

Department of Consumer Affairs

Notice of Adoption of a new Rule regarding the new General Vendor waiting list.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of the Department of Consumer Affairs (“DCA”) by Section 2203 of the New York City Charter and Sections 20-104 and 20-471 of Title 20 of the New York City Administrative Code, and in accordance with the requirements of Section 1043 of the New York City Charter, that DCA promulgates and adopts Section 2-317 of Subchapter AA of Chapter 2 of Title 6 of the Rules of the City of New York, establishing a procedure for the new General Vendor waiting list, assigning positions on the list, and notifying individuals on the list of their eligibility to submit a license application.

This rule was proposed and published on April 6, 2016. The required public hearing was held on May 18, 2016.

Statement of Basis and Purpose of Rule

Section 20-104(a) of the New York City Administrative Code (“Admin. Code”) gives the Commissioner authority over all licenses issued under Chapter Two of Title 20 of the Admin. Code, including the general vendor licenses issued pursuant to New York City’s General Vendor Law (the “GVL”), as codified in Subchapter 27 of Chapter 2 of Title 20 of the Admin. Code. The GVL regulates the sale or offering for sale of non-food goods and services on New York City streets. With some exceptions, it is unlawful for an individual to sell or offer to sell goods or services on City streets without first obtaining a general vendor license from DCA.

The requirement to be licensed does not apply to honorably discharged veterans who, under Section 32 of the NYS General Business Law, are allowed to vend free from the interference of local government. The licensing requirement also does not apply to vendors who exclusively sell newspapers, periodicals, books, pamphlets and other similar written matter. In addition, the City has agreed not to enforce its licensing requirement against individuals who sell paintings, photographs, prints and/or sculptures.

Administrative Code § 20-459(a) limits the number of general vendor licenses that DCA may issue to 853. DCA will develop and maintain a waiting list of prospective applicants over and above the 853 cap. The waiting list will be open to prospective applicants for 30 days, during which time DCA will accept as many prospective applicants as requests a position on the list. After 30 days, the list will close, and there will not be another opportunity for individuals to become prospective applicants until the Department determines that the waiting contains fewer than 300 names.

The rule adds Section 2-319 to the rules applicable to DCA’s licensing of general vendors.

The rule:

- establishes a waiting list for general vendor licenses for individuals not exempt from the licensing requirement;
- specifies the procedure for DCA to notify individuals of the existence of the waiting list and the manner in which a position on the list may be requested;
- specifies the system by which prospective applicants will be assigned ranks on the waiting list; and
- specifies the procedures pursuant to which DCA will notify prospective applicants of their eligibility to submit general vendor applications.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

New text is underlined; [deleted material is in brackets].

Subchapter AA of Chapter 2 of Title 6 of the Rules of the City of New York is amended by adding a new Section 2-319, to read as follows:

§ 2-319 Waiting List for General Vendor Licenses

(a) The Department shall establish and maintain a waiting list of prospective applicants for general vendor licenses that become available to individuals who are not veterans that are automatically granted a general vendor license under article four of the general business law or section 20-455.1 of the Administrative Code.

(b) Publication and Notice. The Department shall publish in the City Record and on the Department's website a notice inviting individuals to submit requests to be included on the waiting list. This notice shall be republished whenever the Department determines that the number of prospective applicants on the waiting list has fallen below 300. The notice shall be published no later than 60 days after the Department makes this determination and at least 45 days before the Department accepts requests to be included on the waiting list.

(c) Content of Notice. The notice shall specify: (1) the date on which the Department will begin accepting requests; (2) that requests will be accepted for the next 30 days; (3) that on the 31st day, the waiting list will close and will not be open again until the Department determines that the number of prospective applicants have fallen below 300; (4) that requests may be submitted in person at any of the Department's Licensing Centers, on-line via the Department's website or by regular mail via an envelope postmarked within the 30 day acceptance period; (5)

that all requests must include the prospective applicant's' full name and contact address; (6) that prospective applicants must provide written notification to the Department's Licensing Division of any change of address and that failure to so provide may result in the loss of the waiting list position; (7) that prospective applicants may not occupy more than one position on the waiting list; (8) that positions on the waiting list are not transferrable; and (9) the street and web addresses where requests and changes of address could be sent to the Department.

(d) Assignment to the New Waiting List. Prospective applicants will be assigned positions on the waiting list pursuant to the following procedure:

(1) Within 60 days after the close of the waiting list, each prospective applicant will be assigned a number using a computer-generated random number selection program.

(2) The Department will then assign waiting list positions to prospective applicants in ascending order using the numbers assigned by the selection program ("prospective applicant rank").

(3) The Department will notify prospective applicants of their number on the waiting list in writing to the address provided in the request.

(e) Withdrawal from that waiting list. A prospective applicant may withdraw from the waiting list by providing written notice to the Department's Licensing Division in person or by mail.

(f) Offer of Available General Vendor Licenses to Waiting List Applicants. The Department shall offer the opportunity to apply for available general vendor licenses to prospective applicants on the waiting list in the order of their prospective applicant rank. The Department shall provide written notice of the offer at the address provided in the prospective applicant's request or in the change of address. Such notice shall specify that:

(1) Prospective applicant must submit a completed general vendor application, together with required fees, within 60 days of the date of the offer; and

(2) If the Department does not receive the completed application and fees within the specified time period, the offer will be deemed refused and the waiting list position surrendered.

(g) Issuance of General Vendor License. General vendor licenses will be issued to those prospective applicants who successfully complete the general vendor application, pay all related fees and satisfy all other eligibility criteria set forth in the relevant laws and rules.