconsin Avenue, NW, only		
Wisconsin Avenue, NW	Rodman Street, NW	40th Street, NW	C-1, C-2-A, and C-2-B
24th Street, NW	Calvert Street, NW	Connecticut Avenue, NW	C-2-A

Upper Northeast Area

Street	From	To	Zone
Allison Street, NE	Michigan Avenue, NE	Eastern Avenue, NE	C-1
Bladensburg Road, NE	L Street, NE	Mount Olivet Road, NE	C-2-A
Florida Avenue, NE	West Virginia Avenue, NE	Montello Avenue, NE	C-2-A
Mount Olivet Road, NE	West Virginia Avenue, NE	Trinidad Avenue, NE	C-2-A
Rhode Island Avenue, NE	Monroe Street, NE	Eastern Avenue, NE	C-2-A
Rhode Island Avenue, NE	6th Street, NE	10th Street, NE	C-2-C, C-3-A, C-M-2, and M
Rhode Island Avenue, NE	13th Street, NE	18th Street, NE	C-2-A
12th Street, NE	Irving Street, NE	Randolph Street, NE	C-1 and C-2-A
Benning Road, NE	Bladensburg Road, NE	Oklahoma Avenue, NE	C-2-A and C-2-B
Rhode Island Avenue, NE	4th Street, NE	6th Street, NE	C-2-A

PART 3: ROADWAY VENDING LOCATIONS

525 **VENDING LOCATIONS: ROADWAY VENDING LOCATIONS: GENERAL**

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, except for a Mobile Roadway Vendor vending pursuant to § 555.

526 **VENDING LOCATIONS: ROADWAY VENDING LOCATIONS: AUTHORIZED LOCATIONS**

526.1 The authorized Roadway Vending Locations shall be located on the streets set forth below, in the numbers set forth below:

NUMBER	STREET	AREA
1-6	400 Independence Ave., SW	Air & Space Museum
7-12	600 Independence Ave., SW	Air & Space Museum
13-18	700 Independence Ave., SW	Hirshhorn Museum
19-20	1000 Independence Ave., SW	Smithsonian Museum
21-22	1200 Independence Ave., SW	Smithsonian Museum
23-26	600 Constitution Ave., NW	National Gallery of Art
27-30	700 Constitution Ave., NW	National Gallery of Art
31-35	900 Constitution Ave., NW	Natural History Museum
36-41	1200 Constitution Ave., NW	American History Museum
42-50	200 15th St., NW	Ellipse East
51-59	400 15th St., NW	Ellipse East
60-67	200 17th St., NW	Ellipse West
68-69	400 17th St., NW	State Place
70-72	500 17th St., NW	State Place
73-74	1300 C St., SW	Department of Agriculture
75-76	2100 H St., NW	George Washington University

526.2 The DDOT Director shall designate specific portions of the streets listed in § 526.1, in the number set forth in § 526.1, as authorized Roadway Vending Locations.

527 **VENDING LOCATIONS: ROADWAY VENDING LOCATIONS: ADDITIONAL LOCATIONS**

The DDOT Director may designate Roadway Vending Locations in addition to the Roadway Vending Locations authorized in § 526; provided, an additional Roadway Vending Location shall be designated through a rulemaking proceeding and shall be designated in compliance with the following standards:

- (a) No additional roadway Vending Location shall be designated within geographical areas under the jurisdiction of the United States Park Police, the Capitol Police, or any other agency of the United States government.
- (b) No additional roadway Vending Location shall be designated within a loading zone, entrance zone, rush-hour zone, or diplomatic parking zone.
- (c) No additional roadway Vending Location shall be designated on a Snow Emergency Route designated under 18 DCMR § 4024 or any other appropriate regulation.
- (d) No additional roadway Vending Location shall be designated within forty (40) feet of an intersection.
- (e) No additional roadway Vending Location shall be designated in a parking space or spaces where payment for parking is required, unless the vendor located at the additional roadway Vending Location pays, in addition to any other fees that are required in order to vend in the public space, an additional fee in an amount determined by the DDOT Director and that is at least equal to the amount that would be required to be paid to park in the parking space or spaces for the period for which the Vending Site Permit for the additional roadway Vending Location would be issued.
- (f) No additional roadway Vending Location shall be designated along the length of a Metrobus Stop Zone.
- (g) No additional roadway Vending Location shall be designated 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.
- (h) No additional roadway Vending Location shall be designated within twenty feet (20 ft.) of an alley.
- (i) No additional roadway Vending Location shall be designated within forty feet (40 ft.) from any crosswalk.

PART 4: ASSIGNMENT OF VENDING LOCATIONS

528

ASSIGNMENT OF SIDEWALK VENDING LOCATIONS

528.1

Sidewalk Vending Locations shall be assigned to licensed sidewalk vendors through a random lottery.

- 528.2 Preferences in the lottery shall be given to vendors that are certified by the Department of Small and Local Business Development as Resident-Owned Businesses.
- 528.3 No vendor may participate in the lottery for Sidewalk Vending Locations unless the vendor holds a valid Vending Business License for sidewalk vending and is registered for the lottery.
- 528.4 No vendor may be assigned more than three (3) Vending Locations.
- 528.5 No more than one (1) vendor may occupy an assigned Vending Location.
- 528.6 No lottery registration or Vending Location assignment may be transferred.
- 528.7 The Director may contract out the function of performing the lotteries for sidewalk Vending Locations.

529 ASSIGNMENT OF ROADWAY VENDING LOCATIONS

- 529.1 Roadway Vending Locations shall be assigned to licensed roadway vendors through a random lottery.
- 529.2 The number of licensed roadway vendors registered for the lottery shall be limited to twice the number of authorized Roadway Vending Locations.
- 529.3 The Director shall register licensed roadway vendors for participation in the lottery by assigning each vendor a registration number.
- 529.4 If additional Roadway Vending Locations are authorized under § 527, preference in the lottery shall be given to registrants that are certified by the Department of Small and Local Business Development as Resident-Owned Businesses.
- 529.5 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.
- 529.6 No vendor may be assigned more than one (1) Roadway Vending Location, and only one (1) vendor may occupy an assigned Roadway Vending Location.
- 529.7 No lottery registration or Roadway Vending Location assignment may be transferred.
- 529.8 The Director may contract out the function of performing the lottery for Roadway Vending Locations.

PART 5: MISCELLANEOUS

530 **PUBLIC MARKETS**

530.1 The DDOT Director may designate locations on public space where public markets may be located.

530.2 No person shall operate, or vend from, a public market unless the public market is located on:

530.3 (1) Public space designated by the DDOT Director;

530.4 (2) Private space.

530.5 No person shall manage a public market on public or private space without holding a valid Class C Vending Business License.

531 **TEMPORARY RELOCATION OF VENDORS**

The Director, DDOT Director, or MPD Chief may temporarily relocate a vendor from the vendor's Vending Location in construction areas, special events, and other situations where the Vending Location is unavailable or may create a threat to the public health, safety, or welfare.

SUBCHAPTER D: DESIGN STANDARDS, OPERATIONAL STANDARDS, AND INSPECTIONS

PART 1: DESIGN STANDARDS

532 **DESIGN STANDARDS: GENERAL**

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

533 **DESIGN STANDARDS: VENDING CARTS**

533.1 No vending cart shall exceed the following dimensions:

(a) Four feet six inches (4 ft. 6 in.) 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; or

(c) Seven feet six inches (7 ft. 6 in.) in height.

533.2 (a) A vending cart may be covered by either:

(1) No more than 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

(2) No more than one (1) canopy which shall nor extend more than six inches (6 in.) in any direction from the body of the cart.

(b) All umbrellas and canopies shall be made of water-resistant canvas with wood or metal frames.

(c) No umbrella or canopy shall contain any advertising other than advertising allowed under § 537.

(d) No part of an umbrella or canopy authorized under this subsection shall extend higher than eight feet (8 ft.) from the ground or lower than seven feet (7 ft.) from the ground.

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

533.4 No food, merchandise, or equipment hung or otherwise displayed on the front of the vending cart shall extend more than eight inches (8 in.) from the front of the vending cart nor extend past the sides of the vending cart.

533.5 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.

533.6 The cart shall be placed on one (1) or more wheels, which wheels shall not exceed two feet eight inches (2 ft. 8 in.) in diameter. All cart wheels shall be a wood or metal frame with rubber trim for tires. The cart may include legs in addition to the wheel or wheels.

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

534 **DESIGN STANDARDS: VENDING VEHICLES**

534.1 No vending vehicle, inclusive of any display or attachments allowed by this section, shall exceed the followings dimensions:

(a) Eighteen feet six inches (18 ft. 6 in.) in length;

(b) Eight feet (8 ft.) in width;

(c) Ten feet (10 ft.) in height, measured from bottom of the tire; and

- 534.2 (a) A vending vehicle may be covered by either:
- (1) No more than two (2) umbrellas, neither of which shall exceed six feet (6 ft.) in diameter or extend more than three feet (3 ft.) in any direction from the body of the cart:
 - (2) No more than one (1) umbrella, which shall not exceed nine feet (9 ft.) in diameter nor extend more than four and a half feet (4.5 ft.) in any direction from the body of the cart; or
 - (3) No more than one (1) canopy which shall not extend more than four and a half feet (4.5 ft.) in any direction from the body of the cart.
- (b) All umbrellas and canopies shall be made of water-resistant canvas with wood or metal frames.
- (c) No umbrella or canopy shall contain any advertising other than advertising allowed under § 537.
- (d) No part of an umbrella or canopy authorized under this subsection shall extend higher than eight feet (8 ft.) from the ground or lower than seven feet (7 ft.) from the ground.

534.3 No food, merchandise, or equipment shall be hung or otherwise displayed from the sides or back of the vending vehicle.

534.4 No food, merchandise, or equipment hung or otherwise displayed on the front of the vending vehicle shall extend more than eight inches (8 in.) from the front of the vending vehicle nor extend past the sides of the vending vehicle.

534.5 All food, merchandise, and equipment, other than food or merchandise hung or displayed on the front of the vending cart, shall be contained within the body of the vending vehicle.

534.6 All vending vehicles shall rest on inflated rubber tires.

535 **DESIGN STANDARDS: VENDING STANDS**

535.1 The design and operation of all vending stands shall conform with the following requirements:

- (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;

- (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 ½ ft.).
- (d) The stand shall have a canopy that shall not exceed seven feet six inches by five feet (7 ft. 6 in. x 5 ft.) and shall be comprised of canvas on a covered frame mounted on the top of the cart platform. The uppermost point of the canopy shall not exceed more than eight feet (8 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. All canopies shall be made of water-resistant canvas with wood or metal frames. The canopy shall be clean and in good repair.
- (e) A skirt shall be attached to the table surface on all sides and shall extend from the table surface no more than one inch (1 in.) from the sidewalk pavement. The skirt shall be clean and in good repair.
- (f) No free standing racks or other free-standing forms of display shall be allowed.

536 **DESIGN STANDARDS: FOOD VENDING CARTS AND VEHICLES**

536.1 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.

536.2 All vending vehicles and vending carts that vend food shall be designed and operated to include:

- (1) A fresh water tank with at least a thirty-eight (38) gallon capacity;
- (2) A waste water tank with a capacity fifteen percent (15%) or larger than the fresh water tank;
- (3) A three (3) compartment sink with hot and cold running water;
- (4) A separate hand washing sink with mixing faucet;
- (5) Walls, ceiling, and floors that are smooth and easily cleanable;

- (6) Natural or electrical lighting to provide a minimum of fifty (50) foot candles of light on work surfaces;
- (7) 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;
- (8) 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
- (9) Adequate ventilation.

537 **DESIGN STANDARDS: ADVERTISING**

537.1 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 or adjacent to a vending vehicle, stand, or cart, including any canopy or umbrella.

537.2 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 of any vending vehicle or vending cart or on the back or side of a vending stand skirt.

537.3 Advertising of the name of the vending business may be placed on the canopy flap, umbrella flap, vending stand skirt or along the front, side, or back of a vending vehicle or cart.

537.4 All advertising authorized under this section shall be mechanically printed and shall not be handwritten.

538 **DESIGN STANDARDS: PHASE-IN PERIOD**

538.1 Venders licensed prior to January 21, 2006, have an extended compliance period until November 21, 2009 for compliance with sections 533.2, 533.5, 534.2 and 534.5.

PART 2: OPERATIONAL STANDARDS

539 **OPERATIONAL STANDARDS: GENERAL**

539.1 Every vendor shall ascertain, and at all times comply with, all laws and regulations applicable to the operation of a vending business.

539.2 Every licensed vendor shall refrain from vending in public space after the expiration of the Vending Business License, Vending Site Permit, or any other

license, permit, or authorization required for the lawful operation of the vendor's vending business and during any period when the vendor's Vending Business License, Vending Site Permit or any other license, permit, or authorization required for the lawful operation of the vendor's vending business has been suspended or revoked.

539.3 All vendors shall at all times obey posted traffic and parking signs.

540 **OPERATIONAL STANDARDS: AUTHORIZED HOURS OF OPERATIONS**

540.1 Sidewalk and roadway vendors may operate only during the following hours:

- (a) Sunday through Thursday, from 5:00 a.m. to 10:00 p.m.;
- (b) Friday and Saturday from 5:00 a.m. to 1:00 a.m. the next day; provided, vendors operating in residential zones, as specified in the D.C. Zoning Regulations, shall not vend past 10:00 p.m. any night.

541 **OPERATIONAL STANDARDS: PLACEMENT OF VENDING VEHICLES, VENDING CARTS, AND VENDING STANDS**

541.1 No vendor shall vend in a location that is not a Vending Location assigned to the vendor.

541.2 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.

541.3 No vendor shall vend upon, or impede free access to, service and ventilation grates and covers nor in any location that would not be an authorized Vending Location under § 521.1 unless specifically authorized by the Director or DDOT Director.

542 **OPERATIONAL STANDARDS: PLACEMENT OF EQUIPMENT AND RELATED ITEMS**

542.1 All 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.

542.2 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.

542.3 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.

542.4 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.

542.5 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 unless the vendor is conducting vending business.

543 **OPERATIONAL STANDARDS: FOOD PREPARATION AND HANDLING**

543.1 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.);
- (b) Title 25 of the District of Columbia Municipal Regulations;
- (c) Any other applicable laws or regulations 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 the Department of Health.

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

543.3 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.

544 **OPERATIONAL STANDARDS: FIRE SAFETY**

544.1 All vending vehicles equipped with cooking appliances must have at least one (1) minimum 2A-10BC fire extinguisher mounted in the cooking area.

544.2 All vending vehicles operating with propane shall meet the following standards:

- (a) All propane compartments shall be secured and placarded;
- (b) No smoking signs shall be posted on the vehicle.

545 OPERATIONAL STANDARDS: USE OF AMPLIFICATION SYSTEMS

545.1 No vendor shall operate a loud speaker, or sound amplifier, or play a radio, drum, or other musical instruments as a means of advertising or attracting a crowd, nor cry or hawk any article or goods to attract a crowd in such a manner as to create a noise disturbance as that term is defined in 20 DCMR § 2799. Activities open to the public and provided for in 20 DCMR § 2805.2 are exempt from the limitations set forth in this section.

PART 3: INSPECTIONS

546 INSPECTIONS: FOOD PREPARATION AND HANDLING

546.1 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.

546.2 Each food vending business shall be inspected by the DOH Director at least once every six months. Failure of an inspection shall be cause for summary suspension of the vendor's Vending Business License and Vending Site Permit pursuant to §§ 507 and 512.

547 INSPECTIONS: DESIGN STANDARDS

547.1 The design of the 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 imposed by this chapter or by the Director pursuant to this chapter.

547.2 Failure to comply with design standards for vending vehicles, vending stands, or vending carts shall be cause for denial, suspension, or revocation of a Vending Business License and the associated Vending Site Permit.

548 INSPECTIONS: FIRE SAFETY

548.1 All vending vehicles, vending carts, or vending stands with deep fryers, propane and any other electrical or cooking devices shall be inspected by the District of Columbia Fire and Emergency Medical Services Department every three (3) months, or on a schedule prescribed by the Fire Marshall.

548.2 If a vending vehicle, vending cart, or vending stand fails an inspection performed under this section, the inspector may summarily seize the Vending Business License and Vending Site Permit. The inspector shall promptly provide the seized Vending Business License and Vending Site Permit to the Director.

PART 4: OTHER STANDARDS OF OPERATION

549 **MAINTENANCE STANDARDS**

549.1 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.

549.2 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.

550 **DISPLAY OF LICENSES, PERMITS, AND CERTIFICATES**

550.1 A vendor shall conspicuously display on the vendor's vending vehicle, vending cart, or vending stand, a valid:

- (1) Vending Business License;
- (2) Vending Site Permit;
- (3) Health Inspection Certificate;
- (4) Food Protection Manager Certificate;
- (5) DCRA-issued vendor identification card;
- (6) DOH-issued Certified Food Protection Manager Identification Card; and
- (7) A propane permit, if the vendor uses propane in its operations.

550.2 The items enumerated in § 550.1 shall be considered to be properly displayed when they are firmly attached to the vending vehicle or stand and made clearly visible to the public.

550.3 A vendor or employee of a vendor shall surrender all applicable licenses, permits, and certificates for examination upon demand by any authorized representative of the District of Columbia government.

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

550.5 If a Vending Business License, Vending Site Permit, or Health Inspection Certificate is displayed on a vending vehicle, vending cart, or vending stand 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 Chief 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 illegally displayed. The Director or MPD Chief shall release the impounded or immobilized vending vehicle, vending stand, or vending cart upon the payment of a fine in an amount established by the Director and MPD Chief and presentation of the vending vehicle, vending cart, or vending stand for which the Vending Business License, Vending Site Permit, or Health Inspection Certificate was issued.

551 MOTOR VEHICLE REGISTRATION AND INSPECTION OF VENDING VEHICLES AND CARTS

All vending vehicles and vending carts shall be registered and inspected by the Department of Motor Vehicles or by a motor vehicle department of another state or municipality with appropriate jurisdiction.

552 EMPLOYEES OF LICENSED VENDORS

552.1 A licensed vendor may hire an employee or independent contractor to work at the vendor's Vending Location, subject to the provisions of this section.

552.2 The employing vendor shall follow all applicable employment laws of the District of Columbia.

552.3 An employee or independent contractor of a vendor may operate the vendor's vending business without the vendor being present if the employee or independent contractor holds a valid Food Protection Manager Certificate and a DOH-issued Certified Food Protection Manager Identification Card.

552.4 No individual may act as an employee or independent contractor of a vendor unless the individual holds a valid Vendor Employee Identification Badge issued by the Director.

552.5 An individual shall apply for a Vendor Employee Identification Badge by submitting an application to the Director, on a form prescribed by the Director. The application shall include the following information:

- (a) The name, address, and telephone number of the individual;
- (b) The name and license number of the vendor for whom the individual will act as an employee or independent contractor;
- (c) The signature of the individual;
- (d) The notarized signature of the vendor;
- (e) The application fee, which shall be forty-five dollars (\$45.00); and

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

552.6 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 vendor, and the Vending Business License number of the vendor.

552.7 An employee or independent contractor shall wear conspicuously his or her Vendor Employee Identification Badge when the employee or independent contractor is operating the vendor's vending business.

552.8 An employee or independent contractor of a vendor shall not represent any vendor other than the vendor whose name appears on the employee's or independent contractor's Vendor Employee Identification Badge.

552.9 No individual 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.

552.10 A vendor may be held responsible for the actions of the vendor's employees and independent contractors, where such actions are related to the operation of the vending business, and the Vending Business License, Vending Site Permit, and Health Inspection Certificate of the vendor may be suspended or revoked based on those actions as if the actions were the actions of the vendor.

553 **LITTERING**

553.1 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.

553.2 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 subsection.

554 **DISPLAY OF SAMPLE ITEMS**

554.1 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 at the Vending Location.

555 **MOBILE ROADWAY VENDING**

555.1 A roadway vending vehicle operating without a Vending Site Permit (a "Mobile Roadway Vending Vehicle") shall remain moving at all times until signaled by a customer to stop to make a sale.

555.2 No Mobile Roadway Vending Vehicle shall remain in any one (1) place for a period longer than necessary to make a sale after having been approached or stopped for that purpose.

555.3 When stopped to make a sale, a Mobile Roadway Vending Vehicle shall be properly parked in a legal parking place.

555.4 No mobile roadway vending business shall be transacted within one hundred feet (100 ft.) of a traffic circle

555.5 No mobile roadway vending business shall be located or transacted within forty feet (40 ft.) of any intersection or within any of the distances specified in this title, except that vehicles vending ice cream or other products likely to attract children as customers shall, when stopping to make a sale, park curbside as close as possible to a pedestrian crosswalk without entering the intersection or otherwise interfering with the flow of traffic.

556 **PURCHASE OR RECEIPT OF STOCK**

556.1 No vendor may purchase or take delivery of stock from any public space. Violation of this provision shall subject a vendor to summary suspension of the vendor's Vending Business License and Vending Site Permit.

556.2 No person may distribute stock to any vendor from any public space. Violation of this provision shall subject a wholesaler or distributor to summary suspension of their business licenses.

556.3 Any vehicle and stock involved in distribution prohibited by this section may be seized by the Director or the Metropolitan Police Department. The vehicle or stock shall be released upon the payment of a fine, the amount of which shall be established by the Director.

557 **BOOKKEEPING REQUIREMENTS**

557.1 Each vendor shall keep sufficient records of daily sales and receipts of purchases and expenses, and shall make these records available for inspection to any duly authorized representative of the District of Columbia government.

557.2 A vendor shall carry for each day the records and the receipts of sales and purchases for the day.

557.3 Failure to comply with this section may result in immediate seizure, without prior notice, of the vendor's Vending Business License and Vending Site Permit.

557.4 A Vending Business License or Vending Site Permit seized pursuant to this section shall be returned by the Mayor if the vendor submits the records and the receipts required by this section.

558 **REQUIREMENT TO UPDATE INFORMATION**

If any information that a vendor provided to a District agency under this chapter changes after the time that the vendor provided the information, the vendor shall promptly, and in no event later than ten (10) business days after the change in information, provide updated information to the appropriate agency.

SUBCHAPTER E: VENDING DEVELOPMENT ZONES AND SPECIAL EVENTS

559 **VENDING DEVELOPMENT ZONES**

559.1 Vending Development Zones (VDZ) shall be established to allow innovative vending practices designed to achieve the following objectives:

- (a) Provide opportunities for vendors to be more creative in both their products and their carts;
- (b) Expand vending opportunities for small and local businesses;
- (c) Improve the safety, appearance, and use of public space.

559.2 A VDZ shall provide flexibility from vending regulations governing:

- (a) Location of vendors in public space;
- (b) Method for assigning vending locations;
- (c) Design standards for vending vehicles, vending carts, roadway vending, and vending stands;
- (d) Hours of operation; and,
- (e) Length of time for which a vending site permit shall be issued.

559.3 A VDZ may be established by the Director of DCRA or the Director's designee upon the approval of an application submitted by a business association, community organization, or government agency.

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

- (a) Department of Small and Local Business Development;
- (b) Department of Health;
- (c) Department of Transportation; and,
- (d) Office of Planning.

559.5 Applications shall be reviewed as part of a two-phase process:

- (a) The applicant shall submit five (5) hard or one 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:
 - i. Applicant’s mission, bylaws, process for electing officers, and public meeting requirements or, in the case of a government agency, its mission and responsibilities;
 - ii. Purpose and intent of establishing a VDZ;
 - iii. Map delineating the proposed boundaries of the VDZ and all current, legal vending locations; and,
 - iv. Partner organizations collaborating on the application
- (b) Upon verification of the aforementioned items, the pre-application shall be approved. 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 or one 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:
 - i. Description of the proposed innovative vending strategy;
 - ii. A map showing proposed vending and market locations;
 - iii. 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, or programming;
 - c. Partnership opportunities; and,
 - d. Diversity of products.
 - iv. A plan for coordinating with existing vendors in the VDZ; and
 - v. Any other information required by the Director.

559.6 VDZ applications shall be reviewed by the Director and coordinating agencies to identify any issues that the applicant shall resolve prior to further processing of the application.

- (a) The Director shall forward each VDZ application to the coordinating agencies for evaluation based upon:
 - i. Compliance with objectives defined in 500.1;
 - ii. Ability of the applicant to achieve the proposed innovative vending strategy.
- (b) Each coordinating agency shall have forty-five (45) days, to review the application and forward any issues to the Director.
- (c) The Director shall notify the applicant of any issues 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.
- (d) The Director may deny an application if the applicant is unable to resolve any issues within thirty (30) days.

559.7 Within forty-five (45) days of receiving favorable reports from all coordinating agencies, DCRA shall hold a hearing to solicit public comments on the VDZ application. The Director shall provide public notice of the hearing and copies of the application at least fifteen (15) days before the hearing.

559.8 Within forty-five (45) days after the public hearing, the Director shall either approve or deny the VDZ application taking into account the findings from the public hearing.

559.9 The Director shall assist in the implementation of the VDZ Vending Strategy as necessary. 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.

559.10 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.

559.11 The Director is authorized to uphold the provisions of agreements between the VDZ applicant and VDZ vendors.

559.12 The Director has the authority to discontinue a VDZ for the following reasons:

- (a) The Vending Strategy fails to achieve the purpose and intent of the VDZ; or,
- (b) It is determined that continuing the designation is not in the best interest of the public.

560 SPECIAL EVENTS

- 560.1 Persons authorized to vend within the boundaries of a licensed special events area may vend without a Vending Business License or Vending Site Permit.

- 560.2 A vendor authorized to vend within the boundaries of a licensed special event area shall comply with applicable laws and regulations regarding the registration of vendor's business with the Office of Tax and Revenue and Department of Consumer and Regulatory Affairs and shall comply with any standards imposed by the Department of Health.

SUBCHAPTER F: NEWSPAPER VENDING AND STREET PHOTOGRAPHY

561 PUBLISHERS' BOXES

- 561.1 No person shall place, maintain, or operate a publisher's box on the public sidewalk or other public space unless such publisher's box is in compliance with the following specifications:
 - (a) The publisher's box shall have a height of no less than 36 inches and no more than 52 inches, a width of no less than 15 inches and no more than 25 inches, and a depth of no less than 15 inches and no more than 21 inches.
 - (b) The publisher's box shall be manufactured from 20-gauge zinc grip steel or thicker or a suitable plastic equivalent.
 - (c) All hinge rods and springs on the publisher's box shall be made from steel. Door springs shall meet the tension requirements of the Americans with Disabilities Act.
 - (d) Coin mechanisms, if any, shall be housed in the body of the publisher's box or in armored heads made from 12-gauge steel welded to the body of the publisher's box.
 - (e) The publisher's box shall weigh no less than eighty (80) pounds, when empty of publications, or otherwise sufficiently weighted to be secure in all expected weather conditions.
 - (f) The publisher's box shall be manufactured from materials that permit easy removal or repair of rust, graffiti, glue and other signs of outdoor abuse, exposure or wear-and-tear, including refurbishing of faded or stained colors.

- (g) The door of the publisher's box shall be constructed with a window opening to display the front page of the current edition clearly, and the window opening shall be covered by plastic manufactured from no less than .060" polycarbonate clear plastic material.
- (h) Door handles shall be a loop-style handle with a minimum one-inch clearance, designed to allow pedestrians to slip their hands easily in and out of the handle.
- (i) The publisher's box shall have one-inch diameter holes in the back of the publishers' box to allow for cables to be inserted for the secure installation of the publisher's box.

561.2 No sign, advertisement, or lettering of any character shall be placed on any publisher's box, other than the name of the publication, its price, a brief direction for the depositing of coins and operation of the publishers' box, the name and business address of the person in charge of the publisher's box, and directions informing the public how a refund may be secured for money deposited for which no publication was received.

561.3 No person shall place, maintain or operate a publisher's box on the public sidewalk or other public space unless such person:

- (a) Maintains such publisher's box in good working order at all times.
- (b) Repairs any malfunctioning, vandalized, or otherwise damaged publisher's box within seven (7) calendar days of the occurrence of any such damage.
- (c) Keeps such publisher's box clean and free of graffiti, broken parts, pasted bills, and debris of any description, including ruined or out-dated publications, including any publication with a cover date more than thirteen (13) days past.

561.4 No person shall place, maintain, or operate a publisher's box on the public sidewalk or other public space unless such box is in compliance with the following:

- (a) Each publisher's box must be sufficiently weighted at base to be secure in all expected weather conditions or secured to other publisher's boxes, or attached to a corral, or within a modular unit, provided such corral or modular unit has been approved by the Director of the District of Columbia Department of Transportation.
- (b) No publisher's box shall be attached to any utility pole, street light, traffic light, traffic or parking sign or device, trash receptacle, fire hydrant, directional sign, bicycle rack, bus shelter, street furniture, or other public street fixture except as provided in this section.

- (c) No publishers' box shall be placed or maintained within five (5) feet of the edge of a driveway or curb cut, a fire hydrant, a bus shelter, or within ten (10) feet of an entrance to a public transit facility.
- (d) No publishers' box shall be placed upon or within five (5) feet of a pedestrian access ramp for disabled persons, including the area between any two ramps on a given corner or within three (3) feet a marked pedestrian crosswalk.
- (e) No publishers' box shall be placed or maintained within five (5) feet ahead and 45 feet to the rear of any sign marking a designated bus or light rail stop. No publishers' box shall be placed within a designated bus or light rail stop zone.
- (f) No publishers' box shall be placed or maintained in any space so as to reduce the width of the pedestrian passageway on the sidewalk to less than ten (10) feet in the Central Business District or six (6) feet in other areas.
- (g) No publishers' box shall be placed in front of an entrance to a business, including the curb area directly across from such entrance where the distance between the business entrance and the publishers' box is less than ten (10) feet.
- (h) If no modular unit or corral exists at a location where a publishers' box will be placed, all publishers' boxes at that location must be kept a minimum of eighteen (18) inches from, and parallel to, the edge of the curb, with the publishers' box opening facing toward the sidewalk and away from the curb; provided, however, that the Director may permit a different distance from the curb or a different orientation, if consistent with public safety and pedestrian convenience.
- (i) No publishers' box shall be placed on the radius of the curve at the corner of any City block or other sidewalk/street intersection.
- (j) No publisher's box shall be placed in a tree box or unpaved surface.

561.5 When located at curb locations, and no modular unit or corral exists, publishers' boxes shall be secured in an approved manner as provided for in this section, and not more than seven (7) boxes shall be placed at or immediately contiguous to any one (1) of the street corners at street intersections, or at any other approved location.

561.6 No publishers' box shall be maintained in use when it is not in perfect working order. The person in charge of the box, as well as the owner, shall be subject to

the penalty provided for violation of the regulations for maintaining a publisher's box that is not in perfect working order.

- 561.7 A sign shall be placed on each publisher's box informing the public of the name and business address of the owner, and of the person in charge of the box.
- 561.8 The sign on each publishers' box that is proposed for and equipped for selling publications shall state that the person in charge will refund to any person money deposited by him or her for which no publication has been received. The person in charge of such a publisher's box shall refund all deposited money for which no publication has been received.
- 561.9 Publishers' box corrals may be placed and maintained on the public sidewalks by any authority designated by the Director of the District of Columbia Department of Transportation at locations acceptable to the Director.
- (a) The Director shall approve any proposed location where, as determined by such designated authority, substantial pedestrian traffic, sidewalk congestion or the presence of a significant number of publishers' boxes within close proximity of one another suggests the need for certain limits on the number and placement of publishers' boxes.
 - (b) Subject to the limitations set forth elsewhere in this Section, the Director or any authority designated by the Director shall develop equitable criteria to allocate space within a publisher's box corral, where necessary, giving first priority to boxes displaying publications that are then currently displayed within thirty (30) feet of such corral location.
 - (c) Nothing in this subsection shall be interpreted to require that the City or any authority designated by the Director erect, maintain, repair or replace such corrals. The Director or the designee may negotiate with Publishers or third parties to pay for the costs of erecting, maintaining, repairing or replacing such corrals.
 - (d) Subject to the criteria established pursuant to subsection (b) above, the Director shall allow any person to place or maintain a publishers' box within a publishers' box corral, so long as such person maintains such box in conformity with all requirements of this Section and so long as no other reason or condition exists which would prohibit the placement of a publishers' box at that location.
 - (e) No person shall place or maintain any advertising on any publishers' box corral.
 - (f) No person shall place or maintain a publishers' box within a publishers' box corral unless the publishers' box is unobtrusively attached by cables,

chains or otherwise to the corral so as to ensure stability of the publishers' box.

(g) No person shall place or maintain a publishers' box within thirty (30) feet of a publishers' box corral, unless such publishers' box is lawfully placed within such corral.

561.10 Where an existing modular unit is in place at a location approved by the Director of the District of Columbia Department of Transportation, no publishers' box shall be placed or maintained within thirty (30) feet of the modular unit.

561.11 At such existing Modular Unit locations approved by the Director of the District of Columbia Department of Transportation, the maintenance of the modular units trays, pedestals, and cabinet exteriors will be the responsibility of the designated authority. The individual publishers shall maintain the plexi-glass display windows, the door latches, and if applicable, the coin mechanisms.

561.12 Nonuse for a period of fourteen (14) calendar days of any publishers' box, such that the publishers' box is deemed a nuisance by the Department of Transportation, the Department of Public Works, or the Metropolitan Police Department shall be reason to remove the publishers' box from public space. Prior to removal, the applicable District agency shall provide seven (7) days notice directing the owner to remove the publishers' box or otherwise remediate the nuisance.

561.13 Any publisher's box presenting a clear and present danger to the public, such as, but not limited to, a publishers' box that is in the vehicular right-of-way may be removed summarily by officials from the Department of Transportation, the Department of Public Works, or the Metropolitan Police Department. Notice and, if appropriate, instructions for recovery of the box shall be given to the publisher following removal.

561.14 Any person violating or failing to comply with the provisions of this section shall, upon conviction, be punished as prescribed in D.C. Official Code § 47-2846 (1981).

562 **STREET PHOTOGRAPHY: REQUIREMENTS AND RESTRICTIONS**

562.1 Each 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. The card shall contain the name of the vendor, the name of the employee or independent contractor (if any) taking the photograph, the vendor's Vending Business License Number, the employee's or independent

contractor's Vendor Employee Identification Badge number, the telephone number of the vendor, and the time period within which the photograph shall be delivered. If the photograph is not delivered within the time period specified on the card, the vendor shall refund the purchase price.

562.2 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, 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/or permitted to do so by the Mayor.

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 in Title 18, DCMR.

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 or persons who may be in front of or who may have entered the store or vending business for the purpose of buying.

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 where said public space has been so designated for that purpose.

SUBCHAPTER H: MISCELLANEOUS PROVISIONS

564 **VENDING DEPOTS**

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.

564.1 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 agent of the District of Columbia government.

564.2 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, but the operation shall not require that a vendor accept any additional services as part of the contract to provide the minimum services set forth in section 564.1.

565 **PENALTIES**

565.1 If a person violates any of the provisions of this chapter, he or she may be punished by a fine of not more than two thousand dollars (\$2,000.00), or by imprisonment for not more than ninety (90) days, for each such offense.

565.2 A fine imposed under this section shall be imposed pursuant to titles I-III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective Oct. 5, 1985 (D.C. Law 6-42; D.C. Official Code 2-1801.01 et seq.).

565.3 Adjudication of any fine imposed under this section shall be pursuant to titles I-III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective Oct. 5, 1985 (D.C. Law 6-42; D.C. Official Code 2-1801.01 et seq.).

565.4 A fine imposed under this section may be imposed in addition to or in lieu of the revocation or suspension of a person’s Vending Business License or Vending Site Permit.

566 **SEVERABILITY**

If any provision (section, sentence, clause, phrase, or word) of this chapter, or the application of any provision of this chapter, is held invalid in any circumstance(s), the validity of the remainder of the provisions of this chapter, and the application

of any provision in any other circumstance(s), shall not be affected; and to this end, the provisions of this chapter shall be severable.

567 NATIONALS PARK VENDING

567.1 The Nationals Ballpark Vending Site Plan designates the safe vending locations within the Capitol Riverfront Vending Development Zone (CRVDZ).

567.2 The Director of the Department of Consumer and Regulatory Affairs (DCRA) shall assign vending locations within the CRVDZ by lottery. Applicants may apply electronically, via designated computer kiosks, for each monthly lottery within the DCRA Business Licensing Center, Suite 1100, 941 North Capitol Street, N.E., which maintains information concerning qualifications and the application process. Winners shall be notified by phone, mail, and through a listing on the DCRA website.

567.3 Legally licensed vendors at Robert F. Kennedy Memorial Stadium shall receive a preference in the assignment of vending sites in the CRVDZ in the form of an additional entry in each lottery.

599 DEFINITIONS

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

Building line - the exterior face of a building.

Director – the Director of the Department of Consumer and Regulatory Affairs.

DDOT Director – the Director of the District Department of Transportation.

DOH Director- the Director of the District Department of Health

Fire Chief – the Chief of the 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 – a 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.

MPD Chief – the Chief of the Metropolitan Police Department.

OP Director – the Director of the Office of Planning.

Person – an individual or business entity.

Produce - any agricultural product raised on a farm or orchard.

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. This could include a farmers market, flea market, antique 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.

Publisher’s Box - A machine or other enclosed box used for protecting newspapers or other printed material from the elements while offering or displaying the material for sale or free distribution and capable of operation by pedestrians without the assistance of an attendant.

Publisher’s Box Corral - A three-sided post and rail structure designed to group publishers’ boxes in stable clusters.

Receipts for purchases - includes copies of cash register receipts, sales receipts, sales invoices or purchase invoices; copies of cancelled checks, or other means of determining purchases acceptable in the discretion of the Office of Tax and Revenue.

Records of sales - includes cash register tapes, cash register receipts, written receipts, copies of sales checks, a record of individual sales or other means of determining sales acceptable in the discretion of the Office of Tax and Revenue .

Registered agent - any person who is a District of Columbia resident 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 5 DCR 305.

Sidewalk vendor - a vendor who engages in business while occupying that portion of the street other than that reserved for vehicular travel.

Special event - an activity, such as presidential inauguration, 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 appropriate agency of the District government

Vending business - a business venue for the vending of food, service, or merchandise and operated by a vendor, as defined in this chapter.

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, merchandise, or services are intended to be vended.

Vending depot - any business that supplies vendors with merchandise or food items, or stores vending stands, carts, or vehicles for a fee.

Vending establishment: The actual structure that will constitute the means by which a vendor will offer goods or food for sale to the public; vending vehicles, vending stands, and vending carts.

Vending stand - a table or other similar, approved structure used by a vendor for the following purpose:

- (a) Displaying merchandise or food that is offered for sale; or
- (b) Offering a service in exchange for a fee.

Vending vehicle – a wheeled, self-contained vehicle used for the purpose of selling food, merchandise or services upon the area of a street generally reserved for vehicular traffic or vehicular parking. The term vending vehicle includes both trailers and self-propelled vehicles.

Vendor - any person engaged in selling goods and services for immediate delivery upon purchase, who operates exclusively from public space.

All persons desiring to comment on these proposed regulations should submit comments in writing to Paul Waters, Legislative Liaison, Department of Consumer and Regulatory Affairs, Suite 9400, 941 North Capitol Street, NE, Washington, D.C. 20002, 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 (\$1.00) will be charged for each copy of the proposed rulemaking requested.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in D.C. Official Code §§ 47-2832.01, 47-2851.02, 47-2851.12, and 47-2851.20, hereby gives notice of the intent to adopt, in not less than thirty (30) calendar days from the date of publication of this notice in the *D.C. Register*, a new 24 DCMR 6 (Parking Lots and Valet Parking). This rulemaking amends the parking lot and parking lots attendant rules to establish requirements for valet parking companies and valet parking attendants. In addition, it amends the name of the chapter.

24 DCMR Chapter 6 is amended to read as follows:

CHAPTER 6 PARKING LOTS AND VALET PARKING

Secs.

- 600 Administration and Enforcement
- 601 Bonds or Other Security
- 602 Parking Lot License
- 603 Application for License
- 604 Non-Resident Licensees
- 605 Transfer and Modification of Licenses
- 606 Construction and Fire Safety
- 607 Fencing and Coping Barriers
- 608 Driveways
- 609 Grading and Paving
- 610 Inspection of Premises
- 611 Storage of Vehicles
- 612 Operating Requirements
- 613 Parking Lot Signs and Notice of Parking Fees
- 614 Parking Lot Attendants
- 615 Application for Parking Lot Attendant's License
- 616 Non-Driving Parking Lot Attendants
- 617 Valet Parking License
- 618 Application for License
- 619 Non-Resident Licensees
- 620 Transfer and Modification of Licenses
- 621 Valet Parking of Vehicles
- 622 Valet Parking Signs and Notice of Valet Parking Fees
- 623 Valet Parking Attendants
- 624 Application for Valet Parking Attendant's License
- 625 Non-Driving Valet Parking Attendant
- 626 Penalties
- 627 Notice of Proposed Action and Appeal Rights
- 628 Hearings and Appeals

600. ADMINISTRATION AND ENFORCEMENT

- 600.1 No person, firm, corporation, co-partnership, association, trustee, or administrator shall engage in any of the businesses designated in this chapter without first having obtained the appropriate license or licenses under this chapter.
- 600.2 All licenses shall be issued by the Director of the Department of Consumer and Regulatory Affairs (Director) or the Director's designee.
- 600.3 Any license issued under this chapter may be suspended or revoked by the Director for failure of the licensee to comply with the laws or regulations applicable to the licensed business under this chapter.
- 600.4 Any violation of any of the provisions of this chapter shall subject the offender to the penalties prescribed in D.C. Official Code § 47-2846 (2001) and Title 16, Chapter 32 of the District of Columbia Municipal Regulations.
- 600.5 Any person who makes any false or misleading statement in the filing of any information required under this chapter shall be subject to the penalties prescribed in D.C. Code § 47-2846 (2001) and may have his or her license suspended or revoked by the Director.

601. BONDS OR OTHER SECURITY

- 601.1 To do business in the District of Columbia, an applicant for a parking lot license or a valet parking license shall file with the Director a bond issued in support of the license for which application is made, extending to third-party recovery, in the penal sum of five thousand dollars (\$ 5,000) running to the District of Columbia, with corporate surety authorized by the Secretary of the Treasury pursuant to Title 6, U.S. Code and by the Commissioner of the District of Columbia Department of Insurance, Securities, and Banking.
- 601.2 Each bond shall be in a form approved by the Director and shall be conditioned as required by, and shall be subject to, the provisions of § 2 of the Act approved September 6, 1960 (74 Stat. 815; Pub. L. 86-715).
- 601.3 The conditions of the bond under § 601.2 shall not be construed or understood to require any surety to liability under the bond for any claim other than a claim for financial loss suffered by the owner of a motor vehicle in connection with the transaction between the owner and the principal and arising out of a violation of statute or regulation for which the principal was subject to criminal prosecution by the United States or the District of Columbia.
- 601.4 In lieu of a corporate surety bond under § 601.1, an applicant for a parking lot or valet parking license may deposit with the D.C. Treasurer other security for the protection of members of the public against financial loss by reason of the failure of the licensee, or of any officer, employee, or other person acting on behalf of the licensee, to observe any statute or regulation in force in the District of Columbia applicable to the licensee's conduct of the business licensed pursuant to this chapter.

- 601.5 The security which may be accepted by the D.C. Treasurer under § 601.4 shall be one of the following:
- (a) Cash in the amount of five thousand dollars (\$ 5,000);
 - (b) A certified check or cashier's check in the amount of five thousand dollars (\$ 5,000) made payable to the order to the D.C. Treasurer; or
 - (c) A marketable bond or bonds or a note or notes having in the aggregate a maturity value of at least six thousand dollars (\$ 6,000) and issued by the government of the Unites States or by any agency or instrumentality of the government, together with an irrevocable power of attorney and agreement, on a form provided by the D.C. Treasurer authorizing the D.C. Treasurer to collect or sell, assign, and transfer that bond or note; Provided, that no such bond or note shall be collected or sold until such time as it may be necessary to make payment to any person entitled to recover damage from the security which the bond represents.
- 601.6 Cash, certified checks, and cashier's checks deposited for the purposes of this section and the proceeds of the collection or sale of any bond or note made pursuant to this section shall be deposited to the credit of a District of Columbia trust fund account, and shall be available for the payment of any judgment rendered against the licensee in favor of any person who has sustained damage by reason of the violation by the licensee or by his, her, or its officer, employee, or other person acting on his, her, or its behalf, of any statute or regulation in force in the District of Columbia applicable to the licensee's conduct of the business licensed pursuant to this chapter.
- 601.7 No payment from the security deposited pursuant to this section on account of any judgment shall be made until that judgment has become final and remains unsatisfied and the period for filing an appeal has expired or the judgment debtor has waived in writing the right to take an appeal.
- 601.8 If the security deposited pursuant to this section is in a form other than bonds or notes and is reduced below five thousand dollars (\$ 5,000), or if the security is in the form of marketable bonds or notes and, by reason of the payment of or on account of any final judgment, is reduced to an amount less than six thousand dollars (\$ 6,000), the licensee shall, within five (5) calendar days after having been notified in writing by the Director to do so, make an additional deposit to bring the amount on deposit with the D.C. Treasurer for the purpose of this subsection up to the amount required under the appropriate provision of this section.
- 601.9 Payment made from security deposited pursuant to this section for or on account of a judgment shall include interest and costs as specified in the judgment or as may be required by statute.
- 601.10 Any security deposited pursuant to this section shall be retained by the D.C. Treasurer for at least three (3) years after the expiration of the license in connection with which the security was deposited.
- 601.11 If the D.C. Treasurer is notified in writing that suit has been filed against any licensee as a result of which a judgment may be payable out of the security, the security shall be

held until such time as appeal from the judgment has expired or until the suit is otherwise disposed of.

602. PARKING LOT LICENSE

- 602.1 Owners or managers of buildings, premises, establishments, garages, gasoline stations, lots, grounds, and other places, or parts of these places, where vehicles of any description are stored or kept for other people, for profit or gain, shall obtain a license and pay a license fee, except as provided in § 602.2; such businesses shall also obtain all other business licensure as required by law or regulation.
- 602.2 Where the area of a parking lot is five hundred square feet (500 ft.²) or less, the provisions of this chapter shall not apply.
- 602.3 Where the area of a parking lot is more than five hundred square feet (500 ft.²), the owner or manager of the parking lot shall obtain a license and pay a license fee.
- 602.4 Each license shall be valid for two (2) years and shall expire at the end of the license period.
- 602.5 Where more than one (1) of the designations of parking lots is conducted or operated by any one (1) person, the license fee shall be paid for each type of business designation.
- 602.6 Each licensee shall comply with all applicable traffic laws and parking regulations when providing parking lot services.
- 602.7 Any parking lot licensee that operates valet services shall also obtain a valet parking license, as provided in this chapter.

603. APPLICATION FOR LICENSE

- 603.1 No license for a parking lot issued under the provisions of this chapter shall be issued until application is made to the Department of Consumer and Regulatory Affairs (Department), upon a form furnished by the Director.
- 603.2 Each application shall be signed by the owner or manager of each business and shall correctly set forth the information required on the application form.
- 603.3 Each applicant shall correctly state the following:
 - (a) The ownership and location of the building, premises, ground, establishment, garage, gasoline station, lot, or other place (or the parts of that place) to be used for the storage and keeping of vehicles;
 - (b) The area in square feet (ft.²) to be used in the business;
 - (c) A description of the curbing or fence to be maintained as required under § 607 of this chapter; and
 - (d) Any other information deemed necessary and appearing on the application form that is provided.

- 603.4 Each application shall be accompanied by a plat, prepared by the District Surveyor, showing the size and area of the land; and showing any driveways, copings, fences, and structures that the applicant wishes to place on the land.
- 603.5 No license shall be issued unless approved by the District Fire Marshal, or the District Fire Marshall's designee, and until a Certificate of Occupancy under District zoning laws and regulations has been obtained.
- 603.6 In cases where structures exist or are to be erected on private property, the approval of the appropriate building inspector must be obtained; where such structures are to be erected on public space, the approval of the Department of Transportation is required.
- 603.7 Where fences, copings, or driveways are required, they must meet the requirements of and be permitted by the Department of Transportation.

604. NON-RESIDENT LICENSEES

- 604.1 No license to operate a parking lot business shall be issued to a person who is not a resident of the District of Columbia unless that nonresident, as a condition to the issuance of the license, appoints or employs as his or her agent a person who is a resident of the District or who has a place of business in the District, and upon whom may be served all notices and court processes in connection with or arising out of the licensee's business operation.
- 604.2 The appointment or employment of an agent shall be maintained during the period of time for which a license is issued.
- 604.3 Whenever any change is made in the appointment or employment of the agent required by this section, the licensee shall deliver to the Director a written notice of the change not less than five (5) days after the change.
- 604.4 The initial appointment or employment of an agent by a non-resident applicant for a license to operate a parking lot business shall be shown on the application for license, and the designated agent shall certify on the application that he or she has agreed to act as an agent for the licensee.
- 604.5 When any appointment or employment of an agent required by this subsection is made subsequent to the filing of an application for a license to operate a parking lot business, or subsequent to the issuance of a license, the licensee shall deliver to the Director a written notice of the appointment or employment not later than five (5) days after the appointment or employment. The notice shall bear certification by the designated agent that he or she has agreed to act as an agent for the licensee.
- 604.6 The Director, upon finding that an agent designated by a licensee in accordance with the requirements of this section is not, after reasonable search, to be found in the District for the purpose of serving the licensee any notice or process required to be served, may institute a proceeding for the suspension or revocation of the license issued to the licensee; and notice of the suspension or revocation shall be effective if mailed to the last known address of the licensee appearing in the Department's records.

605. TRANSFER AND MODIFICATION OF LICENSES

- 605.1 Upon any change in the ownership or management of the licensed business, the parking lot licensee shall immediately notify the Director of that fact.
- 605.2 The owner, resident general agent, or attorney, as the case may be, shall be responsible for the conduct of the business after a change in ownership or management until a new application is filed.

606. CONSTRUCTION AND FIRE SAFETY

- 606.1 Garages, gasoline stations, and buildings shall at all times comply with the fire prevention laws and regulations of the District of Columbia.
- 606.2 Lots or grounds of less than four thousand square feet (4,000 ft.²) shall be provided with two (2) fire extinguishers.
- 606.3 Lots or grounds from four thousand square feet (4,000 ft.²) to sixteen thousand square feet (16,000 ft.²) shall be provided with four (4) fire extinguishers.
- 606.4 Lots or grounds of more than sixteen thousand square feet (16,000 ft.²) shall be provided with six (6) fire extinguishers.
- 606.5 No frame structure shall be erected, constructed, or maintained upon any parking lot or ground that is more than forty square feet (40 ft.²) in area, and then only upon special permit from the Mayor.

607. FENCING AND COPING BARRIERS

- 607.1 No license shall be issued for any lot or ground abutting public space, not including public alleys, unless the division line between the public space and the lot or ground is marked by the coping or fence required under this section.
- 607.2 The coping or fence required under this section shall be built entirely on private property and the licensee shall apply for the necessary permitting.
- 607.3 Coping shall consist of a regulation eight inch (8 in.) coping made of concrete.
- 607.4 Fencing shall be of an approved design, not less than two feet six inches (2 ft. 6 in.) in height; and may be made of cable, bar, wire, or chain construction with concrete, iron, pipe, or wood posts.
- 607.5 Failure to erect or maintain the coping or fence required under this section shall be a violation of this chapter.

608. CURBCUTS AND DRIVEWAYS

- 608.1 No licensee shall make application for the permitting of curbcuts or driveways until after the completion of any construction work required under § 607.
- 608.2 All curb cuts and driveways shall meet the specifications of and be permitted by the Department of Transportation.

608.3 Businesses abutting on one (1) street shall be limited to two (2) driveways, and businesses abutting on two (2) or more streets shall be limited to three (3) driveways.

608.4 Circular curb driveways are required for gasoline stations and lots or grounds licensed under this chapter; provided, that this subsection shall not apply to a lot or grounds less than four thousand square feet (4,000 ft.²) in area.

609. GRADING AND PAVING

609.1 Lots and grounds paved with impervious material shall be graded and provided with approved drains so that no drainage will flow across the sidewalk.

609.2 No paving on public space shall be done without first obtaining permit from the Department of Transportation.

610. INSPECTION OF PREMISES

610.1 Licensed premises shall be open during business hours to inspection by authorized agents of the District government.

610.2 No person shall obstruct or interfere with any District agent when the agent is on official inspection business.

611. STORAGE OF VEHICLES

611.1 At the time of the acceptance of the motor vehicle for storage in or upon a licensed premise, the licensee shall supply a claim check or receipt to the person leaving the vehicle for storage.

611.2 Each claim check or receipt shall be distinctly numbered to correspond with a coupon that shall be placed upon the motor vehicle's dashboard during the time the vehicle is stored.

611.3 Each claim check shall show on its face the following:

- (a) The personal or business name of the licensee; and
- (b) The street address of the premise where the vehicle is stored.

611.4 When any motor vehicle remains upon the premise operated by a licensee for a continuous period in excess of seventy-two (72) hours, the licensee shall, not later than the beginning of the next day of business after expiration of the seventy-two (72) hours, notify the Chief of Police of the fact that the motor vehicle has not been claimed, except as provided in § 611.6.

611.5 No vehicle having been accepted by any licensee shall, during the term of storage or during the business hours, be removed or caused to be removed without the knowledge or consent of the owner of the vehicle, or the owner's agent, except as provided in § 611.6.

611.6 The provisions of §§ 611.4 and 611.5 shall not apply in the case of vehicles stored under weekly or monthly contracts.

611.7 On premises not having motor vehicle servicing facilities, or that use overflow premises for storage, a notice or sign shall be erected and maintained in a conspicuous place notifying the public of the fact that vehicles are stored off-premises.

611.8 No vehicle shall be parked or caused to be parked so that it or any part of it is on or projects over public space, except as provided in Chapter 2 of this Title.

612. OPERATING REQUIREMENTS

612.1 Each parking lot licensed under this chapter shall be kept free from broken glass and other objects that could cut or damage the tires on vehicles parked on the lot.

612.2 At all times, licensees shall keep sidewalks, parkings, or any public space immediately abutting the licensed premises, free and clear of dirt, gravel, mud, stones, grease, and oil.

612.3 No person soliciting another to park an automobile shall solicit in such manner as to create a traffic hazard, or obstruct or interfere with the free passage of pedestrians or vehicles.

613. PARKING LOT SIGNS AND NOTICE OF PARKING FEES

613.1 In all areas other than those zoned only for residential use, each licensee shall place and maintain a legible and conspicuous sign that is clearly visible from every entrance to the licensed premises. Each sign shall state the name of the licensee and the hours of the day and night during which the premises are open and attended for the storage of vehicles; and it shall comply with all applicable regulations in force in the District of Columbia.

613.2 Each sign shall also state, in letters not less than four inches (4 in.) high, the hourly and daily rates charged for the storage of vehicles on the paid premises.

613.3 No licensee shall charge, or permit to be charged, any greater fee than is posted at the time of entry. Rates applicable to weekly or monthly contracts, however, need not be posted.

613.4 The provisions of this section shall also apply to parking lots located in residential zones, except that each sign shall conform to the sign regulations applicable to residential zones.

614. PARKING LOT ATTENDANTS

614.1 Except as permitted in § 614.2, any person employed to park or supervise the parking of automobiles in a parking lot, or who parks or supervises the parking of automobiles in a parking lot, must possess a parking attendant's license and pay a license fee.

614.2 The owner or operator of a parking lot, or the owner's duly authorized agent, may employ an individual who does not hold a parking attendant's license, but who does hold a valid motor vehicle operator's license, to park or supervise the parking of automobiles on an outdoor parking lot for not more than seventy-two (72) hours before the submission by the attendant of an application to the Director, and upon the issuance by the Director of a receipt prescribed in this section.

- 614.3 Each license shall be valid for two (2) years.
- 614.4 The licensee shall carry the license issued under this section on his or her person at all times while engaged in the licensed occupation.
- 614.5 The licensee shall exhibit his or her license on demand to any customer of the parking lot, or to any authorized representative of the District government.
- 614.6 The Director shall deliver to each licensee a badge showing the serial number of the license issued. The applicant shall not be charged any additional fee for this badge.
- 614.7 Each licensee shall attach the badge provided by the Director to his or her coat or shirt in a manner that conspicuously displays the badge at all times when the licensee is engaged in the employment permitted by the license.
- 614.8 The license issued to any individual may be revoked at any time in accordance with the terms of D.C. Official Code § 47-2844 (2001).
- 614.9 No person shall be issued a parking lot attendant's license unless he or she possesses a valid motor vehicle operator's license.
- 614.10 No person shall operate a motor vehicle under the authority of a parking lot attendant's license unless the person also has been issued, and has in his or her possession at the time of operating the motor vehicle, a valid motor vehicle operator's license.
- 614.11 While providing parking lot services, each licensee shall wear a uniform that identifies the licensee as working for a parking lot company.
- 614.12 Any parking lot licensee attendant that is also employed to provide valet parking services shall also obtain a valet parking attendant license, as provided in § 623 of this chapter.

615. APPLICATION FOR PARKING LOT ATTENDANT'S LICENSE

- 615.1 Any individual desiring a parking attendant's license shall correctly provide, upon a form prescribed by the Director, the following information:
 - (a) The applicant's full name and address;
 - (b) The applicant's color of hair and eyes;
 - (c) The applicant's date of birth and sex;
 - (d) The number and date of expiration of the applicant's motor vehicle operator's license; and
 - (e) A statement of whether the applicant has ever been convicted of a felony or misdemeanor.
- 615.2 The application shall be accompanied by a set of the applicant's fingerprints.
- 615.3 On receipt of the application, the Director shall issue to the applicant a receipt, certifying that the application has been received.
- 615.4 Upon the approval of the application by the Director, the Director shall issue to the applicant a license for two (2) years.

615.5 When an applicant for a parking attendant's license has submitted his or her application and has been issued the receipt by the Director, as provided for in this section, that receipt shall have the full force and effect of a license until the Director either issues the license or denies the application.

616. NON-DRIVING PARKING LOT ATTENDANTS

616.1 Notwithstanding the requirements of § 614.9 of this section, the Director may waive the requirement that the applicant possess a valid motor vehicle operator's license when an application is accompanied by the following:

- (a) An affidavit from the owner or operator of the parking establishment at which the applicant is to be employed stating that the applicant will, under no circumstances, be required or allowed to operate a motor vehicle while he or she is employed as a parking attendant in that establishment; and
- (b) An affidavit from the applicant stating that the applicant will not operate any motor vehicle while he or she is employed as a parking attendant.

616.2 Any parking lot attendant subject to § 616.1 shall have clearly indicated on his or her license badge information identifying the attendant as a person not authorized to operate a motor vehicle in the course of his or her employment.

616.3 The operation of a motor vehicle in the course of employment by a parking attendant subject to § 616.1 shall constitute a violation of this chapter. Conviction of this violation shall constitute grounds for the revocation of the license issued to the attendant.

616.4 A parking lot attendant subject to § 616.1 shall submit a new application for a parking lot attendant's license if the terms of employment of the parking lot attendant require him or her to operate a motor vehicle.

617. VALET PARKING LICENSE

617.1 Owners or managers of businesses where vehicles are taken in public space and parked, for profit or gain, shall obtain a license and pay a license fee.

617.2 Each license shall be valid for two (2) years, shall be good only for the specific designation on the license, and shall expire at the end of the license period.

617.3 Each licensee shall comply with all applicable traffic laws and parking regulations when providing valet parking services.

617.4 Any valet parking licensee that operates a parking lot shall also obtain a parking lot license, as provided in this chapter.

618. APPLICATION FOR LICENSE

618.1 No license for valet parking issued under the provisions of this chapter shall be issued until application is made to the Department of Consumer and Regulatory Affairs, upon a form furnished by the Director.

618.2 Each application shall be signed by the owner or manager of each business and shall correctly set forth the information required on the application form.

618.3 No license shall be issued unless the applicant certifies that he or she has reviewed applicable District zoning laws and regulations and the applicant's business is not required to obtain a Certificate of Occupancy.

619. NON-RESIDENT LICENSEES

619.1 No license to operate a valet parking business shall be issued to a person who is not a resident of the District of Columbia unless that nonresident, as a condition to the issuance of the license, appoints or employs as his or her agent a person who is a resident of the District or who has a place of business in the District, and upon whom may be served all notices and court processes in connection with or arising out of the licensee's business operation.

619.2 The appointment or employment of an agent shall be maintained during the period of time for which a license is issued.

619.3 Whenever any change is made in the appointment or employment of the agent required by this section, the licensee shall deliver to the Director a written notice of the change not less than five (5) days after the change.

619.4 The initial appointment or employment of an agent by a non-resident applicant for a license to operate a valet parking business shall be shown on the application for license, and the designated agent shall certify on the application that he or she has agreed to act as an agent for the licensee.

619.5 When any appointment or employment of an agent required by this subsection is made subsequent to the filing of an application for a license to operate a valet parking business, or subsequent to the issuance of a license, the licensee shall deliver to the Director a written notice of the appointment or employment not later than five (5) days after the appointment or employment. The notice shall bear certification by the designated agent that he or she has agreed to act as an agent for the licensee.

619.6 The Director, upon finding that an agent designated by a licensee in accordance with the requirements of this section is not, after reasonable search, to be found in the District for the purpose of serving the licensee any notice or process required to be served, may institute a proceeding for the suspension or revocation of the license issued to the licensee; and notice of the suspension or revocation shall be effective if mailed to the last known address of the licensee appearing in the Department's records.

620. TRANSFER AND MODIFICATION OF LICENSES

620.1 Upon any change in the ownership or management of a licensed valet parking business, the licensee shall immediately notify the Director of that fact.

620.2 The owner, resident general agent, or attorney, as the case may be, shall be responsible for the conduct of the business after a change in ownership or management until a new application is filed.

621. VALET PARKING OF VEHICLES

621.1 At the time of the acceptance of the motor vehicle for valet parking, the licensee shall supply a claim check or receipt to the person leaving the vehicle for valet parking.

621.2 Each claim check or receipt shall be distinctly numbered to correspond with a coupon that shall be placed upon the motor vehicle's dashboard during the time the vehicle is valet parked.

621.3 Each claim check or receipt shall show, on its face, the personal or business name of the licensee.

621.4 For each vehicle that has been valet parked by the licensee, the licensee shall store the keys of that vehicle in a secure manner and location.

621.5 When any motor vehicle remains in the possession of a licensee for a continuous period in excess of twenty-four (24) hours, the licensee shall, not later than the beginning of the next day of business after expiration of the twenty-four (24) hours, notify the Chief of Police of the fact that the motor vehicle has not been claimed.

621.6 No motor vehicle shall be parked or caused to be parked so that it is parked in a public space not zoned for the parking of motor vehicles.

622. VALET PARKING SIGNS AND NOTICE OF VALET PARKING FEES

622.1 Each licensee shall place and maintain a legible and conspicuous sign that complies with the requirements of the District Department of Transportation and shall state the name of the licensee, the licensee's business phone number, and the hours of operation.

622.2 Each sign shall state the rates charged for the valet parking of motor vehicles.

622.3 No licensee shall charge, or permit to be charged, any greater fee than is posted.

623. VALET PARKING ATTENDANTS

623.1 Any person employed by a business subject to § 617 to valet park or supervise the valet parking of automobiles from public space must possess a valet parking attendant license and pay a license fee.

623.2 The owner or operator of a valet parking business, or the owner's duly authorized agent, may employ an individual who does not hold a valet parking attendant license, but who does hold a valid motor vehicle operator's license, to valet park or supervise the valet parking of automobiles for not more than seventy-two (72) hours before the submission

by the attendant of an application to the Director, and upon the issuance by the Director of a receipt prescribed by § 624.3.

- 623.3 Each license shall be valid for two (2) years.
- 623.4 The licensee shall carry the license issued under this section on his or her person at all times while engaged in the licensed occupation.
- 623.5 The licensee shall exhibit his or her license on demand to any valet parking customer or to any authorized representative of the District government.
- 623.6 The Director shall deliver to each licensee a badge showing the serial number of the license issued. The applicant shall not be charged any additional fee for this badge.
- 623.7 Each licensee shall attach the badge provided by the Director to his or her coat or shirt in a manner that conspicuously displays the badge at all times when the licensee is engaged in the employment permitted by the license.
- 623.8 The license issued to any individual may be revoked at any time in accordance with the terms of D.C. Official Code § 47-2844 (2001).
- 623.9 No person shall be issued a valet parking attendant's license unless he or she possesses a valid motor vehicle operator's license.
- 623.10 No person shall operate a motor vehicle under the authority of a valet parking attendant's license unless the person also has been issued, and has in his or her possession at the time of operating the motor vehicle, a valid motor vehicle operator's license.
- 623.11 While providing valet parking services, each licensee shall wear a uniform that identifies the licensee as working for a valet parking company.
- 623.12 Any valet parking attendant licensee that is also employed to provide parking lot attendant services shall also obtain a parking lot attendant license, as provided in this chapter.

624. APPLICATION FOR VALET PARKING ATTENDANT'S LICENSE

- 624.1 Any individual desiring a valet parking attendant's license shall correctly provide, upon a form prescribed by the Director, the following information:
 - (a) The applicant's full name and address;
 - (b) The applicant's color of hair and eyes;
 - (c) The applicant's date of birth and sex;
 - (d) The number and date of expiration of the applicant's motor vehicle operator's license; and
 - (e) A statement of whether the applicant has ever been convicted of a felony or misdemeanor.
- 624.2 The application shall be accompanied by a set of the applicant's fingerprints.

- 624.3 On receipt of the application, the Director shall issue to the applicant a receipt certifying that the application has been received.
- 624.4 Upon the approval by the Director, the Director shall issue to the applicant a license for two (2) years.
- 624.5 When an applicant for a valet parking attendant's license has submitted his or her application and has been issued the receipt by the Director, as provided in this section, that receipt shall have the full force and effort of a license until the Director either issues the license or denies the application.

625. NON-DRIVING VALET PARKING ATTENDANT

- 625.1 The Director may waive the requirement that the applicant possess a valid motor vehicle operator's license when an applicant for a valet parking attendant submits the following:
 - (a) An affidavit from the owner or operator of the valet parking business at which the applicant is to be employed stating that the applicant will, under no circumstances, be required or allowed to operate a motor vehicle while he or she is employed as a valet parking attendant in that business; and
 - (b) An affidavit from the applicant stating that the applicant will not operate any motor vehicle while he or she is employed as a valet parking attendant.
- 625.2 Any valet parking attendant subject to § 625.1 shall have clearly indicated on his or her license badge information identifying the attendant as a person not authorized to operate a motor vehicle in the course of his or her employment.
- 625.3 The operation of a motor vehicle in the course of employment by a valet parking attendant subject to § 625.1 shall constitute a violation of this chapter. Conviction of this violation shall constitute grounds for the revocation of the license issued to the attendant.
- 625.4 A valet parking attendant subject to § 625.1 shall submit a new application for a valet parking attendant's license if the terms of employment of the valet parking attendant require him or her to operate a motor vehicle.

626. PENALTIES

- 626.1 Each licensee shall be liable for all penalties provided for violation of any of the provisions of this chapter, whether the violations are committed by the licensee or the licensee's agent or employee.
- 626.2 Pursuant to D.C. Official Code § 47-2846, any person violating any provision of this chapter shall, upon conviction, be fined not more than three hundred dollars (\$300) or imprisoned for not more than thirty (30) days, or both.
- 626.3 Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of this regulation pursuant to titles I-III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985. Adjudication of any infraction of this regulation

shall be pursuant to titles I-III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985.

627. NOTICE OF PROPOSED ACTION AND APPEAL RIGHTS

- 627.1 If the Department proposes to deny, suspend or revoke a license, a written notice shall be provided to the applicant or licensee, which states the proposed action and the basis for the proposed action.
- 627.2 The notice required under § 627.1 shall advise the applicant or licensee of the right to request a hearing within ten (10) business days (excluding Saturdays, Sundays, and legal holidays) from the date of the service of the notice.
- 627.3 The notice shall advise that the action proposed or recommended will be taken at the expiration of ten (10) calendar days after service of the notice unless an appeal is taken.
- 627.4 The notice shall be:
 - (a) Served personally upon the applicant or licensee, or the applicant or licensee’s agent; or
 - (b) Sent by first class mail to the home or business address of the applicant or licensee, or the applicant or licensee’s agent, appearing on the application or license.
- 627.5 A notice that is returned by the post office for reason of refusal of the addressee to accept delivery, or incorrect address, is deemed to have been properly served on the addressee by mail.
- 627.6 An applicant may not file a separate application during the appeal process.

628. HEARINGS AND APPEAL

- 628.1 Any licensee on whom a notice has been served pursuant to § 627 may file a written notice of appeal with the Office of Administrative Hearings (OAH).
- 628.2 All hearings and appeals shall be conducted pursuant to the regulations promulgated by OAH. Any stay of an OAH decision that results in the revocation of a license shall be issued pursuant to the procedures set forth by OAH.

All persons desiring to comment on these proposed regulations should submit comments in writing to Paul Waters, Legislative Liaison, Department of Consumer and Regulatory Affairs, Suite 9400, 941 North Capitol Street, NE, Washington, D.C. 20002, 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 (\$1.00) will be charged for each copy of the proposed rulemaking requested.

OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

NOTICE OF PROPOSED RULE MAKING

The Administrator of the Office of Documents and Administrative Issuances (ODAI), pursuant to the authority set forth in the District of Columbia Documents Act, effective March 6, 1979 (D.C. Law 2-153), hereby gives notice of her intent to adopt this proposed rulemaking to delete Chapters 1 and 2 of Title 5 of the *District of Columbia Municipal Regulations* (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D. C. Register*.

The proposed amendment to delete Chapters 1 and 2 is necessary to remove obsolete provisions that applied to the Board of Education, an independent charter agency of the District of Columbia. That agency was abolished and its functions re-distributed pursuant to the provisions in the Public Education Reform Amendment Act of 2007 (Act), effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-172 *et seq.*) (2008 Supp.), and An Act To amend the District of Columbia Home Rule Act to conform the District charter to revisions made by the Council of the District of Columbia relating to public education, approved June 1, 2007 (Pub. L. No. 110-33; 121 Stat. 223). The deleted provisions applied solely to the former Board of Education. Additionally, the deletion of these chapters will remove from the DCMR potentially confusing provisions that might erroneously be interpreted as applying to the newly created "State Board of Education" .

Title 5 DCMR, entitled EDUCATION, is amended as follows:

Chapter 1 of Title 5 DCMR is deleted.

Chapter 2 of Title 5 DCMR is deleted.

Comments on this proposed regulation should be submitted, in writing, to Mr. Gregory Fields, Staff Attorney, Office of Documents and Administrative Issuances, 441 4th Street, N.W., Suite 520 South, Washington, D.C. 20001, within thirty (30) days of the publication of this notice in the *D.C. Register*. Additional copies of this proposed regulation are available at the above address.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02 (14)), and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of his intent to take final rulemaking action to adopt the following amendments to Chapter 42 of Title 17 of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The purpose of the amendments is to implement regulations setting forth acceptable and unacceptable advertising practices, to implement regulations setting forth practices considered unauthorized practice, to clarify those procedures which may be delegated to be performed by unlicensed persons, to clarify that a licensee cannot obtain continuing education credit for work done in the normal course of his or her occupation, to set forth the items expected to be contained in a patient record, to implement regulations requiring the use of protective shields on all patients receiving x-rays and radiographs, and to implement regulations requiring and requiring dentists to notify their patients when changing the location of or closing a dental practice or office.

The following rulemaking action is proposed:

17 DCMR Chapter 42, DENTISTRY, is amended to read as follows:

A new section 4206.14 is added to read as follows:

4206.14 Unless otherwise specifically stated in this chapter, the Board shall not grant continuing education credits for:

- (a) Work done in the course of an applicant’s normal occupation or incident to the performance of his or her regular professional duties, such as teaching didactic courses, research, or course preparation in the case of a teacher or professor;
- (b) Meetings and activities not related to the administrative or clinical practice of dentistry; or
- (c) Other activities, which are not of the type of activities approved by the Board.

Section 4213.4 is amended to read as follows:

4213.4 A dentist shall maintain a record for each patient which shall:

(a) Accurately reflect the evaluation and treatment of the patient and which may include the following:

- (1) Patient's name and the date of treatment;
- (2) Updated health history;
- (3) Treatment plan;
- (4) Informed consent document(s);
- (5) Diagnosis and treatment rendered;
- (6) List of drugs prescribed, administered, dispensed and the quantity;
- (7) Radiographs;
- (8) Patient financial/billing records;
- (9) Name of dentist and/or dental hygienist providing service(s); and
- (10) Laboratory work orders; and

(b) Be kept for three (3) years after last seeing the patient or three (3) years after a minor patient reaches eighteen (18) years of age.

A new section 4213.62 is added to read as follows:

4213.62 A dentist shall use a lead apron or its equivalent on all patients receiving an x-ray or radiograph, and when appropriate a thyroid collar shall also be used.

A new section 4213.63 is added to read as follows:

4213.63 Whenever an entire dental practice or office moves to a new location or ceases operation, the owner or responsible dentist shall notify the patients of the change of address or closing not later than 30 days after the change or closing, by U.S. Mail, a note posted on the door for at least 30 consecutive days, telephone

message activated for at least 30 consecutive days, or any combination of the above.

A new section 4215 is added to read as follows:

4215 DELEGATION OF DUTIES

4215.1 The following duties shall only be performed by a dentist licensed under the Act and shall not be delegated to a dental hygienist or auxiliary:

- (a) Performing final diagnosis and treatment planning;
- (b) Performing surgical or cutting procedures on hard or soft tissue;
- (c) Prescribing or parenterally administering drugs or medications;
- (d) Administering or monitoring general anesthetics and conscious sedation;
- (e) Administering inhalants or inhalation conscious sedation agents;
- (f) Administering or monitoring nitrous oxide or local anesthesia except as permitted in Chapter 43 § 4310.2 of this Title;
- (g) Authorizing work orders for any appliance or prosthetic device or restoration to be inserted into a patient's mouth;
- (h) Operating high speed rotary instruments in the mouth;
- (i) Performing pulp capping procedures;
- (j) Condensing, contouring or adjusting any final, fixed or removable prosthodontic appliance or restoration in the mouth;
- (k) Final positioning of orthodontic bonds and bands;
- (l) Orthodontic arch wire activation with the exception of minor adjustments to eliminate pain or discomfort;
- (m) Taking impressions for master casts to be used for prosthetic restoration of teeth or oral structures;
- (n) Final cementation of crowns, bridges, inlays, onlays, posts and cores, and insertion of final prosthesis;
- (o) Placing sutures;

- (p) Flushing root canals;
- (q) Temporary wire ligation;
- (r) Application of cavity liners and bases;
- (s) Placing, carving, or finishing of amalgam restorations; and
- (t) Placing and finishing of composite resin/silicate restorations.

4215.2 Except as provided in § 4215.3 of this chapter, no person unless otherwise licensed by the Board shall place or expose dental x-ray film unless he or she has:

- (a) Satisfactorily completed a radiation course or examination recognized by the American Dental Association Continuing Education Recognition Program (CERP);
- (b) Been certified by the American Registry of Radiologic Technologists; or
- (c) Satisfactorily completed a radiation course and passed an examination given by the Dental Assisting National Board.

4215.3 For the time period beginning from the effective date of these regulations and ending December 31, 2011, a dentist may permit an auxiliary who does not meet the requirements under § 4215.2 to place or expose dental x-ray film if the auxiliary has completed in-office training and demonstrated competency to perform the task to the supervising dentist's satisfaction.

4215.4 Except as provided in § 4215.1 of this chapter, a dentist may delegate to a dental hygienist licensed under the Act those procedures which are appropriate to the training and experience of the dental hygienist, the type of practice of the supervising dentist, and to be performed under the direct or general supervision of the dentist.

4215.5 Except as provided in § 4215.6 a dentist may delegate to an auxiliary those procedures which are:

- (a) Appropriate to the training and experience of the auxiliary, and the practice of the supervising dentist;
- (b) Reversible; and
- (c) To be performed under the direct or general supervision of the dentist.

4215.6 Except as provided in § 4215.7 of this chapter, the following dental procedures shall only be delegated to an auxiliary who has:

- (a) Satisfactorily completed training in a CERP approved program, a training program or course recognized by the American Dental Association Commission on Dental Accreditation (CODA), or by the Dental Assisting National Board; and
- (b) Who performs the tasks under direct supervision with the supervising dentist checking and approving the completed task prior to dismissal of the patient from the office:
 - (1) Placement of retraction cord;
 - (2) Placement or removal of matrices;
 - (3) The application of a medicinal agent to a tooth for a prophylactic purpose;
 - (4) Placement of periodontal dressings;
 - (5) Removal of temporary restorations without the use of a rotary instrument;
 - (6) Removal of sutures; and
 - (7) Bleaching.

4215.7 A dentist may delegate performance of the tasks set forth in § 4215.6 of this chapter to an auxiliary who does not meet the training requirements in § 4215.6(a), if the auxiliary had been performing the tasks for at least three (3) months prior to the effective date of these regulations and has demonstrated competency to perform the tasks to the supervising dentist's satisfaction.

4215.8 A dentist shall not delegate to an auxiliary any of the following procedures:

- (a) Those procedures excluded by § 4215.1 of this chapter;
- (b) A preliminary dental examination; a complete prophylaxis, including the removal of any deposits, diseased crevicular tissue, accretion, or stain from the surface of a tooth or a restoration; the intraoral polishing of a tooth or a restoration;
- (c) The charting of cavities during preliminary examination, prophylaxis, or polishing, however a dentist may permit an auxiliary to record the charting of cavities as dictated by the dentist or dental hygienist during the course of an examination or dental procedure;

- (d) The instruction of individuals or groups of individuals in oral health care, unless it is in the dental office and done as instructed by the dentist;
- (e) The application of pit and fissure sealants;
- (f) The performing of a diagnostic screening to identify indications of oral abnormalities;
- (g) Administration of local anesthesia with board identified criteria and certification;
- (h) Administration of nitrous oxide with board identified criteria and certification; or
- (i) Placement of temporary restorations.

4215.9 In all instances, the licensed dentist assumes ultimate responsibility for determining, on the basis of his or her diagnosis, the specific treatment the patient will receive and which aspects of treatment will be delegated to qualified personnel in accordance with this chapter and the Act.

A new section 4216 is added to read as follows:

4216 ADVERTISING

4216.1 A dentist licensed under the Act shall include the dentist's name as the name appears on his or her District of Columbia dental license in any advertisement of dental services appearing in any newspaper, airwave transmission, telephone directory or other advertising medium in the District of Columbia.

4216.2 A dentist may not, on behalf of himself or herself, his or her partner, or his or her associate, or for any other dentist affiliated with him or her, use or participate in the use of any form of public communication, which contains a deceptive or misleading statement or claim.

4216.3 For purposes of this section, deceptive or misleading statements or claims are those that:

- (a) Contain a material misrepresentation of fact;
- (b) Fail to state any fact necessary to make the statement not misleading;
- (c) Are intended or are likely to create unjustified expectations;
- (d) State or imply superior service;

- (e) Contain a representation or implication that is likely to cause an ordinary prudent person to misunderstand or to be deceived, or that fails to contain reasonable warnings or disclaimers necessary to make a representation or implication not deceptive;
- (f) Contain statistical data or other information based on past performance coupled with an explicit representation that the data or information indicates a likelihood of future success;
- (g) Contain or imply any guarantee of satisfaction, except the guarantee to return a fee if the patient is not satisfied with the treatment rendered;
- (h) Use electronic media, including television, radio, internet, and motion pictures, in a manner inconsistent with these regulations and the following criteria:
 - (1) Broadcast advertising shall be communicated to the public only over radio or television stations that are approved by the Federal Communications Commission or over cable television,
 - (2) Broadcast advertisements shall be prerecorded, and approved for broadcast by the advertising dentist, and
 - (3) A recording of the actual transmission shall be retained by the advertising dentist for a period of 3 years;
- (i) Fail to include the name of a responsible licensed dentist who provides dental services at the location advertised;
- (j) Falsely state or imply that a dentist is a certified or recognized specialist recognized by the American Dental Association Commission on Dental Accreditation;
- (k) Claims to be a specialist or uses any of the terms to designate a dental specialty unless he or she is entitled to such specialty designation under the guidelines or requirements for specialties approved by the American Dental Association, or such guidelines or requirements as subsequently amended and approved by the board, or other such organization recognized by the board.
- (l) State or imply that a dentist practices in an area of dental specialty unless the dentist:
 - (1) Is recognized by the Board as a specialist in the area advertised,
 - (2) Includes in the advertisement a disclaimer that the dentist is not

recognized by the Board as a specialist in the area of practice advertised,
or

(3) Includes in the advertisement a statement that the dentist is a general dentist; and

(m) State that the dentist practices or advocates "mercury-free" dentistry or removes mercury amalgams for replacement of nonmercury containing materials, unless that advertisement includes a readable disclaimer which states: "The National Institutes of Health has determined that there are no verifiable systemic health benefits resulting from the removal of mercury amalgams."

4216.4 A general dentist who limits his or her practice shall state in conjunction with his or her name that he or she is a general dentist providing only certain services, e.g., orthodontic services.

4216.5 Except as provided in § 4216.6 of this chapter, a dentist shall not:

(a) State or imply that another dentist practices at a dental office or location who in fact does not practice at that site; or

(b) State or imply an affiliation with a dentist with whom the dentist does not have a legal affiliation.

4216.6 For one year following the dissolution of a partnership, affiliation or professional arrangement, a dentist may continue to use advertising containing the name of the former partner or dentist with whom he or she was affiliated, if the other dentist has expressly consented to such use, or is deceased.

4216.7 A statement regarding fees shall be considered deceptive or misleading if the dentist:

(a) Renders the service at more than the fees advertised; or

(b) Fails to offer the service at the fee advertised for a reasonable period of time following the advertisement unless a specific time limit is included in the original advertisement.

4216.8 Any statement specifying a fee for a dental service which does not include the cost of all related procedures, services, and products which, to a substantial likelihood, will be necessary for the completion of the advertised services as it would be understood by an ordinarily prudent person shall be deemed to be deceptive or misleading. Where reasonable disclosure of all relevant variables and considerations is made, a statement of a range of fees for specifically described dental services shall not be deemed to be deceptive or misleading.

- 4216.9 Discount offers for a dental service are permissible for advertising only when the nondiscounted or full fee and the final discounted fee are also disclosed in the advertisement. The dentist shall maintain documented evidence to substantiate the discounted fee.
- 4216.10 A dentist shall be responsible for an advertisement of service regardless of whether the advertising has been generated by him or her personally, by his or her employees, or by a proprietorship, partnership, corporation, union, public school clinic, state institution, or charitable institution which uses his or her services.
- 4216.11 A dentist shall:
- (a) Retain a copy of all advertising, in the form in which it was published, for a period of 3 years from the date of publication or transmission; and
 - (b) Make the copy available for inspection and copying when requested by the Board.
- 4216.12 Within thirty (30) days of receiving a request from the Board, a dentist shall submit documentation, video or audio recordings, or other evidence to substantiate the truthfulness of any assertion or representation of material fact set forth in an advertisement. If the dentist fails or refuses to comply with the request, the Board may draw an adverse inference from such failure or refusal in any subsequent hearing or disciplinary action on the substance of the complaint or investigation, should such a hearing or action occur.

A new section 4217 is added to read as follows:

4217 UNAUTHORIZED PRACTICE

- 4217.1 A dentist shall not engage in any treatment, therapy, or testing in the District of Columbia that is not:
- (a) Within the scope of the practice of dentistry pursuant to D.C. Official Code § 3-1201.02(5)(2001);
 - (b) Commonly used in dental practice in the United States; and
 - (c) Currently taught in United States dental schools or dental residency programs accredited by the American Dental Association Commission on Dental Accreditation.
- 4217.2 A dentist shall not perform any extraoral aesthetic or cosmetic procedures in the District of Columbia including but not limited to laser hair removal, skin

resurfacing, skin refirming, skin tightening, skin rejuvenation, or injection of substances into the body for the purpose of wrinkle-removal, unless he or she:

- (a) Holds an active District of Columbia dental license in good standing;
- (b) Has successfully completed an oral and maxillofacial residency program accredited by the American Dental Association Commission on Dental Accreditation;
- (c) Only performs aesthetic or cosmetic procedures above the clavicle or within the head and neck region of the body; and
- (d) Only performs those procedures which are appropriate to his or her training and experience.

4217.3 A dentist shall not employ, contract with, supervise, or otherwise aid or assist another individual in the performance of extraoral aesthetic or cosmetic procedures in the District of Columbia including but not limited to laser hair removal, skin resurfacing, dermabrasion, skin refirming, skin tightening, skin rejuvenation, or injection of substances into the body for the purpose of wrinkle-removal unless the individual actually performing the procedures meets the requirements set forth in § 4217.2 of this chapter or is otherwise licensed and authorized under the Act to perform such procedures.

4217.4 A dentist shall not employ, contract with, supervise, or otherwise aid or assist another individual in the performance of general spa services and procedures in the District of Columbia including but not limited to massage therapy, facials, tooth bleaching, cosmetic tattooing, manicures, or pedicures, unless the individually actually performing the procedures is duly licensed or otherwise authorized under applicable District of Columbia law to perform the procedures.

Section 4299.1 is amended as follows:

a) The following term with the ascribed meaning is added as follows:

Act- The District of Columbia Health Occupation Revision Act of 1985 (“Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 et seq.)

Bleaching- external tooth whitening procedures.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the D.C. Register, to the Department of Health, Office of the General Counsel, 825

North Capitol Street, N.E., 4th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 9:00 a.m. and 5:00 p.m. at the address listed above.

DEPARTMENT OF MENTAL HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Mental Health (“DMH”), pursuant to the authority set forth in sections 104, and 105 of the Department of Mental Health Establishment Amendment Act of 2001, effective December 18, 2001, (D.C. Law 14-56; D.C. Official Code §§ 7-1131.04 and 7-1131.05), hereby gives notice of his intent to adopt a new Chapter 23 of Title 22A of the District of Columbia Municipal Regulations (“DCMR”), entitled “Home First Subsidies for Mental Health Consumers,” and to amend sections 2205, 2207, and 2299, and subsection 2201.3 of Chapter 22 of Title 22A.

The purpose of the new Chapter 23 of Title 22A DCMR is to provide standards for the application process, eligibility determination and issuance of Home First Subsidies to eligible DMH consumers. The new chapter also provides standards to determine the amount of the Home First Subsidy, and standards for annual recertification, maintenance of a waiting list, voluntary transfer to a different unit, and termination of a Home First Subsidy. Finally, the new chapter sets forth rights and responsibilities of landlords, Core Service Agencies (“CSA’s”), eligible consumers, and DMH, and due process procedures for Home First Subsidy recipients. The amendments to Chapter 22 of Title 22A DCMR require Housing Safety/Quality Checklists and Home Visit Reports to be conducted monthly, instead of quarterly.

The Director gives notice of his intent to take final rulemaking action to adopt the proposed rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

A new Chapter 23 is added to Title 22A to read as follows:

2300 HOME FIRST SUBSIDIES FOR MENTAL HEALTH CONSUMERS

2300.1 These rules establish the application process, eligibility criteria, and provision of the Department of Mental Health (“Department”) Home First Subsidy (“HFS”) provided pursuant to subsection 2200.3(b) and section 2202.

2300.2 The purpose of the HFS is to provide a temporary or “bridge” subsidy that will assist eligible consumers in obtaining safe and affordable housing until permanent housing is obtained.

2300.3 These rules shall not apply to temporary loan assistance granted by the Department for consumers residing in community residential facilities.

2300.4 Nothing in these rules shall be interpreted to mean that an HFS provided by the Department is an entitlement.

2300.5 The Department may execute contracts and agreements and issue grants as necessary to carry out the provisions of this chapter.

2300.6 The Department may set aside HFS funds to use as project-based subsidies.

2301 WAIVER OF RULES

2301.1 Upon determination of good cause, the Director may waive any provision under this chapter subject to the statutory limitations of other District laws. The Director shall provide each waiver in writing and shall support each waiver by documentation of the facts and the grounds upon which a waiver is based.

2302 ALLOCATION OF FUNDS

2302.1 For each annual appropriation of funds for HFS, the Director is authorized to make HFS payments consistent with this chapter.

2302.2 The Department may only provide HFS subject to annual appropriations and the availability of funds for HFS, as determined by the Director.

2302.3 The Department shall maintain a system to ensure that HFS payments do not exceed the total appropriations available for HFS in any fiscal year. This system may include, but is not limited to, the following:

- (a) Providing notice of a temporarily suspension of placement for applicants and eligible consumers while an HFS financial audit is conducted:
 - (1) At each Core Service Agency (“CSA”);
 - (2) On the Department’s website; and
 - (3) To each eligible consumer on the waiting list;
- (b) If applicable, providing notice that the Department is no longer approving HFS for eligible consumers due to the unavailability of HFS funds.

2303 AUTHORIZED PERSONAL REPRESENTATIVE

2303.1 An applicant or eligible consumer may authorize a personal representative (“authorized personal representative”) as defined in section 2399 to act on his or her behalf, for purposes of this chapter.

2304 APPLICATION PROCESS

2304.1 Each application for an HFS shall be in writing on a form prescribed by the Department and signed by:

- (a) The applicant; and
- (b) The Community Support Worker or other qualified practitioner at the CSA or other mental health provider agency where the applicant is actively engaged.

2304.2 Each application form shall include a Department Consumer Rights Statement.

2304.3 Each applicant shall sign a document acknowledging receipt of the Department Consumer Rights Statement and a Department Authorization that allows the Department to obtain or verify information necessary to determine eligibility for a HFS. The Department Authorization shall be consistent with D.C. Official Code § 7-1201.01, *et seq.*

2304.4 Each applicant shall cooperate fully with the Department in establishing his or her eligibility. The applicant shall provide documentation required by the Department, including, but not limited to, evidence of:

- (a) Diagnosable mental, behavioral or emotional disorder which substantially impairs the mental health of the person or is of sufficient duration to meet diagnostic criteria with the Diagnostic and Statistical Manual of Mental Disorders – IV (“DSM-IV”) or its International Classification of Diseases, Ninth Revision, Clinical Modification (“ICD-9-CM”) equivalent with the exception of DSM-IV “V” codes, substance abuse disorders, mental retardation and other developmental disorders, or seizure disorders, unless those exceptions co-occur with another diagnosable mental illness;
- (b) Annual Income; and
- (c) Registration, or verification of an appointment for registration, at the District of Columbia Housing Authority (“DCHA”) for any permanent housing assistance for which the applicant may be eligible.

2304.5 An applicant’s CSA shall encourage and assist the applicant in applying for any public benefit for which he or she may be eligible.

2304.6 The application is complete when all of the information required by the Department is furnished to the Department.

2304.7 If the Department determines that an application is not complete, the Department shall notify the applicant and the CSA or other mental health provider in writing within five (5) business days of receiving the incomplete application. The notice shall identify the additional information needed to process the application.

- 2304.8 If requested by an applicant with a disability, the CSA or mental health provider where an applicant is actively engaged shall assist the applicant with any aspect of the application process necessary to ensure that the applicant with a disability has an equal opportunity to submit the application.
- 2304.9 An applicant or CSA may submit a completed application to the Department for review.
- 2304.10 The Department shall determine each applicant's eligibility no later than fifteen (15) business days after the date a complete application is received. The Department shall not be responsible for delays caused by:
- (a) The applicant's failure to supply information to verify facts stated in the application, without which the Department is not able to determine eligibility;
 - (b) The inability to contact the applicant or authorized personal representative by written correspondence and by telephone;
 - (c) Evidence of misrepresentation in the application that may result in further investigation; or
 - (d) Any other delay in receipt of information or documentation necessary to complete the application over which the CSA, mental health provider, Department, or consumer has no control.
- 2304.11 If a housing emergency occurs during the application process, the CSA or other mental health provider, and the Department shall take reasonable steps to process the application within ten (10) business days of receiving notification of the housing emergency. Examples of housing emergencies include, but are not limited to:
- (a) Incidents of domestic violence or abuse at the applicant's current housing arrangement;
 - (b) Witnessing or becoming the victim of crime at the housing location;
 - (c) Serious violations of Title 14 DCMR, Section 100 *et seq.*;
 - (d) Receipt of a notice to quit or vacate;
 - (e) A medical emergency or substantial change in medical condition that requires a change in unit location or configuration; or
 - (f) Any situation that the Director determines is an emergency.

- 2304.12 If an applicant is determined eligible for an HFS pursuant to section 2305, and an HFS is available, the Department shall send a written eligibility determination to the applicant, CSA or other mental health provider, and a representative payee, if appropriate. The eligibility determination shall include, at a minimum:
- (a) A statement of the eligibility determination;
 - (b) Written approval to search for housing in accordance with section 2317;
 - (c) The amount of financial contribution that the eligible consumer is required to contribute per month; and
 - (e) The contact name and telephone number of a Department representative.
- 2304.13 If an applicant is determined eligible, but no HFS is available, the Department shall send a written eligibility determination to the applicant, CSA or other mental health provider. This eligibility determination shall include, at a minimum:
- (a) A statement of the eligibility determination;
 - (b) A statement identifying the date that the eligible consumer will be placed on the waiting list; and
 - (c) The contact name and telephone number of a Department representative.
- 2304.14 If an applicant is determined eligible, but no HFS is available due to a lack of funding, the Department shall place the eligible consumer on a waiting list pursuant to section 2306.
- 2304.15 If an applicant is determined ineligible, the Department shall send written determination of ineligibility to the applicant, CSA or other mental health provider. This ineligibility determination shall include, but is not limited to:
- (a) A statement of the denial of eligibility;
 - (b) A statement of the factual basis for the denial;
 - (c) A statement of the applicant's right to request that the Department review the determination pursuant to section 2323; and
 - (d) The contact name and telephone number of a Department representative.

2305 ELIGIBILITY CRITERIA

- 2305.1 The Department may determine an applicant is eligible to receive an HFS, if he or she:

- (a) Is a consumer of mental health services as defined in D.C. Official Code § 7-1131.02(2) who is actively engaged with a CSA, or other mental health provider that is supported by the Department;
- (b) Has a diagnosable mental, behavioral or emotional disorder which substantially impairs the mental health of the person or is of sufficient duration to meet diagnostic criteria with the DSM-IV or its ICD-9-CM equivalent with the exception of DSM-IV “V” codes, substance abuse disorders, mental retardation and other developmental disorders, or seizure disorders, unless those exceptions co-occur with another diagnosable mental illness;
- (c) Is eighteen (18) years of age or older or is the legal guardian of a child receiving mental health services as defined in D.C. Official Code § 7-1131.02(18) and is residing with the child;
- (d) Demonstrates that his or her household income does not exceed the amount specified in section 2308; and
- (e) Demonstrates that the applicant has registered for, or has a verifiable appointment to register for permanent housing assistance through DCHA.

2305.2 The eligible individual’s adjusted income, as defined in section 2399, in the sixty (60) day period immediately preceding the date of application, shall not exceed thirty percent (30%) of the Area Median Income for the Metropolitan Washington D.C. Area, as defined by the U.S. Department of Housing and Urban Development.

2305.3 Nothing in these rules shall be interpreted to mean that an HFS is an entitlement. The availability of an HFS shall be subject to annual appropriations and the availability of funds for HFS.

2305.4 The Department may require the applicant or other household members to execute one or more Department Authorizations that authorize a federal, state or private source of information to release to the Department information necessary to verify eligibility.

2306 WAITING LIST

2306.1 A determination of eligibility shall be sufficient to place an eligible consumer on the waiting list, in the manner described in this section.

2306.2 The Department shall place an eligible consumer on a waiting list when:

- (a) The eligible consumer does not submit the HFS Package identified in

subsection 2309.2(d) to the Department within the required timeframe pursuant to subsection 2317.4;

- (b) A financial audit is conducted pursuant to section 2302;
- (c) The Department is no longer placing eligible consumers due to lack of available funds pursuant to section 2302; or
- (d) The eligible consumer is not able to secure and physically reside in housing due to incarceration, hospitalization, inpatient treatment or residential treatment.

2306.3 An eligible consumer shall be placed on the waiting list in chronological order by the date of the Department's eligibility determination.

2306.4 If the Department establishes preferred selection pursuant to section 2307, the Department may place an eligible consumer who meets the preferred selection criteria at the top of the waiting list.

2306.5 The eligible consumer or CSA shall provide the Department with the eligible consumer's current mailing address and telephone number. Each change of address shall be reported in writing to the Department within five (5) business days of the change.

2307 PREFERRED SELECTION

2307.1 Consistent with the Mental Health Establishment Amendment Act of 2001, which is construed in a manner consistent with all outstanding orders of the United States District Court in *Dixon, et al. v. Fenty, et al.*, including the Final Plan adopted by the District Court in its April 2, 2001 order, the Department may establish priorities for the receipt of HFS, as necessary.

2308 COMPUTATION OF PAYMENT

2308.1 The Department shall determine the amount of each HFS payment made on behalf of an eligible consumer based on:

- (a) The eligible consumer's adjusted income reported in the application or the most recent re-certification; and
- (b) Rental rates established by the Department. The Department may approve an HFS in an amount not to exceed eighty percent (80%) of the annual Fair Market Rent Value calculated by the U.S. Department of Housing and Urban Development for the Metropolitan Washington D.C. area.

- 2308.2 An eligible consumer shall pay thirty percent (30%) of his or her adjusted income (“Total Consumer Rent Payment”) toward the total rent due under the lease.
- 2308.3 For each approved HFS, the Department shall issue the HFS on a monthly basis to the landlord on behalf of the eligible consumer that is equal to the rent charged by the landlord, minus the Total Consumer Rent Payment, as determined by the Department in accordance with this chapter.
- 2308.4 The amount of the total rent due under a lease shall not exceed the limits set by the Department pursuant to subsection 2308.1(b).
- 2308.5 Rent rates established by the Department pursuant to subsection 2308.1(b) shall be effective for new leases and lease renewals that occur after the effective date of this chapter.

2309 HOME FIRST SUBSIDY PAYMENT

- 2309.1 The Department shall not provide an HFS if permanent housing that does not require the eligible consumer to relocate is available. Permanent housing may include, but is not limited to, a Housing Choice Voucher or other permanent housing assistance pursuant to a federal or District housing subsidy program.
- 2309.2 The Department may approve an HFS for an eligible consumer only after the following conditions are met:
 - (a) A housing unit which complies with the requirements of this chapter is available;
 - (b) The amount of rent charged for the available unit is consistent with subsection 2308.1(b);
 - (c) If required by applicable District law, a business license and certificate of occupancy is received;
 - (d) The eligible consumer, CSA or other mental health provider submits to the Department an HFS Package, which includes:
 - (1) A Program Agreement signed by the eligible consumer;
 - (2) A Program Agreement signed by the landlord, if required by the Department;
 - (3) A completed Housing Inspection Checklist;
 - (4) An HFS Approval Form, signed by the CSA and the landlord; and

(e) The Department approves the HFS Approval Form in writing.

2309.3 The Department shall notify the eligible consumer and CSA or other mental health provider that an HFS is approved by providing the eligible consumer a copy of the HFS Approval Form signed by the Department.

2309.4 The Department may authorize payment of an HFS for an eligible consumer only after the eligible consumer, CSA or other mental health provider provides the Department with a copy of the executed lease agreement signed by the eligible consumer and the landlord.

2309.5 The Department shall issue an approved HFS in the form of non-cash payment directly to the landlord.

2309.6 The Department shall only provide an HFS for actual rent obligations incurred by the consumer in a manner consistent with this chapter.

2310 ANNUAL TENANT RE-CERTIFICATIONS

2310.1 The Department shall examine and re-determine the eligibility status and annual income of each eligible consumer receiving an HFS at least annually, to ensure that HFS are provided to consumers who continue to meet the eligibility requirements.

2310.2 The annual re-certification date shall be the anniversary date of the first day of the month in which the eligible consumer began receiving an HFS. The Department may adjust the re-certification date as necessary.

2310.3 The Department shall re-determine the eligibility status and income of a consumer who is on the waiting list at the time an HFS becomes available for the consumer.

2310.4 The Department shall send written notice of re-certification to each eligible consumer who is receiving an HFS at least thirty (30) calendar days before the annual re-certification date.

2310.5 Each eligible consumer shall sign a Department Authorization to authorize the Department to obtain information necessary to verify eligibility.

2410.6 The Department shall continue providing HFS payments during the re-certification process.

2410.7 If the re-certification process is not completed within ninety (90) calendar days of the re-certification date due to a delay caused by an eligible consumer, the Department may suspend an HFS until the re-certification process is finished.

- 2310.8 The Department shall provide an eligible consumer written notice of a suspension. An eligible consumer may appeal the suspension pursuant to section 2324.
- 2310.9 If an HFS is suspended pursuant to subsection 2310.7, the Department shall not retroactively pay the suspended amount of the HFS when the re-certification process is finished.
- 2310.10 The Department shall provide written notification to each consumer whose HFS is terminated as a result of the annual re-certification. A consumer may appeal termination of a subsidy pursuant to section 2324.
- 2310.11 A re-certification that results in a decrease in the amount of the HFS shall be effective thirty (30) calendar days after written notice is provided to an eligible consumer. The eligible consumer may appeal the reduction in the amount of the HFS pursuant to section 2324.
- 2310.12 A re-certification that results in an increase in the amount of the HFS shall be effective the first day of the month following the completion of the re-certification process.

2311 CONSUMER PARTICIPATION

- 2311.1 Each applicant and eligible consumer may exercise rights granted pursuant to applicable District laws and regulations, including but not limited to the Department of Mental Health Establishment Amendment Act of 2001, D.C. Official Code § 7-1231.04.
- 2311.2 Each eligible consumer shall:
 - (a) Maintain registration for permanent housing assistance through the DCHA;
 - (b) Comply with the terms of the lease as required by District law;
 - (c) Provide proof of annual income required pursuant to subsection 2304.4(b);
 - (d) Attend the first available orientation session scheduled by the Department;
 - (e) Pay the Total Consumer Rent Payment for which he or she is responsible;
 - (f) Permit the CSA or other mental health provider access to his or her housing unit on a monthly basis as required for completing a Housing Safety/Quality Checklist and Home Visit Report pursuant to subsection 2207.3;

- (g) Notify the Department and CSA of any change in annual income or household composition within fifteen (15) calendar days of the change;
- (h) Report any damages or problems in the housing unit to the landlord immediately after occurrence;
- (i) Refrain from illegal activities or other acts that endanger the health or safety of the consumer or any other individual on the premises;
- (j) Maintain the unit in a clean, safe, and habitable condition;
- (k) Provide to the Department at least thirty (30) calendar days a written notice of intent to terminate a lease or relocate from the premises;
- (l) Maintain active engagement with a CSA or other mental health provider while receiving an HFS; and
- (m) Notify his or her representative payee of eligibility for and receipt of an HFS, if applicable.

2311.3 If an eligible consumer fails to comply with any paragraph of subsection 2311.2, the Department and CSA shall utilize all available means to engage the consumer and ensure compliance.

2312 CORE SERVICE AGENCY AND OTHER MENTAL HEALTH PROVIDER RESPONSIBILITIES

2312.1 Each CSA or other mental health provider shall:

- (a) Designate at least one (1) staff member to coordinate activities for supportive housing and attend monthly housing meetings scheduled and facilitated by the Department's Housing Program;
- (b) Make available to the public HFS applications provided by the Department and accept applications from applicants who requests an HFS;
- (c) Advise each applicant of the eligibility requirements before submitting an application;
- (d) Ensure that each applicant signs a Department Consumer Rights Statement and a Department Authorization that allows the Department to obtain or verify information necessary to process an application and determine eligibility. The CSA or other mental health provider shall include the signed Department Consumer Rights Statement and Department Authorization form in the application package submitted to the Department;

- (e) Submit each completed application to the Department for review and processing;
- (f) Provide the Department with a monthly Housing Safety/Quality Checklist and Home Visit Report for each eligible consumer receiving an HFS no later than the fifteenth (15th) day of the subsequent month, in accordance with subsection 2207.3;
- (g) Ensure proper documentation is provided to the Department within fifteen (15) calendar days of notification by an eligible consumer of any change in benefits, income, or family composition;
- (h) Provide statistical data and reports related to the HFS as requested by the Department;
- (i) Inform the Department of any change in the applicant's or eligible consumer's CSA or other mental health provider and provide the Department a copy of the transition plan; and
- (j) Ensure supportive housing services are specific to each eligible consumer's rehabilitation needs and treatment or recovery plan.

2312.2 If requested by an eligible consumer, each CSA or mental health provider may:

- (a) Assist each applicant to apply for any public benefits for which he or she may be eligible;
- (b) Assist each applicant to register for any housing assistance program for which he or she may be eligible, including but not limited to, the DCHA Housing Choice Voucher Program and Public Housing, if requested;
- (c) Assist each applicant with completing an HFS application form;
- (d) Assist each eligible consumer to complete an HFS request for voluntary relocation form;
- (e) Assist an applicant in gathering documentation necessary to establish proof of:
 - (1) Annual Income; and
 - (2) Registration or an appointment to register at DCHA for a Housing Choice Voucher;
- (f) Accompany an eligible consumer to an orientation session scheduled by the Department;

- (g) Use community resource available to assist each eligible consumer in locating housing that complies with sections 2203 and 2318;
- (h) Assist each eligible consumer to move into or relocate to an available housing unit after written approval is provided by the Department;
- (i) Accompany each eligible consumer to sign the lease; and
- (j) Intervene on the consumer's behalf to resolve disputes between the consumer and landlord whenever possible through non-adversarial process involving negotiation, mediation and conciliation. The CSA may refer the consumer and landlord to the Department for additional dispute resolution resources.

2313 LANDLORD PARTICIPATION

2313.1 Each landlord who agrees to accept an HFS on behalf of an eligible consumer shall:

- (a) Execute a lease agreement with an eligible consumer that complies with applicable District laws;
- (b) Execute a Program Agreement with the Department, which shall incorporate the rules in this chapter;
- (c) Provide habitable housing in the District of Columbia in accordance with applicable federal and District laws relating to accessibility, health and safety;
- (d) Agree to hold harmless and release the Department from any and all claims, actions, judgments and attorney fees arising from any damage or necessary repairs to the unit or property;
- (e) Accurately report to the Department the date of scheduled move in, move out, the contract rent of each eligible consumer, and if the eligible consumer stops paying rent, the date of the most recent rent payment;
- (f) Notify the Department within five (5) calendar days if an HFS recipient is no longer living in a unit;
- (g) Agree to accept an HFS from the Department as late as the 15th day of each month; and
- (h) Participate in a mediation program before initiating a notice to quit, if an eligible consumer also agrees to participate.

2313.2 A landlord shall not demand or accept any rent payment from the eligible consumer in excess of the amount approved by the Department in writing.

2313.3 A landlord shall not take adverse action against an HFS recipient who is a tenant of the property while the Department and the landlord are actively working to resolve verification and payment issues.

2313.4 A landlord who accepts an HFS for a consumer who is no longer a tenant of the property, shall return the HFS to the Department within fifteen (15) calendar days of receipt.

2313.5 Nothing in this chapter shall be construed to create any rights, substantive or procedural, enforceable at law by a landlord in any matter, administrative, civil or criminal against the District.

2314 DEPARTMENT RESPONSIBILITIES

2314.1 The Department shall:

- (a) Administer the HFS in accordance with this chapter;
- (b) Facilitate a housing meeting with CSA's and other mental health providers at least monthly;
- (c) Provide application forms to each CSA, other mental health providers, and to the public;
- (d) Provide a determination of eligibility to each applicant within fifteen (15) calendar days of receiving a complete application, as described in section 2304;
- (e) Provide a written determination of eligibility to each applicant and his or her CSA or other mental health provider;
- (f) Provide a housing vacancy list to each CSA, other mental health provider, and other agency acting on behalf of an eligible consumer;
- (g) Inspect each unit prior to authorization of an HFS;
- (h) If requested and appropriate, refer a landlord, CSA, other mental health provider, or eligible consumer to available dispute resolution services;
- (i) Determine, in its sole discretion, whether to enter into a Program Agreement with a landlord;

- (j) Maintain a waiting list in accordance with section 2306; and
- (k) Review and approve requests for reasonable accommodations.

2315 DAMAGE TO PROPERTY

- 2315.1 Each eligible consumer shall be responsible for damages he or she causes to a unit or any common area, in accordance with the terms of the lease.
- 2315.2 An eligible consumer, CSA, or landlord may request that the Department arrange an inspection to independently assess the nature and extent of the damage identified by the landlord or consumer.

2316 UTILITY EXPENSE

- 2316.1 The Department may approve an HFS for a unit that includes utility costs paid for by a landlord as part of the rent rate, only if payment of utilities by the landlord is evidenced by the lease agreement and the total rent rate does not exceed the Department approved rent rate pursuant to section 2308.
- 2316.2 The Department shall not pay utility costs incurred by any consumer. These costs include(s) water, gas, electric, telephone and cable.

2317 HOUSING SEARCH

- 2317.1 An eligible consumer may only search for available housing after he or she receives written authorization to begin a housing search from the Department.
- 2317.2 The Department shall provide each CSA and other mental health providers a list of vacant units.
- 2317.3 In addition to reviewing the list of vacant units provided by the Department, each eligible consumer, with the assistance of his or her CSA or other mental health provider, if requested, shall use other available community resources to find a unit of the size and rent that meets the criteria set forth in this chapter.
- 2317.4 If an eligible consumer does not locate housing within ninety (90) calendar days of receiving Department authorization to begin a housing search, the eligible consumer shall be placed on the waiting list in chronological order by the date the ninety (90) day timeline expires.
- 2317.5 A consumer, CSA, or authorized representative may request an extension of time to search for housing from the Department based on the eligible consumer's needs. An extension shall not exceed thirty (30) days. No more than two (2) thirty (30) day extensions may be granted. If the consumer does not submit an HFS Package to the Department by the extension deadline, the eligible consumer

shall be placed on the waiting list in chronological order by the date the extension expired.

2318 ELIGIBLE UNITS

2318.1 The Department may only provide an HFS for units that comply with this section, sections 2203, 2204, and 14 DCMR, Subtitle A, Chapters 1-12.

2318.2 The following units shall not be eligible for an HFS:

- (a) Units that do not comply with this section, sections 2203, 2204, and 14 DCMR, Subtitle A, Chapters 1-12.
- (b) Units owned by the eligible consumer or authorized personal representative;
- (c) Units owned by Department employees, employees of the Department's designee, or employees of any organization or entity that has administrative responsibility for the HFS;
- (d) Units owned by an individual employee of a CSA;
- (e) Units owned by a treating mental health provider as defined in section 2399;
- (f) Units on the grounds of educational institutions or units that are available only to students, staff or faculty of an educational institution; and
- (g) Nursing homes.

2319 VOLUNTARY RELOCATION

2319.1 To request relocation to another housing unit, an eligible consumer shall submit a written request for relocation to their assigned CSA, other mental health provider, or Department. The Department shall approve or deny each request for relocation in writing no later than fifteen (15) business days after the date a complete written request for relocation is received.

2319.2 The Department may provide written approval of an eligible consumer's request to relocate with an HFS only if:

- (a) The request was submitted for approval before relocating;
- (b) The consumer has not yet relocated;
- (c) The consumer is not in arrears of the lease;

- (d) The consumer will not incur penalties under the lease, or has reached agreement with the landlord for the relocation;
- (e) The unit is not damaged and in need of repairs beyond normal wear and tear;
- (f) The rental amount for the new unit is consistent with the Department's rates in accordance with subsection 2308.1; and
- (g) The HFS recipient is in good standing and is not currently in violation of any obligations under this chapter.

2319.3 The Department may approve a transfer that does not meet the conditions specified in subsection 2319.2, if the Department determines that:

- (a) An emergency situation exists pursuant to subsection 2304.11;
- (b) The landlord is in violation of the lease, housing code, or requirements of this chapter, and continued occupancy in the unit jeopardizes the safety or health of the consumer; or
- (c) The Director determines that unusual circumstances warrant relocation.

2320 TEMPORARY ABSENCES

2320.1 If an eligible consumer is absent from the unit for more than thirty (30) calendar days, he or she shall provide notification to the Department, CSA or other mental health provider as soon as possible, but no later than the thirtieth (30th) day of his or her absence.

2320.2 Upon receiving proper notification of an absence, the Department may continue to provide an HFS during a temporary absence of up to sixty (60) calendar days, if the absence is a result of:

- (a) Hospitalization;
- (b) Short-term inpatient treatment;
- (c) Incarceration; or
- (d) Family emergency.

2320.3 The Department may approve in writing an extension of no more than thirty (30) additional days of absence on a case by case basis.

- 2320.4 The Department may terminate an HFS if:
- (a) The Department does not receive notification of a temporary absence of more than thirty (30) days from a housing unit;
 - (b) The absence is for a period of time beyond sixty (60) calendar days, or the date a Department approved extension expires; or
 - (c) The absence does not result from the conditions set forth in subsection 2320.2.

2320.5 The Department shall provide written notification to each consumer whose HFS is terminated pursuant to subsection 2320.4. A consumer may appeal termination of a subsidy pursuant to section 2324.

2321 EVICTIONS AND LEASE TERMINATIONS BY LANDLORDS

2321.1 Landlords receiving an HFS may only terminate a lease with an eligible consumer in accordance with lease terms and applicable District law.

2321.2 An eligible consumer evicted through judicial means for the consumer's non-payment, or violation of the lease or District Tenant-Landlord law, shall not receive an HFS after the date the consumer is ordered to vacate the unit. The consumer may re-submit an application for an HFS to the Department.

2322 TERMINATION OF ASSISTANCE

2322.1 The Department may terminate an HFS for an eligible consumer for any of the following reasons:

- (a) The consumer no longer meets the HFS eligibility requirements described in this chapter;
- (b) The consumer is offered permanent housing assistance through any other federal or District program;
- (c) The consumer fails to stay actively engaged with a CSA or other mental health provider, and repeated attempts by the CSA and Department to re-engage the eligible consumer have failed;
- (d) The consumer fails to permit the CSA or other mental health provider access to his or her housing unit on a monthly basis as required for completing a Housing Safety/Quality Checklist and Home Visit Report, and repeated attempts by the CSA and Department to work with the eligible consumer to allow access to his or her housing unit have failed;

- (e) An eligible consumer is evicted through judicial means for the consumer's non-payment, or violation of the lease or District Tenant-Landlord law;
- (f) The tenant fraudulently misrepresents eligibility for assistance, annual income or other information, with the intention of obtaining unauthorized assistance;
- (g) The consumer is absent from the unit, as set forth in subsection 2320.3 or no longer resides in the unit; or
- (h) The death of a consumer.

2322.2 The Department shall provide a consumer written notice of termination, effective sixty (60) calendar days from the date the Department issues the notification. A consumer may appeal a written notice of termination pursuant to section 2324.

2322.3 If the Department suspects tenant fraud, it may refer the case to the proper authorities for investigation.

2323 RIGHT TO REVIEW

2323.1 The Department may afford an applicant the opportunity to seek review of the Department's decision to deny eligibility for an HFS.

2323.2 An applicant may request a review within fifteen (15) business days of the Department's denial of eligibility.

2323.3 Each request for a review shall contain a concise statement of the reason why the applicant should be determined eligible to receive an HFS, with supporting documentation, if available.

2323.4 Each administrative review shall be conducted by the Director and shall be completed within fifteen (15) business days of the receipt of the applicant's request.

2323.5 The Director shall issue a written decision which sets forth his or her evaluation and resolution of the denial and describes the actions required of the Department and actions required of the applicant in implementing the decision.

2324 RIGHT TO A FAIR HEARING

2324.1 A consumer who is receiving an HFS may request a fair hearing from the Department within thirty (30) business days of receiving written notice of reduction, termination or suspension of an HFS.

- 2324.2 A timely request for a fair hearing shall automatically stay the Department's decision to terminate or suspend an HFS pending the completion of a fair hearing.
- 2324.3 Each request for a fair hearing shall contain a concise statement of the reason why the HFS should not be reduced, terminated or suspended.
- 2324.4 Consistent with D.C. Official Code § 2-509, during the course of the fair hearing, the appellant shall have the right to:
 - (a) Present any testimony, witnesses or other evidence, both orally and in writing;
 - (b) Cross-examine any witness presented by the Department; and
 - (c) Be represented by counsel, a relative, or other authorized personal representative at the appellant's expense.
- 2324.5 The recommendation of the hearing examiner shall be issued in writing within thirty (30) business days of the hearing and shall include findings of fact based exclusively on evidence presented at the hearing and conclusions of law.
- 2324.6 The Director shall review the recommendations of the hearing officer and render a final decision within fifteen (15) business days of receiving the hearing officer's recommendations. The Director shall describe the actions required of the Department and actions required of the consumer in implementing the decision.
- 2324.7 The Director may overrule the hearing officer in instances where he or she does not agree with findings, conclusions or recommendations presented for decision. In such cases, the reasons for the Director's decision shall be specified in writing.

2399 DEFINITIONS

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

Actively Engaged - a consumer interacts with or is provided services from a CSA or other mental health provider at least once every thirty (30) days, or in accordance with the consumer's individual recovery plan.

Authorized personal representative - either of the following:

- (a) An individual, whether or not an attorney, designated by a consumer of mental health services to represent the consumer's personal interests with regard to his or her mental health and housing needs, for whom the Department has received a completed and signed Department Authorization to Use or Disclose Protected Health Information; or

- (b) An individual specifically authorized by a court of competent jurisdiction as the legal representative or guardian of a consumer, for whom the Department has received a copy of the court authorization.

Annual Income - annual income as defined in Title 24 of the Federal Code of Regulations, Subtitle A, Part 5, Subpart F.

Adjusted Income - adjusted income as defined in Title 14, DCMR subsection 6099.1.

Community Residence Facility - a licensed residence which provides twenty four (24) hour on-site supervision, lodging, and meals in a supportive, homelike environment for individuals who require supervision within a structured environment that can include specialized services such as medical, psychiatric, nursing, behavioral, vocational, social, or recreational services.

Consumer - a person 18 years of age or older eligible to receive mental health services and mental health supports as defined in § 102 of the Act (D.C. Official Code § 7-1131.02(18) and (19)).

Core Services Agency or CSA - a community-based provider of mental health services and mental health supports that is certified by DMH in accordance with rules published in the D.C. Municipal Regulations, and acts as the clinical home for consumers of mental health services by providing a single point of access and accountability for mental health rehabilitation services.

Department Authorization to Use or Disclose Protected Health Information or Department Authorization - a document prepared and distributed by the Department of Mental Health which is signed by a consumer to allow the Department and other service providers to share specific protected health information. For purposes of this chapter, the Department Authorization may be used to verify income and eligibility requirements necessary to apply for and receive an HFS.

Department Consumer Rights Statement - a document prepared and distributed by DMH to all Mental Health providers which describes all the consumer rights and protections available under federal and District laws and regulations.

Director - The Director of the District of Columbia Department of Mental Health.

District of Columbia Housing Authority or DCHA - The agency of the District of Columbia to whom authority and responsibility for the implementation and enforcement of Title 14 has been delegated by the Mayor.

DMH or Department - the District of Columbia Department of Mental Health.

Eligible consumer - a consumer who the Department determines is eligible for an HFS pursuant to section 2305.

Free standing mental health clinic - a formally organized psychiatric clinic furnishing psychiatric services, under the direction of a physician who is duly credentialed in the jurisdiction(s) in which he or she practices, in a facility not administered by a hospital, but organized and operated to provide mental health services on an outpatient basis, and which is certified as such by the Department of Mental Health in accordance with existing laws and regulations.

Landlord - any person who, alone or jointly or severally with others, meets either of the following criteria:

- (a) Has legal title to any building arranged, designed, or used (in whole or in part) to house one or more habitations; or
- (b) Has charge, care, or control of any building arranged, designed or used (in whole or in part) to house one or more habitations, as owner or agent of the owner, or as a fiduciary of the estate of the owner or any officer appointed by the court. Any persons representing the actual owner shall be bound to comply with the terms of this chapter, and any notice or rules and regulations issued pursuant to this chapter, to the same extent as if he or she were the landlord.

Other mental health provider - a subprovider, specialty provider, or free standing medical clinic that is certified by and receives funds from the Department of Mental Health, or a mental health professional or mental health entity that enters into a written agreement with the Department which describes each party's responsibilities specific to housing.

Project-based subsidy - a subsidy that is attached to a specific unit, regardless of who resides in that unit.

Specialty provider - a community-based organization MHRS provider certified by DMH to provide specialty services either directly or through contract. Each specialty provider shall enter into an affiliation agreement with each DMH-certified CSA.

Subprovider - a community-based organization certified by DMH to provide one or more core service(s) through an affiliation agreement with a CSA.

Unit - any habitable room or group of habitable rooms located within a residential building and forming a single unit which is used or intended to be used for living, sleeping, and the preparation and eating of meals.

Utility - water, electricity, gas or other fuels, sewer or refuse service.

Subsection 2201.3 of Chapter 22 of Title 22A DCMR is deleted in its entirety and amended to read as follows:

2201.3 Each CSA providing housing support, either directly or through a specialty or subprovider, shall notify, in writing, each consumer receiving housing support of the need for the CSA to conduct initial, and thereafter monthly, inspections in compliance with the requirements of this rule. This notification must include provision of a copy of the DMH provided Housing Safety/Quality Checklist and Home Visit Report that is used to evaluate housing. Other housing inspection forms, such as those required for subsidy programs, may be substituted at the sole discretion of DMH.

Section 2205 of Chapter 22 of Title 22A DCMR is deleted in its entirety and amended to read as follows:

2205 TRAINING

2205.1 DMH shall provide training to persons who are responsible for completing the DMH Housing Safety/Quality Checklist and Home Visit Report.

2205.2 Each person who completes the checklist and report shall attend mandatory DMH Housing Safety/Quality Training prior to monitoring housing and shall attend annual refresher training.

Section 2207 of Chapter 22 of Title 22A DCMR is deleted in its entirety and amended to read as follows:

2207 HOME INSPECTIONS BY CORE SERVICES AGENCIES

2207.1 The CSA with which the consumer is enrolled for individual recovery planning shall evaluate all DMH supported housing by using the DMH Housing Safety/Quality Checklist before the consumer enters into the lease. If the consumer enters a lease prior to the CSA's knowledge, the CSA shall evaluate the housing as soon as it becomes aware that the consumer has entered a lease. The consumer, or parent or guardian for children and youth as appropriate, shall hold the lease for housing that receives DMH subsidized rents for any type of housing arrangement covered by these rules.

2207.2 Conversion to consumer held leases as new consumers are housed and as leases come up for renewal shall commence within six (6) months of adoption of these rules.

- 2207.3 Each CSA with which the consumer is enrolled shall complete the Housing Safety/Quality Checklist and Home Visit Report at least monthly beginning from the date that the lease is secured, or the date that mental health housing supports are initiated for a consumer already in housing, and on an as needed basis.
- 2207.4 Each CSA, in order to assist with developing and improving activities of daily living, shall monitor the housing of its enrolled consumers who live in housing directly provided by the CSA, receive a rental subsidy, receive assistance from the CSA in locating or arranging for the residence, receive community supports from or through the CSA in the consumer's home (other than a private family home or licensed community residence facility) or live in housing developed or provided by DMH funding.
- 2207.6 The completed Housing Safety/Quality Checklists and Home Visit Report shall be filed in the consumer's clinical record at the CSA.
- 2207.7 Each CSA shall submit copies of all completed Housing Safety/Quality Checklists and Home Visit Report along with a brief summary cover sheet to the DMH Office of Accountability no later than fifteen (15) business days following the end of each quarter. Each quarter is based on the fiscal year which begins on October 1.

Section 2299 of Chapter 22 of Title 22A DCMR is amended by deleting the definition of “Quarterly Reporting”.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Suzanne Fenzel, Assistant Attorney General, Office of General Counsel for the Department of Mental Health at 64 New York Avenue, N.E., 4th Floor, Washington, D.C. 20002, or e-mail Suzanne.Fenzel@dc.gov. Copies of the proposed rules may be obtained from www.dmh.dc.gov or from the Department of Mental Health at the address above.

DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

The Interim Director of the Department of Transportation, pursuant to the authority of section 5(4)(A), 6(b) and (c) and 7 of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§50-921.04(4)(A), 50-921.05(b) and (c), and 50-921.06)), and sections 603 and 604 of the Fiscal Year 1997 Budget Support Act of 1996, effective April 9, 1997 (D.C. Law 11-198, D.C. Official Code §§ 10-1141.03 and 10-1141.04) and Mayor's Order 96-175 (December 9, 1996), hereby gives notice of the intent to amend Title 24, of the District of Columbia Municipal Regulations by amending section 225.1 to include a new list of fees for public space permits and by amending section 225.6.

Proposed Amendments: Delete the language of § 225.1 and insert the following list of public space permits and fees.

225.1 The following schedule of fees shall apply to public space permits:

Administrative:	Permit Fee
Application Fee (New or Renewal) (Public Utilities Exempt)	\$50.00
 Temporary Occupancy:	
Residential Moving Trucks (2 days max)	\$ 34.00
Ladders and scaffolding placed in public space on public sidewalks, alleys or at commercial properties - Fee per Month (see 225.2)	\$ 50.00
Man Hole Access (each occurrence)	\$ 85.00
Man Hole Access (Annual Permit)	\$2,585.00
Receptacles for construction debris (e.g., Dumpsters™) placed in public space in areas zoned CR, C-1 through C-5, CM, M, SP-1 and SP-2, and W-1 through W-3	
Months 1, 2, & 3 (Fee per Month)	\$ 75.00
Months 4 & 5 (Fee per Month)	\$100.00
Month 6 or more (Fee per Month)	\$150.00
Receptacles for construction debris (e.g., Dumpsters™) placed in public space in areas zoned R-1 through R-5	
Months 1, 2, & 3 (Fee per Month)	\$ 75.00
Months 4 & 5 (Fee per Month)	\$125.00
Month 6 or more (Fee per Month)	\$200.00
Other Temporary Occupancy (Fee per Month)	\$ 50.00

Fair Market Component of Permit Fee for Temporary Occupancy in Excess of 30 Calendar Days (45 Calendar

Fair Market Component of Permit Fee for Temporary Occupancy in Excess of 30 Calendar Days (45 Calendar Days for Public Utilities)

Public Space Use Fee (Central Business District)

	Fee/Sq Ft/Day
Parking Lane	\$ 0.020
1 st Travel Lane	\$ 0.040
2 nd Travel Lane and Each Add'l	\$ 0.080
Alley	\$ 0.020
Sidewalk	\$ 0.030

Public Space Use Fee (Other)

	Fee/Sq Ft/Day
Parking Lane	\$ 0.015
1 st Travel Lane	\$ 0.030
2 nd Travel Lane and Each Add'l	\$ 0.060
Alley	\$ 0.015
Sidewalk	\$ 0.020

Fixture(s) and Paving (in Parking):

**Permit Fee
For First Month
(Additional Time May Require
Fair Market Component)**

Fence	\$ 50.00
Fence w/Brick Piers	\$ 75.00
Retaining Wall	\$ 75.00
Planter Box (each)	\$ 75.00
Coping	\$ 75.00
Steps	\$ 75.00
Over-Height Fence or Wall	\$135.00
Minor Repair of Fence, Wall or Paving	\$ 50.00
Minor Paving (less than 150 sq ft)	\$ 75.00

Fixture(s) and Paving (other):

**Permit Fee
For First Month
(Additional Time May Require
Fair Market Component)**

Pay Phone (each)	\$ 75.00
Street Furniture	\$135.00
Raised Planter Box(s) on Sidewalk	\$135.00
Moveable Planter Box(s) on Sidewalk	\$135.00
Bollards	\$135.00
Sign(s)	\$135.00
Canopy Sockets	\$ 75.00
Minor Paving (less than 150 sq ft)	\$ 75.00
Repair/Replace Existing Driveway	\$ 75.00

Close Existing Driveway	\$ 75.00
New Residential Driveway	\$ 75.00
New Commercial Driveway	\$135.00
New Circular Driveway	\$135.00
Sidewalk Paving (up to 300 linear ft)	\$135.00
Curb & Gutter (up to 300 linear ft)	\$135.00
Alley Paving/Roadway Paving (up to 300 linear ft)	\$135.00
Resurface Roadway (up to 300 linear ft)	\$ 75.00
Other Fixture(s) or paving in public space	\$135.00

Building Projections:

**Permit Fee
For First Month
(Additional Time May Require
Fair Market Component)**

Porches & Steps (each)	\$ 75.00
Areaway (each)	\$ 75.00
Window Well (each)	\$ 75.00
Bay Window (each)	\$ 75.00
Projections Requiring Exception from Building Code (See 12A-3202.4) (each)	\$135.00

Grading:

Roadways, sidewalks and alleys	\$.00
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Trees and Landscaping

**Permit Fee
For First Month
(Additional Time May Require
Fair Market Component)**

Public Space Tree(s) (plant)	\$ 0.00
Public Space Tree(s) (remove)	\$ 100.00
Hedge(s) (plant)	\$ 75.00
Other Landscaping (Commercial)	\$ 75.00
Street Tree (s) (pruning)	\$ 75.00
Tree Space (s) (Not part of sidewalk paving permit)	\$ 75.00
Tree Fence (s)	\$ 50.00

Minor Excavation:

**Permit Fee
For First Month**
(Additional Time May
Require Fair Market
Component)

Test Pits, Boring & Cores (single)	\$ 50.00
Test Pits, Boring & Cores (Each Add'l)	\$ 20.00
Monitor Wells (single)	\$135.00
Monitor Wells (Each Add'l)	\$ 20.00
Conduit Relocation (up to 10 linear Ft)	\$ 50.00
Other Minor Excavation (up to 100 sq ft and not requiring sheeting & shoring)	\$ 85.00
House Service (each premise)	
Water/Fire	\$ 50.00
Connection/Abandonment/Repair - up to 2 inch pipe size	
Water Meter Pit and associated Pipe up to 2 inches	\$ 50.00
Gas Connection/Abandonment/Repair	\$ 50.00
Electric Connection/Abandonment/Repair	\$ 50.00
Communication	\$ 50.00
Connection/Abandonment/Repair	
Sanitary Sewer	\$ 85.00
Connection/Abandonment/Repair - up to 4 inch pipe size	
Storm Sewer	\$ 85.00
Connection/Abandonment/Repair - up to 4 inch pipe size	

Major Excavation

**Permit Fee
For First Month**
(Additional Time May
Require Fair Market
Component)

Regulator Stations, above and below ground, and associated appurtenances installation or removal (each)	\$135.00
Washington Gas and Light - System Monitoring/Telemetric Equipment installation or removal (each)	\$ 85.00
Washington Gas and Light - Non-Emergency maintenance related excavations such as for cathodic protection activities, encapsulations, other O & M activities (each)	\$ 85.00

Gas Service Connection/Abandonment/Repair (each)	\$ 85.00
Electric Service Connection/Abandonment/Repair only	\$ 85.00
Electric Service Connection/Abandonment/Repair and associated Manhole and Conduit (each)	\$135.00
Transformer Vault and associated Manhole and Conduit (each)	\$250.00
Water/Fire Connection/Abandonment/Repair (each - over 2 inch pipe size)	\$ 85.00
Water Meter Manhole and associated piping(each)	\$135.00
Fire Hydrant Installation/Repair/Removal (each)	\$ 85.00
Sanitary/Storm Sewer Connection/Abandonment/Repair (each - over 4 inch pipe size)	\$135.00
Sanitary/Storm Sewer Manhole (each)	\$135.00
Communication Manhole (each)	\$135.00
Utility or Communication Excavation for Pipe, Conduit or Cable (each 150 linear feet or portion thereof)	\$135.00
Sand Filter or other Storm Water Management Structure to serve Private Property (each)	\$250.00
Sheeting and Shoring (each 100 linear feet or portion thereof)	\$135.00
Fuel Tank (each - new or replacement)	\$250.00

Overhead Electrical/Communication

**Permit Fee
For First Month**
(Additional Time May
Require Fair Market
Component)

Install/Remove/Replace overhead electrical/Communication Wire (up to 100 linear feet or portion thereof)	\$ 50.00
Install/Remove/Replace overhead electrical/Communication Wire (each additional 100 linear feet or portion thereof)	\$ 20.00

Install/Remove/Replace One (1) Utility/Communication Pole with or without Guy Wire	\$ 50.00
Install/Remove/Replace Each Additional Utility/Communication Pole with or without Guy Wire	\$ 20.00
Install/Remove/Replace One (1) Guy Wire for Utility/Communication Pole	\$ 50.00
Install/Remove/Replace Each Additional Guy Wire for Utility/Communication Pole	\$ 20.00

Annual Permit/Tag for Mobile Crane, Tractor Trailer, Dump Truck, Motorized Concrete Mixer as provided in 18 DCMR, Vehicles and Traffic Regulations (for a portion of the year, the fee shall be prorated)	Permit Fee for 12 Months
Mobile Crane	\$340.00
Tractor Trailer	\$340.00
Dump Truck and Motorized Concrete Mixer	\$1800.00

Moving Overweight, Over-length, or Over- width equipment (excluding permits issued to the federal government)	Permit Fee
Single Trip (each)	\$ 30.00
Round Trip (each)	\$ 50.00

Miscellaneous	Permit Fee Per Month
All miscellaneous permits primarily benefitting the applicant	\$ 50.00

Inspection Fee	Fee per Hour
Additional fee for any needed inspection of paving, repairing or altering of public space	\$ 50.00/hr

Use of public space by operators of abutting businesses (see § 201.1)	One-Time Permit Fee
	\$139.00

Section 225.6 is amended to read as follows:

225.6 No permit fee shall be charged to a public utility for the following:

- (a) Work done exclusively for the District streets or traffic control lights;
- (b) Work done exclusively for District buildings and connections to the buildings;
- (c) Changes in existing structures made at the request of, or on order from the Mayor of the District;
- (d) For mains, conduits, or other structures laid or repaired in advance or new paving purely to avoid cuts, therein and as a result of notification to the permittee from the District that paving is contemplated;
- (e) Work done under contract for the District;
- (f) Work done to repair damages caused by construction done by the District or by a contractor for the District; or
- (g) Work done exclusively for agencies of the United States Government.

All persons interested in commenting on the subject matter in this proposed rulemaking may file comments in writing, not later than thirty (30) days after the publication of this notice in the D.C. Register, with Karina Ricks, Associate Director, District of Columbia Department of Transportation, 2000 14th Street, N.W., 7th Floor, Washington, D.C. 20009. You may also send comments electronically to publicspace.committee@dc.gov. Copies of this proposed rulemaking are available, at cost, by writing to the above address, and are also available electronically, at no cost, on the District Department of Transportation's website at www.ddot.dc.gov.