

**Title 22, Chapter 1-A NEW YORK CITY ADMINISTRATIVE CODE
FULTON FISH MARKET AND
OTHER SEAFOOD DISTRIBUTION AREAS**

**TITLE 22
CHAPTER 1-A**

**FULTON FISH MARKET DISTRIBUTION AREA AND
OTHER SEAFOOD DISTRIBUTION AREAS**

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§22-201 Legislative findings.

The council hereby finds that the fulton fish market, the center of New York's wholesale seafood industry located in lower Manhattan, has for decades been corruptly influenced by organized crime; that organized crime's corrupting influence over certain functions in the market, including the unloading and loading functions, has resulted in the commission of numerous crimes and wrongful

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acts there, including but not limited to physical violence or threats of violence, property damage, and thefts; that organized crime's corrupting influence over the market has fostered and sustained a cartel that has forced seafood suppliers and truckers to use particular unloading crews at fixed prices in an anticompetitive scheme that has been censured by a federal judge; that organized crime's corrupting influence has resulted in retailers parking on city streets and city property nevertheless having to pay high fees to private loading crews whose principal function has been to provide "security" for those vehicles and their contents while retailers have purchased fish in the crime-ridden market area; and that these corrupting influences have further resulted in higher prices for wholesale seafood than would otherwise have to be paid in the absence of this activity. The council further finds that despite the repeated efforts of law enforcement to prosecute crimes there and the presence of a court-appointed administrator for the market, the problem of organized crime corruption in the market has persisted. The council further finds that the market's businesses, including wholesalers, seafood deliverers, unloaders and loaders, have not been effectively regulated by the city in the past under existing laws and regulations governing public markets, even though they often operate on city property, albeit without leases, licenses and registration. The council further finds that, in the absence of an effective regulatory scheme, wholesalers have established a "gray market" in tenancies at rates in excess of those being paid to the city and have thus deprived the public of its rightful return on city property, and further, that unscrupulous businesses have taken advantage of this absence of regulation to engage in fraudulent practices, such as the creation of "phantom wholesalers" whose businesses disappear from the market before payment can be obtained from them for seafood they have received from suppliers, and that such practices have discouraged suppliers from utilizing the market area.

The council therefore finds and declares that in order to provide for the more efficient and orderly conduct of business in the market area, to ensure that any such activities are lawfully conducted, to promote the economic vitality of the market and to protect the public interest, it is necessary for the commissioner of small business services to have expanded authority to license and/or register businesses in the market area and to regulate the conduct of such businesses. In particular, the council finds that, in order to achieve these objectives, the commissioner of small business services should be authorized to issue requests for licensing proposals to provide unloading and loading services in the market area and, at his or her discretion, issue one or more unloading and loading licenses based on the review and evaluation of responses received pursuant to such requests. In the event that no appropriate responses are received to such requests, the commissioner should be authorized to arrange for the department of small business services itself to perform unloading or loading services or to arrange that they be performed by a contractor or a designee of the department.

The council recognizes that complaints have been made about the conduct of seafood distribution activities outside the market area and finds further that the conditions which have given rise to corruption in the market area can exist in other areas where there are wholesale seafood businesses or concentrations of such businesses. The council also recognizes that representatives of such businesses have threatened to move their operations elsewhere and that some may relocate to other parts of the city. The council thus finds and declares that it is also necessary for the commissioner

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of small business services to have authority to regulate seafood distribution in areas of the city outside the market area in which such seafood businesses may concentrate.

Application of this chapter will enhance the city's ability to address organized crime corruption and to protect consumers and the many honest business persons who do business in or with the market or at other seafood distribution areas. It is thus the council's intent to empower the city to have greater regulatory authority over the conduct of business in the market and in other seafood distribution areas.

§22-202 Definitions. For the purposes of this chapter, the following terms shall have the following meanings:

- a. "Applicant" shall mean, if a business entity submitting a response to a request for licensing proposals, an application for a temporary license or a registration application, the entity itself and all the principals thereof; if an individual submitting an application for a photo identification card, such individual.
- b. "Business entity" shall mean a sole proprietorship, partnership, corporation, or other entity established under law and authorized to conduct business within the state of New York.
- c. "Commissioner" shall mean the commissioner of small business services.
- d. "Department" shall mean the New York city department of small business services.
- e. "Designee of the department" shall mean the department of citywide administrative services and, with respect to loading services or the direction of traffic within the market area, the department of transportation.
- f. "Fulton fish market distribution area" or "market area" shall mean the area beginning at the point where the westerly street line of water street intersects the southerly street line of maiden lane; thence easterly along the southerly street line of maiden lane as extended to the east river U.S. pierhead line; thence northerly along the east river U.S. pierhead line to the northerly street line of robert wagner sr. place as extended; thence westerly along the northerly street line of robert wagner sr. place to the prolongation of the westerly street line of pearl street; thence southerly along the westerly street line of pearl street to the southerly street line of fulton street; thence easterly along the southerly street line of fulton street to the westerly street line of water street; thence southerly along the westerly street line of water street to the point of beginning.
- g. "Loader" shall mean an individual who performs loading services.
- h. "Loading business" shall mean any business entity that, for a payment, provides loading services.
- i. "Loading services" shall mean services performed by a loader and provided by a loading business for a purchaser of seafood, including parking such purchaser's vehicle, moving such vehicle when

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necessary for traffic control, loading seafood onto such vehicle, and ensuring the security of such vehicle and the seafood loaded thereon; provided, however, that the term shall not mean the loading of seafood onto the vehicle of a purchaser when such loading is performed by an employee of a wholesaler by delivering seafood from such wholesaler to the vehicle of the purchaser thereof or by an employee of such purchaser.

j. "License" shall mean an unloading business license or a loading business license issued by the commissioner authorizing the conduct of such business in the market area.

k. "Market manager" shall mean a person designated by the commissioner to supervise operations in the market area or a seafood distribution area designated by the commissioner pursuant to section 22-222 of this chapter and to maintain and distribute a list of wholesalers pursuant to subdivision a of such section. Such supervision shall include, without limitation: implementation of rules promulgated pursuant to this chapter and the authority to enforce violations of any provision of this chapter or the rules promulgated thereunder; supervision of department staff employed in the market area; response to complaints relating to the operation of businesses in the market area; examination of documents required to be maintained by a licensee or registrant pursuant to this chapter; referrals, where appropriate, to any law enforcement, investigative or prosecutorial agency of matters occurring within the market area; and such other functions and duties as the commissioner may assign consistent with the provisions of this chapter.

l. "Principal" shall mean, of a sole proprietorship, the proprietor; of a corporation, every officer, director and stockholder holding ten percent or more of the outstanding shares of the corporation; of a partnership, all the partners; if another type of business entity, the chief operating officer or chief executive officer, irrespective of organizational title, and all persons or entities having an ownership interest of ten percent or more; and with respect to all business entities, all other persons participating directly or indirectly in the control of such business entity. Where a partner or stockholder holding ten percent or more of the outstanding shares of a corporation is itself a partnership or a corporation, a "principal" shall also include the partners of such partnership or the officers, directors and stockholders holding ten percent or more of the outstanding shares of such corporation, as is appropriate. For the purposes of this chapter (1) an individual shall be considered to hold stock in a corporation where such stock is owned directly or indirectly by or for (i) such individual; (ii) the spouse or domestic partner of such individual (other than a spouse who is legally separated from such individual pursuant to a judicial decree or an agreement cognizable under the laws of the state in which such individual is domiciled); (iii) the children, grandchildren and parents of such individual; (iv) a partnership in which such individual is a partner in proportion to the partnership interest of such individual; and (v) a corporation in which any of such individual, the spouse, domestic partner, children, grandchildren or parents of such individual in the aggregate own fifty percent or more in value of the stock of such corporation; (2) a partnership shall be considered to hold stock in a corporation where such stock is owned, directly or indirectly, by or for a partner in such partnership; and (3) a corporation shall be considered to hold stock in a corporation that is an applicant as defined in this section where such corporation holds fifty percent or more in value of the stock of a third corporation that holds stock in the applicant corporation.

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m. "Seafood" shall mean fish, seafood or consumables derived therefrom.

n. "Seafood delivery business" or "seafood deliverer" shall mean any business entity, that, for payment, delivers seafood from wholesalers in the market area by truck or other vehicle to retail establishments or other wholesalers.

o. "Stand permit" shall mean an occupancy permit granted by the commissioner subject to such conditions as the commissioner shall prescribe authorizing use of city property by a wholesaler for the placement of seafood in an area extending into a city street.

p. "Unloader" shall mean an individual who performs unloading services.

q. "Unloading business" shall mean any business entity that, for a payment, provides unloading services.

r. "Unloading services" shall mean the unloading of seafood from a truck or other vehicle in which such seafood has been transported from suppliers and the delivery thereof to wholesalers or the transfer thereof to other trucks or vehicles for transport to other locations.

s. "Wholesaler" or "wholesale seafood business" shall mean any business entity which sells or offers for sale seafood for resale to the public, whether or not such business entity also sells or offers for sale seafood directly to the public; except that "wholesaler" shall not include any such entity that is primarily engaged in the sale of seafood that has been processed and packaged by another business for sale to consumers in such packaged form.

§22-202.1 A market business in the fulton fish market distribution area as such term is defined in section 22-251 of this code shall be subject to the provisions governing market businesses in chapter 1-B of this title.

§22-203 Photo identification card required.

a. The market manager shall issue photo identification cards to those principals, employees and agents of any business licensed pursuant to this chapter who perform any function directly related to the handling or transportation of seafood within or from the market area. Such cards shall be termed class A photo identification cards and shall be issued subject to the provisions set forth in section 22-216 of this chapter and the fee for such card established by the commissioner by rule pursuant to section 22-223 of this chapter. Such cards shall be displayed so as to be readily visible to others during the hours of market operation, as designated by the market manager.

b. (i) In addition to the identification cards issued pursuant to subdivision a of this section, the market manager shall issue photo identification cards to those principals and employees of any business entity registered pursuant to this chapter and also to any agent of such registrant, other person or business entity who performs any function directly related to the handling and

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transportation of seafood within or from the market area. Such identification cards shall be termed class B photo identification cards and shall be issued subject to such requirements and fees as the commissioner shall promulgate by rule pursuant to section 22-223 of this chapter. Such cards shall be displayed so as to be readily visible to others during the hours of market operation designated by the market manager.

(ii) Notwithstanding any provision of this subdivision, the commissioner may, when there is reasonable cause to believe that an applicant for a class B photo identification card lacks good character, honesty and integrity, require that such applicant be fingerprinted and provide to the commissioner the information set forth in subdivision a of section 22-216 of this chapter. The commissioner may thereafter, after notice and opportunity to be heard, refuse to issue a photo identification card for the reasons set forth in subdivision b of such section.

(iii) If at any time subsequent to the issuance of a class B photo identification card, there is reasonable cause to believe that the holder thereof does not possess good character, honesty and integrity, the commissioner may require such person to be fingerprinted and to provide the background information required by subdivision a of section 22-216 of this chapter and may, after notice and opportunity for a hearing, revoke such class B photo identification card for the reasons set forth in subdivision b of such section.

c. The market manager may, where appropriate, issue a provisional photo identification card to an employee or agent of a licensee or registrant who has submitted the information and fee required by this chapter or any rules promulgated thereunder. A photo identification card issued pursuant to this paragraph shall be valid until the commissioner has either issued or denied a permanent identification card, unless such provisional card has been revoked or suspended prior thereto in accordance with the procedures set forth in this chapter. The market manager, may, in his or her discretion, also make provision for temporary identification cards, which shall be valid for a period not to exceed six weeks, to be issued to persons employed by unloaders, loaders, wholesalers and seafood deliverers on a seasonal or other temporary basis.

d. A photo identification card issued pursuant to this section shall bear a photograph of the person to whom it was issued and such other identifying information as may be specified by the commissioner.

§22-204 Unloading business license required.

a. It shall be unlawful to conduct an unloading business or otherwise provide unloading services in the fulton fish market distribution area without having first obtained an unloading business license from the commissioner pursuant to the provisions of this section. An unloading business license shall not be transferable.

b. The commissioner shall issue a request for licensing proposals and shall, at his or her discretion, issue one or more unloading business licenses based upon the review and evaluation of responses received pursuant to such request. Such request for proposals shall solicit information regarding the qualifications of proposers, their proposed methods of unloading, the labor and equipment they propose to utilize in the unloading operation, rates proposed to be charged to wholesalers,

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procedures proposed to be used to comply with sanitary requirements, and any other information relating to performance standards, responsibility and service that the commissioner deems appropriate. A proposal in response to a request for licensing proposals issued pursuant to this section shall be submitted on behalf of a business entity by all the principals thereof on a form bearing the signatures of all such principals.

c. A license issued pursuant to this section shall state the name, address and telephone number of the licensee and the names and business addresses of all principals of such licensee. A copy of such license shall be presented by the unloading business to any wholesaler upon request.

d. A license issued pursuant to this section shall also contain conditions that:

- (i) specify the maximum rates to be charged to wholesalers;
- (ii) specify the standard and level of performance of unloading and customer service which shall be maintained throughout the term of the license to ensure the continuing efficient unloading of seafood in the market area;
- (iii) require that the unloading business obtain a performance bond or such other guarantee of performance that the commissioner determines is appropriate and sufficient to cover any cost incurred by the city in providing or performing unloading services pursuant to section 22-208 of this chapter due to revocation of the license or default in the performance of the conditions specified in the license and specify the amount of such performance bond or guarantee; and
- (iv) prescribe any other appropriate requirements relating to performance standards, customer service, security of performance, the use of city property, or such other matters as the commissioner deems appropriate and necessary to effectuate the purposes of this chapter.

e. An unloading business licensed pursuant to this section may not charge more for the provision of unloading services than the maximum rate set forth in the license without the written permission of the commissioner, nor may an unloading business or any principal, employee or agent thereof request or accept any other fees or gratuities for performing unloading services.

f. No unloading business licensee, shall, by contract or otherwise, assign or delegate to or engage any other business entity to provide the unloading services specified in the license, whether upon an emergency or any other basis, unless the commissioner has provided specific written authorization therefor.

g. (i) The commissioner shall be authorized, upon due notice and opportunity for a hearing, to suspend or revoke a license issued pursuant to this section based upon a determination that there has been a default in the performance of the conditions specified in such license or for reasons set forth in sections 22-217 or 22-218 of this chapter. The commissioner shall also be authorized to pursue other remedies for a default in the performance of the conditions specified in the license, including but not limited to, reimbursement for any expenses incurred by the department in performing or providing unloading services in the market area.

(ii) In the event of such suspension or revocation, or when the commissioner determines that additional unloading services are required because a licensee has discontinued unloading operations in the market area or the existing unloading business or businesses are for other reasons

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unable to provide adequate or sufficient unloading services in the market area, the commissioner may, as he or she deems appropriate, issue a new license to one or more business entities which responded to the most recent request for licensing proposals, issue a new request for licensing proposals pursuant to this section or arrange for the department, a designee of the department or an entity under contract to the department to provide unloading services in the market area. A new license issued pursuant to a request for licensing proposals shall be valid for the remainder of the term of the original license. The commissioner may also solicit expressions of interest from business entities in providing unloading services on a temporary basis and may issue a temporary license or licenses to provide unloading services in the market area to the most qualified of such entities in a situation where the suspension or revocation of a license or the discontinuance of unloading operations by a licensee has created a shortage of unloading services in the market area or the existing unloading business or businesses are for other reasons unable to provide adequate or sufficient unloading services. A temporary license issued pursuant to this subdivision shall be valid for a period of up to one year, provided that such license shall not extend beyond the remainder of the term of the original license. The fee for such temporary license shall be prorated to the term of the original license.

h. Prior to the expiration of the term of a license issued pursuant to this section, the commissioner shall issue a new request for licensing proposals pursuant to subdivision b of this section. Where the term of such license has been extended for an additional period pursuant to section 22-213 of this chapter, the new request for licensing proposals shall be issued prior to the expiration of such period.

§22-205 Conduct of unloading businesses.

The commissioner may establish by rule such measures as he or she deems appropriate and necessary to ensure the orderly and lawful unloading of seafood in the fulton fish market distribution area, including but not limited to: (i) a procedure for determining the order in which trucks or other vehicles are unloaded; (ii) designation of waiting areas for trucks that enter the fulton fish market distribution area; (iii) designation of unloading areas in the fulton fish market distribution area and, in the event such designated unloading area is located on property belonging to the city, the charging of a fee for the use of such property by an unloading business; (iv) designation of hours for the unloading of seafood in the fulton fish market distribution area; (v) documentation requirements for the delivery and receipt of seafood; (vi) requirements for the disposal of waste and other sanitary measures; (vii) provisions prescribing maintenance and availability of records for inspection by the commissioner or the market manager; and (viii) appropriate insurance and bonding requirements.

§22-206 Loading license required.

a. It shall be unlawful to conduct a loading business or otherwise provide loading services in the fulton fish market distribution area, or provide such services to purchasers of seafood from wholesalers in such market area, without first having obtained a loading business license issued by

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the commissioner pursuant to the provisions of this section. A loading business license shall not be transferable.

b. The commissioner shall issue a request for licensing proposals and shall, at his or her discretion, issue one or more loading business licenses based upon the review and evaluation of responses received pursuant to such request. Such request for licensing proposals shall solicit information regarding the rates proposed to be charged to provide loading services in the market area, the areas in which loading operations are proposed to be conducted, the labor proposed to be utilized in providing loading services, and any other information relating to performance standards, responsibility and service that the commissioner deems appropriate. A proposal in response to a request for licensing proposals issued pursuant to this section shall be submitted on behalf of a business entity by all the principals thereof on a form signed by all such principals.

c. A license issued pursuant to subdivision b of this section shall state the name, address and telephone number of the licensee and the names and business addresses of all principals of such licensee. A copy of such license shall be presented by the loading business to any wholesaler in the market area or purchaser of seafood from such wholesalers or to an employee of such wholesaler or purchaser upon request.

d. A license issued pursuant to this section shall also contain conditions that:

- (i) specify the maximum rate to be charged for loading services;
- (ii) specify the standard and level of performance of loading services which shall be maintained throughout the term of the agreement to ensure efficient loading services in the market;
- (iii) require that the loading business obtain a performance bond or such other guarantee of performance that the commissioner determines is appropriate and sufficient to cover any cost incurred by the city in providing or performing services related to loading pursuant to section 22-208 of this chapter due to revocation of the license or default in the performance of the conditions specified in the license and specify the amount of such performance bond or guarantee; and
- (iv) prescribe any other appropriate requirements relating to performance standards, customer service, security of performance, the use of city property, or such other matters as the commissioner deems appropriate and necessary to effectuate the purposes of this chapter.

e. A loading business licensed pursuant to this chapter shall not charge more than the maximum rates specified in the loading business license, nor may a loading business or any principal, employee or agent thereof request any other fee or gratuity for performing loading services.

f. No loading business licensee, shall, by contract or otherwise, assign or delegate to, or engage any other business entity to provide loading services in the market area, whether upon an emergency or any other basis, unless the commissioner has provided specific written authorization therefor.

g. (i) The commissioner shall be authorized, upon due notice and opportunity for a hearing, to suspend or revoke a license issued pursuant to this section based upon a determination that there has been a default in the performance of the conditions specified in such license or for reasons set forth in section 22-217 or 22-218 of this chapter. The commissioner shall also be authorized to

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pursue other remedies for a default in the performance of the conditions specified in the license, including but not limited to, reimbursement for any expenses incurred by the department in performing or providing loading services in the market area.

(ii) In the event of such suspension or revocation, or when the commissioner determines that additional loading services are required because a licensee has discontinued loading operations in the market area or because the existing loading business or businesses are for other reasons unable to provide adequate or sufficient loading services in the market area, the commissioner may, as he or she deems appropriate, issue a new license to one or more business entities which responded to the most recent request for licensing proposals previously issued, issue a new request for licensing proposals pursuant to this section or arrange for the department, a designee of the department or a business entity under contract to the department to provide loading services in the market area. A new license issued pursuant to a request for licensing proposals shall be valid for the remainder of the term of the original license. The commissioner may also solicit expressions of interest from business entities to provide loading services in the market area on a temporary basis and may also issue a temporary license or licenses to provide loading services in the market area to the most qualified of such entities in a situation where the suspension or revocation of a license or the discontinuance of loading operations by a licensee has created a shortage of loading services in the market area or the existing licensed loading business or businesses are for other reasons unable to provide adequate or sufficient loading services. A temporary license issued pursuant to this subdivision shall be valid for a period not to exceed one year, provided that such license shall not extend beyond the remainder of the term of the original license. The fee for such temporary license shall be prorated to the term of the original license.

h. Prior to the expiration of a license issued pursuant to this section, the commissioner shall issue a new request for licensing proposals pursuant to subdivision b of this section. Where the term of such license has been extended for an additional period pursuant to section 22-213 of this chapter, the new request for licensing proposals shall be issued prior to the expiration of such period.

i. Nothing in this chapter shall be construed to prevent the commissioner from determining, for a reason other than those set forth in subdivision g of this section, that the department itself, a designee of the department or an entity under contract to the department shall provide loading services on property owned by the city in the market area. In the event that the department determines to provide such services, the provisions of subdivisions a through g of this section shall not apply.

j. Nothing in this chapter shall be construed to require the department to authorize any party to use property owned by the city in the market area for the purpose of conducting a loading business.

§22-207 Conduct of loading businesses.

a. The commissioner may establish by rule such measures as he or she deems appropriate and necessary to ensure the orderly and lawful conduct of loading businesses in the fulton fish market distribution area. Such measures may include the establishment of a voucher system under which (i) loaders are prohibited from accepting cash payments for performing loading services and (ii)

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persons wishing to have loading services performed for them may purchase vouchers from the market manager and present them to loaders in payment for loading services. Such vouchers shall thereafter be redeemed by the loading business for payment from the market manager.

b. Such measures may also include, but shall not be limited to: (i) appropriate insurance requirements; (ii) prohibitions on interference with vehicles lawfully parked in the market area; (iii) designation of loading areas in the market area, a requirement that a loading business obtain a lease or an occupancy permit for the occupancy of property owned by the city when a designated loading area is located on such property and the establishment of a fee for such permit; (iv) designation of hours during which loading services may be performed; (v) provisions prescribing maintenance and availability of records for inspection by the market manager or the commissioner; and (vi) appropriate insurance and bonding requirements.

§22-208 Loading and unloading services provided by the department.

a. Notwithstanding any provisions of this chapter to the contrary, the commissioner may determine that the public interest will be best protected by the department providing loading and/or unloading services in the market. Such determination may also be made: (i) in the event that suspensions or revocations of unloading business licenses or loading business licenses have resulted in an insufficiency of such services in the market area; or (ii) following the review of licensing proposals to conduct an unloading business made pursuant to section 22-204 of this chapter or of licensing proposals to conduct a loading business made pursuant to section 22-206 of this chapter, based upon a finding that there are an insufficient number of business entities submitting proposals for unloading or loading licenses, as the case may be, (1) whose principal or principals meet the requirements of good character, honesty and integrity set forth under this chapter or any rules promulgated pursuant thereto; or (2) which are able to provide unloading or loading services, as the case may be, in a manner consistent with the safe, lawful, orderly and efficient operation of the market area at rates which are fair and reasonable to customers.

b. Where the commissioner has made a determination pursuant to this section, the department may provide unloading or loading services, as the case may be, within the market area. Such services shall be provided in accordance with all rules governing the conduct of unloading or loading services prescribed under section 22-205 and section 22-207 of this chapter, other than insurance and bonding requirements.

c. During any period in which the department provides services in the market area under this section, it shall be unlawful for any other person or business entity to provide or perform or offer to provide or perform the same or similar services in the market area; provided, however, that where the department does not provide all unloading or loading services, as the case may be, in the market area, an unloading business or a loading business that possesses a valid license to conduct such business may continue to operate.

d. At any time following the commencement of a department service under this section, the commissioner may solicit interest in order to determine whether there are business entities

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interested in providing unloading or loading services, as the case may be, in the market area who meet the requirements of this chapter and can substitute for the services being provided by the department. The commissioner may thereupon issue a request for licensing proposals pursuant to the provisions of section 22-204 or section 22-206 of this chapter and issue a license pursuant to such sections. Notwithstanding the provisions of this subdivision, the commissioner may at any time during a period in which the department is providing services pursuant to this section consider an application for an unloading business and/or loading business license from a business entity interested in providing such service. This subdivision shall not apply when the department has determined, pursuant to the provisions set forth in subdivision g of section 22-206, that the department itself shall perform loading services on city owned property in the market area.

e. For the purposes of this section, services provided by the department shall include those services provided by a designee of the department, an entity under contract to the department, or by a combination thereof.

§22-209 Wholesaler registration and stand permits required.

a. It shall be unlawful for any business entity to conduct a wholesale seafood business in the fulton fish market distribution area without having first registered with and obtained a registration number from the commissioner. A registration application shall be submitted by a wholesale seafood business upon a form prescribed by the commissioner containing such information as the commissioner shall require by rule and shall be signed by all the principals of such wholesaler. A registration number shall not be transferable. A wholesaler shall not sublease or assign to another wholesaler the premises, or any portion thereof with respect to which a wholesaler has registered his or her wholesale seafood business, unless such proposed sublessee or assignee has registered with and obtained a wholesaler registration number from the commissioner. A wholesale seafood business shall, in accordance with rules promulgated by the commissioner pursuant to section 22-223 of this chapter, inform the commissioner of any change in the ownership composition of such business, or of the addition or deletion of any principal at any time subsequent to registration.

b. (i) Notwithstanding any provision of this chapter, the commissioner may, when there is reasonable cause to believe that any or all of the principals, employees or agents of a wholesaler lack good character, honesty and integrity, require that any or all of such principals be fingerprinted and provide to the commissioner the information set forth in subdivision a of section 22-216 of this chapter. The commissioner may thereafter, after notice and the opportunity to be heard, refuse to register such wholesaler for the reasons set forth in subdivision b of such section.

(ii) If at any time subsequent to the registration of a wholesaler, the commissioner has reasonable cause to believe that any or all of the principals, employees or agents of such wholesaler do not possess good character, honesty and integrity, the commissioner may require that any or all of such principals be fingerprinted and provide the background information required by subdivision a of section 22-216 of this chapter and may, after notice and the opportunity for a hearing, revoke the registration of such wholesaler for the reasons set forth in subdivision b of such section.

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c. No wholesaler shall place seafood on the street without a stand permit issued by the commissioner pursuant to this chapter. A stand permit shall not be transferable. Except where the occupancy of a city street under a stand permit is authorized under the terms of a lease with the city of adjacent premises, the commissioner may set a charge to a wholesaler for such occupancy under a stand permit calculated upon the square footage of the area authorized to be used in such permit.

d. A wholesaler shall not allow any other person to place seafood in the space for which such stand permit has been issued, except that a wholesaler may, on a temporary basis, permit the use of such space by another registered wholesaler who has received a shipment of seafood that cannot be accommodated in the space from which such registered wholesaler operates. No fee may be charged for such temporary use and any such use shall be reported as soon as is practicable to the market manager in accordance with rules promulgated by the commissioner pursuant to this chapter.

e. Notwithstanding the provisions of subdivisions c and d of this section, the holder of a stand permit may, after having first obtained the prior written approval of the commissioner, allow no more than one other registered wholesaler at any one time to place seafood on other than a temporary basis in up to forty-nine percent of the space for which such stand permit was issued. The holder of such permit may charge a fee for the use of such space. Such fee shall be calculated by multiplying the charge paid by the permit holder to the city for such permit by the ratio of the amount of space being used to the amount of space for which such permit was issued and the ratio of the time for which such space will be used to the period of time for which such permit was issued; except that a holder of a stand permit may charge a fee exceeding the charge based on such calculation, provided that the holder of such permit shall remit to the city an amount equal to seventy-five percent of the difference between the actual fee charged and the charge that would result from such calculation. A copy of the written agreement allowing the use of such space shall be filed with the market manager. Such agreement shall specify the amount of space and the period for which use of such space is authorized and the fee being charged.

f. A stand permit shall cease to be valid upon the expiration, revocation or during a period of suspension of the registration of the wholesale seafood business to which such stand permit has been issued. However, where the holder of a stand permit has, pursuant to the provisions of subdivisions d or e of this section, allowed another registered wholesaler to use a portion of the space for which such permit was issued such other registered wholesaler shall be permitted to continue to conduct business in such space during such period of suspension.

g. The market manager shall maintain and publish a list of all wholesalers in the market area who are registered with the market manager and who possess stand permits together with the registration numbers of such wholesalers and the numbers of such permits. The market manager shall make such list available to suppliers, shippers and truckers and shall, upon request, verify to suppliers, shippers and truckers whether such business entity is currently registered with the commissioner and/or possesses a valid stand permit.

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§ 22-210 Conduct of wholesale seafood businesses. The commissioner may establish by rule such measures as he or she deems necessary and appropriate to ensure the orderly and lawful conduct of wholesale seafood businesses in the market area, including but not limited to: (i) designation of the city-owned property within the market area upon which a wholesale seafood business may be conducted pursuant to a lease or occupancy permit; (ii) requirements that wholesalers maintain and supply their registration numbers and stand permit numbers to suppliers and shippers of seafood; (iii) requirements for the disposal of waste and other sanitary measures; (iv) requirements that wholesalers comply with applicable federal, state and local laws, rules and regulations regarding the handling of seafood; (v) appropriate insurance and bonding requirements; and (vi) provisions prescribing maintenance and availability of records for inspection by the commissioner or the market manager pertaining to, without limitation, the purchase, receipt, sale and delivery of seafood and the verification of ownership interests of the wholesale business, its principals, employees and agents.

§22-211 Registration required for seafood delivery business.

a. It shall be unlawful to conduct a seafood delivery business in the fulton fish market distribution area without having first registered such business with the commissioner and obtained a registration number from the commissioner. A registration application shall be submitted by a seafood delivery business upon a form prescribed by the commissioner containing such information as the commissioner shall require by rule and shall be signed by all the principals of such seafood delivery business. The market manager may require that seafood deliverers affix a sticker or decal containing such registration number to their delivery vehicles. A seafood delivery registration number or sticker or decal shall not be transferable.

b. (i) Notwithstanding any provision of this chapter, the commissioner may, when there is reasonable cause to believe that any or all of the principals, employees or agents of a seafood deliverer lack good character, honesty and integrity, require that any or all of such principals be fingerprinted and provide to the commissioner the information set forth in subdivision a of section 22-216 of this chapter, and may, after notice and the opportunity to be heard, refuse to register such seafood deliverer for the reasons set forth in subdivision b of such section.

(ii) If at any time subsequent to the registration of a seafood deliverer, the commissioner has reasonable cause to believe that any or all of the principals, employees or agents of a seafood deliverer lacks good character, honesty and integrity, the commissioner may require that any or all of such principals be fingerprinted and provide the background information required by subdivision a of section 22-216 of this chapter and may, after notice and the opportunity for a hearing, revoke the registration of such seafood deliverer for the reasons set forth in subdivision b of such section.

§22-212 Conduct of seafood delivery business. The commissioner may establish by rule such measures as he or she deems appropriate and necessary to ensure the orderly conduct of seafood delivery businesses in the fulton fish market distribution area. Such measures may include, but not be limited to: (i) the designation of an area or areas in which seafood delivery trucks may park while picking up seafood in the market area; (ii) requirements that seafood delivery businesses

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demonstrate compliance with applicable vehicle registration, insurance and inspection requirements; (iii) requirements that seafood delivery businesses comply with applicable federal, state and local laws, rules, and regulations regarding the handling of seafood; (iv) appropriate insurance and bonding requirements; and (v) provisions prescribing maintenance and availability of records for inspection by the market manager pertaining to, without limitation, the receipt and delivery of seafood and the verification of ownership interests of a seafood delivery business, its principals and employees and agents.

§22-212.1 Registration of labor union and labor organization. A labor union or labor organization representing or seeking to represent employees directly involved in the movement, handling or sale of goods sold in the market shall register with the commissioner and shall be subject to the provisions of section 22-264 of this title.

§22-213 Fees and terms of licenses and registrations.

a. The commissioner shall by rule establish fees for the issuance and renewal of registrations and of licenses pursuant to this chapter in amounts sufficient to compensate the city for the administrative expense of issuing or renewing a registration or license and the expense of inspections and other activities related thereto. A license issued pursuant to this chapter shall be valid for two years. A business entity that is licensed pursuant to this chapter shall provide the commissioner in a form prescribed by the commissioner pursuant to rules promulgated under this chapter with notice of at least ten business days of the proposed addition of a new principal to such business entity. The commissioner may waive or shorten such period upon a showing that there exists a bona fide business requirement therefor. Except where the commissioner determines within such period, based on information available to him or her, that the addition of such new principal may have a result inimical to the purposes of this chapter, the licensee may add such new principal pending the completion of review under section 22-216 of this chapter. The licensee shall be afforded an opportunity to demonstrate to the commissioner that the addition of such new principal pending completion of review under section 22-216 of this chapter would not have a result inimical to the purposes of this chapter. If upon the completion of such review, the commissioner determines that such principal lacks good character, honesty and integrity, the license shall cease to be valid unless such principal divests his or her interest, or discontinues his or her involvement in the business of such licensee, as the case may be, within the time period prescribed by the commissioner.

b. The commissioner shall be authorized to extend the term of the license for an additional one year period at his or her discretion and shall establish an additional fee therefor.

c. A registration issued pursuant to this chapter shall be valid for two years.

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§22-214 Liability for violations.

a. A business entity required by this chapter to be licensed by or registered with the commissioner pursuant to this chapter shall be liable for violations of any of the provisions of this chapter or any rules promulgated pursuant thereto committed by any of its principals, employees or agents.

b. In any civil action or administrative proceeding against an employee of a business entity for a violation of this chapter or any rules promulgated pursuant thereto, it shall be an affirmative defense that the employee was acting within the scope of his or her employment when the action or actions constituting the alleged violation were committed and that such action or actions were committed pursuant to an instruction given to such employee by such business entity or by any principal, officer or agent of such business entity, provided, however, that this subdivision shall not be applicable to a violation of section 22-203, subdivision e of section 22-204, subdivision e of section 22-206, subdivision c of section 22-208, paragraphs ii and iii of subdivision b of section 22-215 or subdivision b of section 22-219 of this chapter and any rules promulgated pursuant thereto.

§22-215 Penalties.

a. Except as otherwise provided in subdivision b of this section, any person who violates any provision of this chapter or any of the rules promulgated pursuant thereto shall be liable for a civil penalty which shall not exceed ten thousand dollars for each such violation. Such civil penalty may be recovered in a civil action brought in a court of competent jurisdiction or an administrative proceeding before the environmental control board.

b. (i) Any person who violates subdivision a of section 22-204, subdivision a of section 22-206, subdivision c of section 22-208 or section 22-219 of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, be punished for each violation by a criminal fine of not more than ten thousand dollars or by imprisonment not exceeding six months, or both; and any such person shall also be subject to a civil penalty of not more than five thousand dollars for each day of such violation to be recovered in a civil action brought in a court of competent jurisdiction or an administrative proceeding before the environmental control board.

(ii) Any person who interferes or attempts to interfere with the conduct of loading or unloading services authorized pursuant to this chapter, shall be guilty of a misdemeanor and, upon conviction thereof, be punished for each such violation by a criminal fine of not more than ten thousand dollars or by imprisonment not exceeding six months, or both and any such person shall also be subject to a civil penalty of not more than five thousand dollars for each such violation to be recovered in a civil action brought in a court of competent jurisdiction or an administrative proceeding before the environmental control board for each day that the violation continues.

(iii) Any person who intentionally or without permission of the owner or other person having lawful possession of such property destroys or damages property or equipment associated with loading or unloading services authorized pursuant to this chapter shall be guilty of a misdemeanor and, upon conviction thereof, be punished for each such violation by a criminal fine of not more than ten thousand dollars or by imprisonment not exceeding six months, or both and any such person shall also be subject to a civil penalty of not more than five thousand dollars for each such

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violation to be recovered in a civil action brought in a court of competent jurisdiction or an administrative proceeding before the environmental control board.

(iv) The corporation counsel is authorized to commence a civil action on behalf of the city for injunctive relief to restrain or enjoin any violation of this chapter and for civil penalties.

§ 22-216 Issuance and refusal to issue licenses, registrations and class A and class B photo identification cards.

a. The commissioner shall require that an applicant submitting a proposal to conduct an unloading business or a loading business, or seeking a temporary license to conduct such a business, and an applicant for a class A photo identification card shall: (i) be fingerprinted by a person designated for such purpose by the commissioner or the department of investigation and pay a fee to be submitted to the division of criminal justice services and/or the federal bureau of investigation for the purposes of obtaining criminal history records; and (ii) provide to the commissioner, upon a form prescribed by the commissioner and subject to such minimum dollar thresholds and other reporting limitations as the commissioner may establish by rule those of the following items that the commissioner may determine are necessary and appropriate to determine the good character, honesty and integrity of applicants for the type of license, registration or photo identification card for which application is being made: (a) a listing of the names, and home and business addresses and telephone numbers of any person having a beneficial interest in the applicant, and the amount and nature of such interest; (b) a listing of the names, and home and business addresses of all principals of the applicant; (c) a listing of the amounts in which the applicant is indebted, including mortgages on real property, and the names, and home and business addresses of all persons to whom each such debt is owed; (d) a listing of the applicant's real property holdings, mortgages or other interests in real property other than a primary residence and the names, and home and business addresses of all co-owners of such interest; (e) a listing of all loans and instruments of indebtedness held by the applicant, other than the mortgage or other interest in real property specified in clause (d) of this paragraph, the amount of such debt, and, for each such debt, the names, and home and business addresses of such debtors; (f) the name and address of any business in which the applicant holds an equity or debt interest, excluding any interest in publicly traded stocks or bonds; (g) the names, and home and business addresses of all persons or entities from whom the applicant has received gifts valued at more than one thousand dollars in any of the past three years, and the names, and home and business addresses of all persons or entities excluding any organization recognized by the Internal Revenue Service under section 501(c)(3) of the Internal Revenue Code to whom such applicant has given gifts of such value in any of the past three years; (h) a listing of all criminal convictions, in any jurisdiction, of the applicant; (i) a listing of all pending civil or criminal actions to which such applicant is a party and has been served; (j) a listing of any determination by a federal, state or city regulatory agency of a violation by such applicant of conditions of his or her license or of laws, rules or regulations relating to the conduct of the applicant's business; (k) a listing of any criminal or civil investigation by a federal, state, or local prosecutorial agency, investigative agency or regulatory agency of which the applicant has or should have knowledge, in the five year period preceding submission of the application, wherein such applicant has: (A) been the subject of such investigation, or (B) received a subpoena requiring the production of documents or information in connection with such investigation; (l) a

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certification that the applicant has paid all federal, state, and local income and business taxes related to the applicant's business for which the applicant is responsible for the three tax years preceding the date of the application or documentation that the applicant is contesting such taxes in a pending judicial or administrative proceeding or otherwise pursuant to applicable procedures of the taxing authority; and (m) such additional information concerning good character, honesty and integrity that the commissioner may deem appropriate and reasonable. The commissioner may require that applicants pay such fees to cover the expenses of the background investigations provided for in this subdivision as are set forth in the rules promulgated pursuant to section 22-223 of this chapter.

b. The commissioner may, after notice and the opportunity to be heard, refuse to consider a licensing proposal from, or refuse to issue a license to, an unloading or loading business or a class A photo identification card to a person required by subdivision a of section 22-203 of this chapter to possess such identification card when any of the principals of such business or such person lacks good character, honesty and integrity or may defer the decision whether to issue such license or photo identification card or to consider such proposal when there is a pending indictment or civil or criminal action or administrative proceeding as provided in paragraph (ii) of this subdivision. Such notice shall specify the reasons for such refusal or deferral. In making such determination, the commissioner may consider, but not be limited to: (i) failure by the applicant to provide truthful information in connection with the application; (ii) a pending indictment or criminal action against such applicant for a crime which under this subdivision would provide a basis for the refusal of such license or photo identification card, or a pending civil action or administrative proceeding to which such applicant is a party and which relates to the fitness to conduct the business or perform the work for which the license or photo identification card is sought, in which cases the commissioner may defer consideration of a proposal or application until a decision has been reached by the court or administrative tribunal before which such action or proceeding is pending, unless such applicant demonstrates to the commissioner that such pending action or proceeding should not be the basis for deferral of the license or photo identification card or consideration of the proposal; (iii) conviction of such applicant for a crime which, under article twenty-three-A of the correction law, would provide a basis for the denial of a license to conduct a business in the market area; (iv) commission of a racketeering activity or association with a person who has been convicted for a racketeering activity when the applicant knew or should have known of such conviction, including but not limited to the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. §1961 *et seq.*) or of an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time, or the equivalent offense under the laws of any other jurisdiction; (v) association with any member or associate of an organized crime group as identified by a federal, state or city law enforcement or investigative agency when the applicant knew or should have known of the organized crime associations of such person; or (vi) failure to pay any tax, fine, penalty, fee related to the applicant's business for which liability has been admitted by the person liable therefor, or for which judgment has been entered by a court or administrative tribunal of competent jurisdiction and enforcement of such judgment has not been stayed.

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c. The factors set forth in subdivision b of this section shall also be grounds for the commissioner, pursuant to sections 22-209 or 22-211 of this chapter, to refuse to register, or to suspend or revoke the registration of, a wholesaler or a seafood deliverer; and to refuse to issue a photo identification card to, or to suspend or revoke the photo identification card of, a principal, employee or agent of a wholesaler or seafood deliverer.

d. The commissioner may require that an applicant submitting a licensing proposal for any license required pursuant to this chapter or an application for registration as a wholesaler or seafood deliverer shall submit such information regarding the applicant's business as the commissioner shall require in order to demonstrate the financial responsibility to conduct the business for which such license or registration is required, and may refuse to issue a license or registration to any applicant who has not, in the commissioner's determination, demonstrated such financial responsibility.

e. The commissioner may refuse to issue a license to, or consider a proposal from, the business of an applicant or issue a class A photo identification card to a person required by subdivision a of section 22-203 of this chapter to possess such identification card when such applicant or such person has knowingly failed to provide the information and/or documentation required by the request for licensing proposals or application or who has otherwise failed to demonstrate eligibility for such license or photo identification card under this chapter or any rules promulgated pursuant thereto.

f. The commissioner may refuse to issue a license to, or consider a proposal from, the business entity of an applicant, or issue a class A photo identification card to a person required by subdivision a of section 22-203 of this chapter to possess such identification card when (i) the business entity of such applicant or such applicant was previously issued a license or class A photo identification card under this chapter and such license or card was revoked pursuant to the provisions of this chapter or any rules promulgated pursuant thereto; or (ii) such applicant has been determined to have committed any of the acts which would be a basis for the suspension or revocation of a license pursuant to this chapter or any rules promulgated pursuant thereto.

§22-217 Revocation or suspension of license, registration or photo identification card.

a. In addition to the penalties provided in section 22-215 of this chapter, the commissioner may, after due notice and opportunity for a hearing, take action pursuant to subdivisions b and c of this section.

b. The commissioner may revoke or suspend a license or class A photo identification card issued pursuant to the provisions of this chapter when the licensee and/or a principal, employee or agent of a licensee or a person to whom such photo identification card has been issued: (i) has been found to be in violation of this chapter or any rules promulgated pursuant thereto; (ii) has repeatedly failed to obey lawful orders of the market manager or his or her staff; (iii) has failed to pay any fines or civil penalties imposed pursuant to this chapter or the rules promulgated pursuant thereto; (iv) has been found in violation of any laws prohibiting deceptive, unfair, or unconscionable trade practices, or has been found in persistent or substantial violation of any city, state, or federal law,

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rule or regulation regarding the handling of seafood; (v) whenever, in relation to an investigation conducted pursuant to this chapter, the commissioner determines, after consideration of the factors set forth in subdivision b of section 22-216 of this chapter, that the licensee, any principal of the licensee or a person required to possess a class A photo identification card lacks good character, honesty and integrity; (vi) whenever there has been any false statement or misrepresentation as to a material fact in the application or accompanying papers upon which the issuance or renewal of the license or photo identification card was based; or (vii) whenever the licensee has failed to notify the market manager of any material change, as required by rules promulgated by the commissioner pursuant to section 22-223 of this chapter, in the information required to be provided on the application for such license, or of the arrest or criminal conviction of the licensee or any of the principals of the licensee, or of the arrest or criminal conviction of any employees or agents of the licensee of which the licensee had knowledge or should have known.

c. The commissioner may revoke or suspend a registration or a class B photo identification card issued pursuant to this chapter when the person to whom such registration or card was issued: (i) has been found to be in persistent or substantial violation of this chapter or any rules promulgated pursuant thereto; (ii) has repeatedly failed to obey lawful orders of the market manager or his or her staff; (iii) whenever there has been any false statement or misrepresentation as to a material fact in the papers upon which registration or issuance of the photo identification card was based; (iv) has failed to pay any fines or civil penalties imposed pursuant to this chapter or the rules promulgated pursuant thereto; (v) has been found in violation of any laws prohibiting deceptive, unfair, or unconscionable trade practices, or has been found in persistent or substantial violation of any city, state, or federal law, rule or regulation regarding the handling of seafood; (vi) has been found in violation of any city, state or federal law, rule or regulation when such violation is inimical to the purpose and intent of this chapter; or (vii) has failed to notify the commissioner of any material change, in the information submitted in the application for registration, or of the arrest or criminal conviction of the registrant or any of the principals of the registrant, or of the arrest or criminal conviction of any employees or agents of the registrant of which the registrant had knowledge or should have known.

d. An order of suspension pursuant to this section shall specify the period during which such suspension shall remain in effect; such period shall be reasonable in relationship to the violation or violations underlying the suspensions.

e. For purposes of this section: (i) "persistent" shall mean three or more violations within a six month period; and (ii) "substantial violation" shall mean a violation which has a bearing on the continued fitness of a licensee, registrant or holder of a photo identification card to operate a business or work in the market area.

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§22-218 Emergency suspension of license or registration and photo identification card.

Notwithstanding any other provision of this chapter or rules promulgated pursuant thereto, the commissioner may, if he or she determines that the conduct of an unloading business, a loading business, a wholesale seafood business or a seafood delivery business, or the presence of any person in the market area creates an imminent danger to life or property, immediately suspend a license, registration or a photo identification card without a prior hearing, provided that provision shall be made for an immediate appeal of such suspension to a deputy commissioner of the department who shall determine such appeal forthwith. In the event that the deputy commissioner upholds the suspension, an opportunity for a hearing shall be provided on an expedited basis, within a period not to exceed four business days and the commissioner shall issue a final determination no later than four business days following the conclusion of such hearing; and provided further that the commissioner may, upon application by a business entity whose license or registration has been suspended, permit such business entity to remain in the market area for such time as is necessary to allow for the expeditious sale, consignment or removal of a perishable product if, in the commissioner's best judgment, such permission is consistent with the safety of the market area.

§22-219 Surrender of license and photo identification card and cessation of use of registration number.

a. Suspension or revocation of a license or the discontinuance of business operations in the market area by a licensee shall require the immediate surrender to the market manager of the license and all photo identification cards issued for principals, employees and/or agents of the licensee.

b. Suspension or revocation of a registration or the discontinuance of business operations in the market area by a registrant shall require the immediate cessation of use of a registration number and the immediate surrender of all decals, stickers and photo identification cards issued to such registrant and the principals, employees and/or agents of the registrant.

c. A person who discontinues his or her employment in the market area shall immediately surrender his or her photo identification card to the market manager.

d. Violation of the provisions of subdivisions b or c of this section where such license or registration is under suspension may result in revocation of the license or registration or criminal or civil penalties as provided in subdivision b of section 22-215 of this chapter, or both.

§22-220 Seizure; forfeiture.

a. Any police officer or authorized officer or employee of the department may, upon service of a notice of violation or criminal summons upon the owner or operator of a vehicle or other property or equipment seize such vehicle or such other property or equipment which such police officer or authorized officer or employee has reasonable cause to believe is being used in connection with an act constituting a violation of subdivision a of section 22-204, subdivision a of section 22-206 or subdivision c of section 22-208 of this chapter. Any vehicle, property or equipment seized pursuant

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to this subdivision shall be delivered into the custody of the department or other appropriate agency. Where a notice of violation has been served, a hearing to adjudicate the violation underlying the seizure shall be held before the environmental control board within five business days after the seizure and such board shall render a decision within five business days after the conclusion of the hearing. Where a criminal summons has been served, a hearing to adjudicate the violation underlying the seizure shall be held before a court of competent jurisdiction. In the event that such court or the environmental control board determines that there has been no violation, the vehicle, property or equipment that was seized shall be released forthwith to the owner or any person authorized by the owner to take possession of such vehicle, property or equipment.

b. Except as otherwise provided in subdivision a of this section or where notice has been given that forfeiture will be sought pursuant to paragraph (ii) of subdivision e of this section, a vehicle or other property or equipment seized pursuant to subdivision a of this section shall be released upon payment of a fine or civil penalty imposed for the violation underlying the seizure and the costs of removal and storage as set forth in the rules of the department. Where an action or proceeding relating to the violation underlying the seizure is pending in a court of competent jurisdiction or an administrative proceeding before the environmental control board, the vehicle or other property or equipment shall be released upon posting of a bond or other form of security sufficient to cover the maximum fine or civil penalty which may be imposed for such violation and the costs of removal and storage.

c. Where a court of competent jurisdiction or the environmental control board makes a finding that the vehicle or other property or equipment has not been used in connection with an act constituting a violation of subdivision a of section 22-204, subdivision a of section "22-206 or subdivision c of section 22-208 of this chapter, the vehicle or other property or equipment shall be released forthwith to the owner or any person authorized by the owner to take possession of such vehicle, property or equipment.

d. Any vehicle or other property or equipment that has not been claimed by the owner within ten business days after mailing by first class mail to such owner of notice of a determination by a court of competent jurisdiction or by the environmental control board that there has been no violation or that the vehicle or other property or equipment was not used in connection with a violation of subdivision a of section 22-204, subdivision a of section 22-206 or subdivision c of section 22-208 of this chapter shall be deemed by the department to be abandoned. Any vehicle unclaimed under the provisions of this subdivision shall be disposed of by the department pursuant to section twelve hundred twenty-four of the vehicle and traffic law. Property or equipment other than a vehicle shall be disposed of by sale at public auction following notice by publication in the city record describing such property or equipment not less than ten business days prior to such sale. Such notice shall provide that the owner may reclaim such property or equipment until a date that shall be not sooner than ten business days from the date the notice is published.

e. (i) In addition to any other fines, penalties, sanctions or remedies provided for in this chapter, a vehicle or other property or equipment which has been seized pursuant to subdivision a of this section and all rights, title and interest therein shall be subject to forfeiture upon notice and judicial

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determination thereof if the owner of such vehicle or other property or equipment has been found liable by a court of competent jurisdiction or the environmental control board on one or more prior occasions for using such vehicle or such other property or equipment in connection with an act constituting a violation of subdivision a of section 22.204, subdivision a of section 22-206 or subdivision c of section 22.208 of this chapter.

(ii) A forfeiture proceeding may not be commenced more than ten business days after the receipt of a request by the owner for return of the vehicle, other property or equipment. If a forfeiture proceeding is not commenced within such ten day period, the property shall be returned to the owner upon payment of the fine or civil penalty imposed and the costs of removal and storage. A vehicle or other property or equipment which is the subject of such action shall remain in the custody of the department or other appropriate agency pending the final determination of the forfeiture action.

(iii) Notice of the institution of the forfeiture action shall be served by first class mail on: (a) an owner of a vehicle at the address set forth in the records maintained by the department of motor vehicles, or for vehicles not registered in New York state, in the records maintained by the state of registration; (b) all persons holding a security interest in such vehicle which security interest has been filed with the department of motor vehicles pursuant to the provisions of title ten of the vehicle and traffic law, at the address set forth in the records of such department, or for vehicles not registered in New York state, all persons who hold a security interest in such vehicle which security interest has been filed with such state of registration and which persons are made known by such state to the department at the address provided by such state of registration; and (c) for property and equipment other than a vehicle, by publication in the city record describing such property or equipment and by notice served by first class mail to the address of the person from whom such property or equipment was seized. Where such person is other than the owner of such property or equipment, notice shall be served by first class mail both to such person and to the owner of such property or equipment where such owner is known, or can by reasonable effort, be ascertained or, where such owner is not known or cannot by reasonable effort be ascertained, to the employer of the person from whom the property or other equipment was seized. Notice shall also be served by first class mail to any person who holds a security interest in such property or equipment when the name and address of such person has been provided by the owner of the property or equipment or other person from whom the property or equipment was seized, or is otherwise known or can, by reasonable effort, be ascertained.

(iv) Any owner who receives notice of the institution of a forfeiture action who wishes to claim an interest in the vehicle or other property or equipment subject to forfeiture may assert a claim in such action for the recovery of the vehicle or other property or equipment or satisfaction of the owner's interest in such vehicle or other property or equipment. Any person with a security interest in such vehicle or property or equipment who receives notice of the institution of the forfeiture action who claims an interest in such vehicle or other property or equipment may assert a claim in such action for satisfaction of such person's security interest.

(v) Forfeiture pursuant to this subdivision shall be made subject to the interest of a person who claims an interest in the vehicle or other property or equipment pursuant to paragraph (iv) of this subdivision, where such person establishes that: (a) the use of such vehicle, property or equipment in connection with an act constituting a violation of subdivision a of section 22-204, subdivision a of section 22-206 or subdivision c of section 22-208 of this chapter that was the basis for seizure

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occurred without the knowledge of such person, or if such person had knowledge of such use, that such person did not consent to such use by failing to do all that could reasonably have been done to prevent such use, and that such person did not knowingly obtain such interest in the vehicle, property or equipment in order to avoid the forfeiture; or (b) that the conduct that was the basis for such seizure was committed by any person other than such person claiming an interest in the vehicle, property or equipment while such vehicle was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States or any state.

(vi) The department, after judicial determination of forfeiture, shall, at its discretion, either: (a) retain such vehicle, property or equipment for the official use of the city; or (b) by public notice of at least five days, sell such forfeited vehicle, property or equipment at public sale. The net proceeds of any such sale shall be paid into the general fund of the city.

(vii) In any forfeiture action commenced pursuant to this subdivision, where the court awards a sum of money to one or more persons in satisfaction of such person's or persons' interest in the forfeited vehicle, property or equipment, the total amount awarded to satisfy such interest or interests shall not exceed the amount of the net proceeds of the sale of the forfeited vehicle, property or equipment after deduction of lawful expenses incurred by the city, including the reasonable costs of removal and storage between the time of seizure and the date of sale.

(viii) For purposes of this section, the term "owner" of a vehicle shall mean an owner as defined in section one hundred twenty-eight and in subdivision three of section three hundred eight of the vehicle and traffic law. The term "owner" of other property or equipment subject to seizure or forfeiture pursuant to this section shall mean a person who demonstrates ownership of such property or equipment to the satisfaction of the commissioner.

(ix) For purposes of this section, the term "security interest" in a vehicle shall mean a security interest as defined in subdivision k of section two thousand one hundred one of the vehicle and traffic law. "Security interest" in other property or equipment shall mean an interest reserved or created by agreement and which secures payment or performance of an obligation. The term includes the interest of a lessor under a lease intended as security.

§22-221 Business address. Each business licensed or registered with the commissioner pursuant to this chapter shall maintain a business address in New York city where notices may be delivered and legal process served and shall provide the commissioner with such address and shall also designate an individual of suitable age and discretion at such address as an agent for service of legal process.

§22-222 Other wholesaler registration and seafood distribution areas.

a. It shall be unlawful for any business entity to conduct a wholesale seafood business outside the fulton fish market distribution area without having first registered and obtained a registration number from the commissioner. A registration application shall be upon a form and contain such information as the commissioner shall specify by rule and shall be signed by all the principals of such wholesaler. A registration number shall not be transferable. The market manager shall maintain a list of all wholesalers who are registered pursuant to this section together with the registration numbers of such wholesalers and shall make such list available to suppliers, shippers

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and truckers and shall, upon request, verify to suppliers, shippers and truckers whether a wholesaler is currently registered with the commissioner.

b. (i) Upon a finding by the commissioner that there is reasonable cause to believe that there exists or that there is the potential for corrupt, deceptive or unconscionable business practices in an area or areas within the city outside the fulton fish market distribution area where one or more wholesale seafood businesses has been established and that such business practices will have an effect inimical to the purposes of this chapter, the commissioner shall declare such area to be a seafood distribution area, and all unloading businesses, loading businesses, wholesale seafood businesses and seafood delivery businesses which operate within such area, and the employees and/or agents of such businesses, shall be subject to all the provisions of this chapter; provided that when such provisions are applied to a seafood distribution area, the terms "fulton fish market distribution area" and "market area" as contained therein shall be deemed to include such seafood distribution area.

(ii) The commissioner shall by rule establish the boundaries of such seafood distribution area, based on determination of the area in which activities related to the distribution of seafood take place, and may promulgate rules for the orderly and lawful conduct of business in such area in accordance with the provisions of sections 22-205, 22-207, 22-210 and 22-212 of this chapter.

(iii) No enforcement action shall be taken on or after the date on which the boundaries of a seafood distribution area have been established pursuant to paragraph (ii) of this subdivision against (1) any business entity or person required to be licensed and/or to possess a class A photo identification card pursuant to this section unless and until one of the following has occurred: (aa) such business entity or person has failed to apply for such license or class A photo identification card by the date specified by the commissioner; (bb) any of the principals of such business entity or such person has failed to submit to fingerprinting or to submit the background information required pursuant to section 22-216 of this chapter; or (cc) such license or photo identification card has been denied by the commissioner; (2) against any wholesaler registered pursuant to subdivision a of this section whose principals have been required by the commissioner to submit to the fingerprinting and disclosure requirements of section 22-216 of this chapter unless and until one of the following has occurred (aa) the principals of such wholesaler have failed to submit to fingerprinting or to submit the required background information; or (bb) the commissioner has revoked the registration of such wholesaler; (3) against any person required to possess a class B photo identification card unless such person has failed to apply for such class B photo identification card by the date specified by the commissioner; or (4) against any person required to possess a class B photo identification card who has been required by the commissioner to submit to the fingerprinting and disclosure requirements of section 22-216 of this chapter unless and until one of the following has occurred: (aa) such person has failed to submit to fingerprinting or to submit the required background information by the date specified by the commissioner; or (bb) the commissioner has denied the application for such class B photo identification card.

c. Notwithstanding the provisions of subdivision b of this section, the commissioner may determine that licenses to conduct unloading businesses in a seafood distribution area may be appropriately issued without application of the provisions set forth in subdivisions b through f of section 22-204 of this chapter, and that licenses to conduct loading businesses in a seafood distribution area may

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be appropriately issued without application of the provisions set forth in subdivisions b through h of section 22-206 of this chapter. Where the commissioner has made such a determination, all other provisions of this chapter including, but not limited to, the requirements for licenses, the issuance of licenses and suspensions and revocations of licenses shall apply. For the purposes of this subdivision: (i) the term "applicant submitting a proposal" as such term appears in section 22-216 of this chapter shall, in the event of such determination, be deemed to mean an applicant for an unloading license or a loading license in a seafood distribution area; and (ii) "loader" or "loading business" shall mean a business entity that has designated areas in which loading services take place or that operates primarily to provide loading services for purchasers of fish in a seafood distribution area. Such term shall not include a business entity that only incidentally or occasionally provides such services to such purchasers.

§22-223 Rules. The commissioner may promulgate such rules as he or she may deem necessary to effectuate the provisions of this chapter.

§22-224 Investigations by the department of investigation. The commissioner of the department of investigation may conduct a study or investigation of any matter arising under the provisions of this chapter, including but not limited to the investigation of the information required to be submitted by applicants for licenses pursuant to subdivision a of section 22-216 of this chapter or when such information is required by the commissioner to be provided pursuant to subdivision b of section 22-209 or subdivision b of section 22-211 of this chapter.

§22-225 Meetings. On a regular basis, but not less often than every three months, and at such other times as may be needed, the market manager shall conduct a meeting which shall be open to all persons licensed, registered or issued photo identification cards pursuant to the provisions of this chapter and their representatives. Such meetings shall be for the purpose of presentations and discussions with respect to activities and operations within the market area and/or other seafood distribution areas. All such meetings shall be held within the market area or other seafood distribution area or at a suitable location proximate to such area and at convenient times upon reasonable advance notice.

§22-226 Reporting requirements.

a. No later than one week following the submission of the mayor's management report, the commissioner shall submit to the council a report detailing the department's activities pursuant to this chapter. Except as provided in any paragraph of this section, this report shall provide information for the period covered by the mayor's management report. The report required by this section shall at a minimum include:

i. the number of criminal acts and violations of this subchapter reported to have occurred within the fulton fish market distribution area and each other seafood distribution area. Such acts and violations shall include, without limitation (aa) acts of physical violence and threats of such

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violence, (bb) acts of damage to property and threats of such acts and (cc) thefts or threats of such thefts;

ii. the number of referrals to a state or federal prosecutor made by the commissioner and/or market manager with respect to the items contained in paragraph one of this section, the number of such referrals for which a prosecution was brought and the results of any such prosecutions;

iii. a current listing of the names and business addresses of unloading and loading business licensees and wholesale seafood and seafood delivery business registrants;

iv. the number of applications for each such license or registration that were denied with a statement of the reasons for denials and the number of pending applications for each;

v. the number of class A and class B photo identification cards which have been issued, respectively, the number of applications for each such card which have been denied with a statement of the reasons for denials and the number of pending applications for each such card;

vi. the number of unloading and loading business licenses, wholesale and seafood delivery business registrations and class A and class B photo identification cards that have been suspended or revoked under sections 22-217 or 22-218 of this chapter, respectively, a statement of the reasons for such actions and the average duration of such suspensions;

vii. the number of principals of wholesalers and seafood delivery businesses and holders of class B photo identification cards, respectively, to whom the provisions of section 22-216 of this chapter have been applied and the result under section 22-217 of this chapter;

viii. the number of vehicles, property and equipment, respectively, which have been seized under this chapter and the number forfeited, with a statement of the reasons for such seizures and forfeitures;

ix. the amounts, by category, of all revenues relating to implementation of this chapter to which the city is entitled, the amounts actually collected and the reasons for any difference; and

x. the amounts, by category, of all expenditures relating to enforcement of the provisions of this chapter.

b. Unless otherwise provided, all items required to be reported pursuant to paragraphs i through x of subdivision a of this section shall be reported separately for the fulton fish market distribution area and for each other seafood distribution area.