

Educational Materials for Process Servers



**Consumer and
Worker Protection**

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Note: New York City businesses must comply with all relevant federal, state, and City laws and rules. All laws and rules of the City of New York, including the Consumer Protection Law and Rules, are available through the Public Access Portal, which businesses can access by visiting nyc.gov/BusinessToolbox. For convenience, sections of relevant New York State Law and/or New York City Law and Rules are included as a handout in this packet.

Please note that businesses are responsible for knowing and complying with the most current laws, including any City Council amendments. The Department of Consumer and Worker Protection (DCWP) is not responsible for errors or omissions in the handout provided in this packet. The information is not legal advice. You can only obtain legal advice from a lawyer.

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New York City Laws and Rules

New York City Administrative Code and Rules regarding Process Servers

NEW YORK CITY ADMINISTRATIVE CODE

TITLE 20: CONSUMER AND WORKER PROTECTION

CHAPTER 2: LICENSES

SUBCHAPTER 23: PROCESS SERVERS

§ 20-403. License required.

- a. Process server license. It shall be unlawful for any person to do business as, be employed as or perform the services of a process server without a license therefor.
- b. Process serving agency license. It shall be unlawful for any process serving agency to assign or distribute process to individual process servers for actual service in the city of New York without a license therefore.

§ 20-404. Definition.

- a. A process server is a person engaged in the business of serving or one who purports to serve or one who serves personally or by substituted service upon any person, corporation, governmental or political subdivision or agency, a summons, subpoena, notice, citation or other process, directing an appearance or response to a legal action, legal proceeding or administrative proceedings.
- b. A process serving agency is any person, firm, partnership, association or corporation, other than an attorney or law firm located in this state, or city marshal, who maintains an office, bureau or agency, the purpose of which is to assign or distribute process to individual process servers for actual service in the city of New York.
- c. For the purposes of this subchapter the service of five or more process in any one year shall be deemed to constitute doing business as a process server.

§ 20-405. Exceptions.

- a. The provisions of this subchapter shall not apply to any employee of any city, state or federal department or agency, who is acting within the scope of his or her employment.
- b. The provisions of this subchapter shall not apply to attorneys duly admitted to practice law in the state of New York.

§ 20-406. Application; Fingerprinting.

- a. An application for such a license or renewal thereof shall be made to the commissioner on a form prescribed by him or her.
- b. The commissioner shall require that applicants for licenses issued pursuant to this subchapter be fingerprinted for the purpose of securing criminal history records from the state division of criminal justice services. The applicant shall pay a processing fee as required by the state division of criminal justice services. Fingerprints shall be taken of the individual owner if the applicant is a sole proprietorship; the general partners if the applicant is a partnership; and the officers, principals, directors, and stockholders owning more than ten percent of the outstanding stock of the corporation if the applicant is a corporation. Any person required to be fingerprinted hereunder shall furnish to the department three current passport-size photographs of such person. Notwithstanding the foregoing, the commissioner need not require applicants for licenses required under this subchapter to be

fingerprinted if criminal history records concerning such applicants are not available from the state division of criminal justice services.

- c. Each such applicant for a process server license or renewal thereof shall be required to pass an examination satisfactorily. Such examination shall be under the supervision of the commissioner and shall test the knowledge of the applicant concerning proper service of process within the city of New York and familiarity with relevant laws and rules.

§ 20-406.1. Bond Required.

- a. As a condition of the issuance of a process server license, each applicant for such license or a renewal thereof shall furnish to the commissioner a surety bond executed by the applicant in the sum of ten thousand dollars, payable to the city of New York, and a surety approved by the commissioner. Such bond shall be conditioned upon the applicant's compliance with the provisions of this subchapter and any rules promulgated thereunder, and upon the further condition that the applicant will pay (i) to the city any fine, penalty or other obligation the city imposes relating to a violation of this subchapter and any rules promulgated thereunder, and (ii) to a plaintiff any final judgment recovered in an action arising out of the violation of any of the provisions of this subchapter within thirty days of its imposition. If an applicant is unable to obtain a surety bond as required by this section, and upon the provision of proof satisfactory to the commissioner of such inability, the individual applicant may, in lieu of furnishing such bond, deposit an amount of no less than one thousand dollars in a fund to be established by the commissioner to pay (i) to the city any fine, penalty or other obligation the city imposes relating to a violation of this subchapter and any rules promulgated thereunder, and (ii) to a plaintiff any final judgment recovered in an action arising out of the violation of any of the provisions of this subchapter within thirty days of its imposition.
- b. A process server licensed under this subchapter who engages in the business of serving process exclusively as an employee of a process serving agency licensed under this subchapter shall not be required to furnish a surety bond.
- c. As a condition of the issuance of a process serving agency license, each applicant for such license or a renewal thereof shall furnish to the commissioner a surety bond in the sum of one hundred thousand dollars executed by the applicant payable to the city of New York, and a surety approved by the commissioner. Such bond shall be conditioned upon the applicant's compliance with the provisions of this subchapter and any rules promulgated thereunder, and upon the further condition that the applicant will pay (i) to the city any fine, penalty or other obligation the city imposes relating to a violation of this subchapter and any rules promulgated thereunder, and (ii) to a plaintiff any final judgment recovered in an action arising out of the violation of any of the provisions of this subchapter within thirty days of its imposition.

§ 20-406.2. Responsibilities of Process Serving Agencies.

Every process serving agency licensed under this subchapter shall:

- (a) Comply with all applicable state and federal laws;
- (b) Be legally responsible for any failure to act in accordance with the laws and rules governing service of process by each process server to whom it has distributed, assigned or delivered process for service;
- (c) Provide to each process server employed by such agency a written statement indicating the rights of such employee and the obligations of the process serving agency under city, state and federal law. Such statement of rights and obligations shall include, but not be limited to, a general description of employee rights and employer obligations pursuant to laws regarding minimum wage, overtime and hours of work, record keeping, social security payments, unemployment insurance coverage, disability insurance coverage and workers' compensation;
- (d) Keep on file in its principal place of business for a period of three (3) years a statement for each employee, signed by such employee, indicating that the employee read and understood the statement of rights and obligations such employee received pursuant to subdivision (c) of this section.

§ 20-406.3. Records, Audits.

- a. Every process server and process serving agency licensed under this subchapter shall retain records in compliance with section 89-cc of the New York state general business law for no less than seven (7) years of each process served. Such records shall be retained in electronic form. Tampering with any such electronic records shall be prohibited.
- b. A process server licensed under this subchapter who engages in the business of serving process exclusively as an employee of a process serving agency licensed under this subchapter shall not be subject to the provisions of subdivision (a) of this section, but shall be required to comply with all other applicable laws.
- c. The commissioner shall conduct audits of the information required to be kept pursuant to subdivision (a) of this section in order to monitor compliance with this subchapter. The commissioner shall conduct annual audits, of the information required to be kept pursuant to subdivision a, for at least 20 percent of the licensed process servers who have certified, pursuant to subdivision d, having served at least one summons, subpoena, notice, citation or other process, directing an appearance or response to a legal action, legal proceeding or administrative proceeding that is subject to the provisions of section 110 of the civil court act.
- d. By February 1, 2020 and every six months thereafter, each licensed process server shall submit electronically to the commissioner a certification, in a form to be determined by the commissioner, stating whether the licensed process server has served at least one summons, subpoena, notice, citation or other process, directing an appearance or response to a legal action, legal proceeding or administrative proceeding that is subject to the provisions of section 110 of the civil court act within the immediately prior semi-annual calendar year period.

§ 20-406.4. Educational Materials.

The commissioner shall develop educational materials to be provided to all process servers and process serving agencies licensed under this subchapter. Such materials shall at a minimum identify the laws and regulations pertaining to service of process in the city of New York.

§ 20-407. Fee; Term.

The biennial license fee to be paid by such persons shall be three hundred forty dollars.

§ 20-408. Rules and Regulations.

The commissioner may make and promulgate such rules and regulations as he or she may deem necessary for the proper implementation and enforcement of this subchapter.

§ 20-409. Issuance, Renewal, Suspension and Revocation of a License.

- a. A license issued hereunder may be suspended or revoked or its renewal denied by the commissioner at any time for the failure of the licensee to comply with any rule, regulation or order promulgated by the commissioner. Where a license is suspended or revoked or its renewal denied for the reasons set forth in this section, where a penalty is issued pursuant to section 20-409.1 or where such license holder is otherwise disciplined by the commissioner, the commissioner shall post to the department's website and notify all process serving agencies of the suspension, revocation or denial of renewal of such license, the issuance of a penalty pursuant to section 20-409.1 and the reasons for such suspension, revocation or denial of renewal or issuance of such penalty. Such notification and posting shall occur no more than five days from the date the department has suspended, revoked or denied renewal of such license, or issued such penalty.

- b. In addition to any of the powers that may be exercised by the commissioner pursuant to this subchapter and chapter one of this title, the commissioner, after notice and an opportunity to be heard, may refuse to issue or renew, or may suspend or revoke, a license required under this subchapter if the applicant or licensee, or any of its principals, officers or directors, or any of its stockholders owning more than ten percent of the outstanding stock of the corporation has been convicted of a crime which, in the judgment of the commissioner, has a direct relationship to such person's fitness or ability to perform any of the activities for which a license is required under this subchapter or has been convicted of any other crime which, in accordance with article twenty-three-a of the correction law, would provide a justification for the commissioner to refuse to issue or renew, or to suspend or revoke, such license.
- c. Upon application for renewal of a license issued pursuant to this subchapter, applicants subject to subdivision (a) of section 20-406.3 of this subchapter shall certify in writing compliance with the record keeping provisions of such section.

§ 20-409.1. Violations and Penalties.

Any person who, after notice and hearing shall be found guilty of violating any provision of this subchapter, shall be punished in accordance with the provisions of chapter one of this title and shall be subject to a penalty of not less than seven hundred dollars nor more than one thousand dollars for each violation.

§ 20-409.2. Civil Cause of Action.

Any person injured by the failure of a process server to act in accordance with the laws and rules governing service of process in New York state, including this subchapter and regulations promulgated thereunder, shall have a cause of action against such process server and process serving agency, which distributed or assigned process for service, in any court of competent jurisdiction for any or all of the following relief:

- a. compensatory and punitive damages, provided that punitive damages shall only be awarded in the case of willful failure to serve process;
- b. injunctive and declaratory relief;
- c. attorneys' fees and costs; and
- d. such other relief as a court may deem appropriate.

§ 20-409.3. Reporting.

Twenty-four months after the local law that added this section becomes effective, the commissioner shall submit a report to the speaker of the council regarding the effectiveness of these provisions on effectuating proper service and improving oversight over the process service industry. Such report shall include, among other things, the results of audits the commissioner has completed of process servers and process serving agencies, including information regarding their compliance with the provisions of this subchapter.

§ 20-410. Electronic Record of Service.

A process server licensed pursuant to this subchapter shall carry at all times during the commission of his or her licensed activities and operate at the time process is served or attempted an electronic device that uses a global positioning system, wi-fi device or other such technology as the Commissioner by rule shall prescribe to electronically establish and record the time, date, and location of service or attempted service. All records created by such electronic device shall be maintained in an electronic database by the process server, or if such process server is acting exclusively as an employee of a process service agency, by the process service agency, for seven (7) years from the date such record is created.

RULES OF THE CITY OF NEW YORK
TITLE 6: DEPARTMENT OF CONSUMER AND WORKER PROTECTION
CHAPTER 2: LICENSES
SUBCHAPTER W: PROCESS SERVERS

§ 2-231. Definitions.

For the purposes of the application of Subchapter 23 of Chapter 2 of Title 20 of the Administrative Code, the following definitions apply, unless the context indicates otherwise.

Bound paginated volume. “Bound paginated volume” means a book or ledger that at the time of purchase contains a specified number of unfolded sheets of paper or other material that are permanently secured to covers by stitching, glue or any other such method that is calculated to make readily discernible the removal or insertion of one or more sheets after the first use of such volume and that that each page in such book or ledger is sequentially numbered starting with the number “1” or contains an indelible label stating the number of pages the volume originally contained.

Chronological. “Chronological” with respect to the notation in a process server record or log means that each notation must be entered sequentially according to the time and date of the activity recorded and without leaving any blank spaces between each entry that would allow for the insertion of any additional notation between any two entries.

Conspicuous service delivery. “Conspicuous service delivery” means, if permissible by law (e.g., CPLR § 308 or RPAPL § 735): affixing the process to the door of either the actual place of business, dwelling place or usual place of abode within the state of the person to be served; or affixing a copy of the notice and petition upon a conspicuous part of the property sought to be recovered or placing a copy under the entrance door of such premises.

Contemporaneous. “Contemporaneous” in relation to entries in records means at or near the time of the event as to which an entry is recorded, or within a reasonable time thereafter.

Corporate service. “Corporate service” means service of process on a domestic or foreign corporation in accordance with the provisions of CPLR § 311 or RPAPL § 735; or governmental subdivision (including the City of New York) in accordance with the provisions of CPLR § 311; or a domestic or foreign limited liability company in accordance with the provisions of CPLR § 311-a; or the state in accordance with the provisions of CPLR § 307.

Department. “Department” means the New York City Department of Consumer and Worker Protection.

Engaged in the business of serving. “Engaged in the business of serving” means the following:

- (1) Service of five or more processes within the City of New York in any one calendar year; or
- (2) One who assigns, distributes, or delivers processes to another for actual service.

Image file. “Image file” in relation to scans of the records kept by process servers or process serving agencies means a file that contains graphic data such that the file is an exact replica of a specific set of data and is saved as a portable data file (“pdf”).

Legible. “Legible” with respect to the handwriting in the record kept by process servers and in the scanned or copied images of such record means easily read and discernible in all of its details, and in no way obscured.

Partnership service. “Partnership service” means service of process on persons conducting a business as a partnership in accordance with the provisions of CPLR § 310, or on a domestic or foreign limited partnership in accordance with the provisions of CPLR § 310-a.

Person. “Person” means any individual, firm, company, partnership, corporation, association or other organization.

Personal delivery service. “Personal delivery service” means delivering process within the state to the individual intended to be served process.

Portable media device. “Portable media device” as it pertains to electronic record-keeping means an electronic data storage device used to record and store data, such as a flash memory device, CD-ROM or external hard drive.

Process. “Process” means a summons, notice of petition, order to show cause, subpoena, notice, citation or other legal paper issued under the laws of the State of New York directing an appearance or response to a legal action, legal proceeding or administrative proceeding; provided, however, that if under the laws of the State of New York the mailing of such legal paper is sufficient to effect service, such legal paper will not be process for the purpose of this subchapter.

Process Server. “Process Server” means a person engaged in the business of serving process upon any person, corporation, governmental or political subdivision or agency.

Process Serving Agency. “Process serving agency” means any person, firm, partnership, association or corporation, other than an attorney or a law firm located in this state, or city marshal, who maintains an office, bureau or agency, one purpose of which is to assign or distribute process to individual process servers for actual service in the City of New York.

Scanning. “Scanning” in relation to electronic record-keeping means the process of translating a document into a digital form that can be recognized by a computer. A “scan” with respect to electronic record-keeping is the image file that is created by scanning.

Substituted service. “Substituted service” means delivering process within the state to an individual of suitable age and discretion at the actual place of business, dwelling place or usual place of abode of the individual to be served; or, as applicable, on an individual of suitable age and discretion who resides or is employed at the property sought to be recovered.

VTL service. “VTL service” means delivering process intended to be served on: (1) a non-resident by service on the Secretary of State as permitted by and in accordance with the provisions of Vehicle and Traffic Law § 253; or (2) residents who departs from the state or on residents’ executors or administrators who are nonresidents or who depart from the state as permitted and in accordance with the provisions of Vehicle and Traffic Law § 254.

§ 2-232. License Requirement Exceptions.

- (a) No license under Subchapter 23 of Chapter 2 of Title 20 of the Administrative Code is required of any employee of any city, state or federal department or agency, who is acting within the scope of his employment.
- (b) No license under Subchapter 23 shall be required of any attorneys duly admitted to practice in the State of New York.
- (c) No license under Subchapter 23 shall be required of any employee of a process server or attorney who does not actually serve process.
- (d) The provisions of Subchapter 23 shall only apply to service of process within the City of New York.

§ 2-232a. Surety Bond Requirements for Process Server and Process Serving Agencies.

- (a) The surety bond required under Section 20-406.1 of the Administrative Code shall be paid in full and must be effective for the entire term of the license.
- (b) If a process server or process serving agency's surety bond lapses for any reason, the license issued pursuant to Section 20-403 of the Administrative Code shall become void for such process server or process serving agency.

§ 2-232b. Employee Exemption from Bond.

- (a) Any process server seeking exemption from the bond requirement pursuant to Section 20-406.1(a) of the Administrative Code because he or she serves process exclusively as an employee of a licensed process serving agency shall furnish to the Department upon application or renewal, a certification from the licensed process serving agency for which he or she works in a form approved by the Commissioner that affirms that
 - (1) the process server serves process exclusively as an employee of the process serving agency;
 - (2) the bond that the licensed process server agency has furnished to the commissioner is conditioned upon the process server's compliance with the laws and rules governing the activities of a process server and upon the further conditions set forth in Section 20-406.1(a) of the Administrative Code; and
 - (3) the process serving agency acknowledges that it must notify the Department in writing within five (5) days of the date that the process server ceases to serve process exclusively as an employee of the process serving agency.
- (b) The process server or the process serving agency shall provide additional documentation that the Department may seek regarding the process server's employee status.

§ 2-232c. Process Server Trust Fund.

- (a) *Establishment.* There is hereby established a Process Server Trust Fund (hereinafter, "the Fund") to provide for the payment of outstanding awards to aggrieved consumers and fines owed to the City. The Fund will be administered by the Comptroller of the City of New York pursuant to §93(h) of the New York City Charter.
- (b) *Participation in the Fund.*
 - (1) To qualify for participation in the Fund, an applicant for a process server license or renewal therefore must submit with such server's application a copy of its completed application to two sureties approved by the Commissioner for the bond required by § 20-406.1 of the Administrative Code of the City of New York and the original copies of the rejection or denial of such application by such sureties. Pursuant to such section, process serving agencies are not eligible to participate in the Fund.
 - (2) Any process server who qualifies for participation in the fund may participate by submitting with the application for a process server license or renewal thereof a certified check or money order in the amount \$1,000, made payable to the New York City Department of Consumer and Worker Protection for depositing the amount in such Fund.
 - (3) A bonded licensee may participate in the Fund in lieu of continued compliance with the bond requirement of §20-406.1(a) of such Code by submitting proof that consists of an original copy from the process server's current surety denying renewal and the completed applications and original denials from two additional sureties approved by the Commissioner, and upon submitting to the Department a certified check or money order in the amount of \$1,000 made payable to the New York City Department of Consumer and Worker Protection, prior to the expiration or cancellation of the licensee's bond.
 - (4) The required deposit to be made by applicants to participate in the Fund may not be refundable upon the issuance of a process server license. If the Department denies issuance of a license or

renewal thereof, the deposit made by the applicant must be refunded within thirty days after the application for a license or renewal thereof is denied.

- (5) Participation in the Fund does not relieve a licensee of any obligation to pay awards or fines imposed by the Department or judgments or arbitration awards rendered against the licensee by a court of competent jurisdiction. In the event that a process server's license is revoked, surrendered or the process server fails to renew its license, and the Fund is invaded to pay an award, fine or judgment that was rendered against such process server pursuant to the provisions of the Code or these rules, no license may be issued or reinstated to such process server unless the amount(s) paid out of the Fund on behalf of such process server is reimbursed by such process server in full.
- (c) *Invasion of the Fund.*
- (1) If the Department has revoked a process server's license or the licensee has surrendered or failed to renew the license, the Commissioner may require that disbursements be made from the Fund to pay to the City any fine, penalty or other obligation the City imposes relating to the violation of subchapter 23 of Chapter 2, Title 20 of the Administrative Code of the City of New York and any rules promulgated thereunder or to pay a final outstanding judgment recovered in an action arising out of the violation of the provisions of such subchapter.
 - (2) No disbursement may be made from the Fund to pay an award, fine or judgment that is rendered against a licensee who has furnished a bond pursuant to the requirements of § 20-406.1(a) of the Administrative Code of the City of New York or against a process server who was not licensed by the Department or a participant in the Fund at the time of the violation.
 - (3) Disbursement from the Fund may be made at the discretion of the Commissioner or his or her designee, provided, however, that invasion of the fund must be limited to no more than \$10,000 for all awards, fines or judgments arising out of a single service of process.
 - (4) The Commissioner or his or her designee may order that partial payment of awards, fines, or judgments be made from the Fund.
 - (5) Nothing contained herein may be construed to limit the rights and remedies of any party, including the Department, to pursue a cause of action against a process server who is a participant in the Fund.
 - (6) Nothing contained herein may be construed to provide for the payment of awards or judgments rendered against Fund participants in personal injury actions.
- (d) *Accounting.* The Commissioner must, by January 31 of each year, cause an accounting to be made of all of the Fund's activities during the preceding calendar year.

§ 2-232d. Testing.

Every person who applies for a process server license or renewal thereof shall be required to pass an examination prior to being issued a license or renewal. Such examination shall test the applicant or licensee's knowledge regarding proper service of process within the city of New York and familiarity with relevant laws and rules. The fee for this examination will be \$75 and is not refundable. An applicant who fails the exam on the first attempt may take the examination a second time without an additional fee. After the second successive failure, the applicant's application or renewal will be denied and he or she must reapply for a process server license.

§ 2-233. Records.

- (a) **Duty of individual process server to keep records.** Each process server must maintain records of all service made by them in compliance with the provisions of section 89-cc of the New York General Business Law and section 20-406.3 of chapter 20 of the Administrative Code of the City of New York, as follows:

(1) **Maintenance of records of service.** Process servers must maintain records of all service and attempted service by keeping bound paginated volumes or by storing electronic records with a third party contractor.

(i) **Bound paginated volumes.** Where a process server maintains records in bound paginated volumes, the process server must record each entry separately in chronological order contemporaneous with service or attempted service. The process server must make entries in only one volume at a time, which must contain every attempted and effected service made by the process server, until all of the available space in the volume is filled. A process server who maintains records in bound paginated volumes must also maintain an electronic copy of such volumes by scanning records into an image file that legibly reproduces in all details the original record the process server maintains in bound paginated volumes. Such electronic record must be kept as follows:

(A) the image file must be named with the date of the service or attempted service recorded in the bound paginated volume and the process server's license number, and must be date and time stamped with the date and time that the file was created; and

(B) such scanning must be done within three business days from the last event recorded in the records; and

(C) the process server must save the scanned image file in a manner that:

(I) ensures the authenticity, reliability and integrity of the scanned image file;

(II) permits the efficient retrieval of the scanned image file;

(III) contains a backup support system such that the scanned image file must be capable of being reconstructed if an electronic or computer malfunction or unforeseen incident resulting in the destruction of the system or the information contained therein; and

(D) where the process server stores scanned image files on a portable media device, such portable media device must be labeled with the process server's last name, license number and the date range of the records stored on the device;

(ii) **Electronic records with a third party contractor.** Where a process server maintains electronic records with a third party contractor, the process server must submit recorded entries in chronological order to such contractor within three business days of service or attempted service. The process server must enter a contract with a contractor pursuant to which such contractor must be required to provide services and perform functions consistent with 6 RCNY § 2-233(c), provided, however, the process server may use the services and functions for electronic record storage that a process serving agency has made available to process servers under a contract with a third party contractor.

(2) **Content of records of service.** Each record of service and attempted service must include, at a minimum, the following information:

(i) name of the process server, which will be entered as last name, first name, provided, however, that where a process server keeps records in bound paginated volumes, the name of such

- process server may be entered on the first page of each bound paginated volume, rather than each record;
- (ii) the license number of the process server, which will be specified as a seven-digit number, where the first number must be zero if the process server's license number is less than seven digits, provided, however, that where a process server keeps records in bound paginated volumes, the license number of such process server may be entered on the first page of each bound paginated volume, rather than each record;
 - (iii) the name and license number of the process serving agency from whom the process served was received, or, if not received from a process serving agency, of such other person or firm from whom the process served was received;
 - (iv) whether service was effected, as indicated by a Y for yes or N for no;
 - (v) the title of the action or proceeding or a reasonable abbreviation thereof;
 - (vi) the name of the intended recipient of the process, which must be entered in two data fields such that the first data field is the last name of the intended recipient, or, if not a natural person, the name of the entity, and the second data field is the first name of the intended recipient if a natural person;
 - (vii) the name of the individual to whom process was delivered, which must be entered in two data fields such that the first data field is the last name of the individual, and the second data field is the first name of the individual;
 - (viii) the date that service was attempted or effected, which must be entered as MM/DD/YYYY;
 - (ix) the time service was attempted or effected, which must be entered as military time;
 - (x) the address where service was attempted or effected, which must be entered as three different fields such that one field will be for the street address and any apartment, suite, or room number, the second field will be for the city or borough, and the third field will be for the ZIP code;
 - (xi) the nature of the papers served;
 - (xii) the court in which the action has been commenced, which must be entered as either Civil Court NYC, Civil Supreme, Criminal, Housing (L/T), or District Court, followed by the county of the court, the judicial department if appellate, or the federal district;
 - (xiii) the full index number, which must be entered with all information necessary to identify the case, such as XXXXX/XX, unless the case is a Civil Local matter, in which case, it will include the prefix of CV, CC, LT, MI, NC, RE, SC, or TS;
 - (xiv) if service was effected pursuant to subdivisions (1) through (3) of CPLR § 308, a description of the person served which must consist of seven fields, including sex, color of skin, hair color, approximate age, height, weight, and any other identifying features provided by the process server;
 - (xv) the type of service delivery, which must be entered as a P for personal delivery service, an S for substituted service, a C for conspicuous service delivery, a CO for corporate service, a PA for partnership service, and a V for VTL service;
 - (xvi) if service was effected pursuant to subdivision (4) of CPLR § 308 or subdivision (1) of RPAPL § 735, a description of the door and the area adjacent including the color and composition of hallway walls, color and composition of hallway floor or doorstep, and location of premises in relation to stairs, elevator or entranceway;
 - (xvii) if service is effected pursuant to RPAPL § 735(1) using registered or certified mail, the postal receipt number of registered or certified mail; and

- (xviii) if an affidavit of service is filed with the court by the process server, the record shall include the date of such filing.

(b) Duty of licensed process serving agencies to keep records. Every process serving agency must keep complete and accurate records for each individual process server to whom it assigns or distributes process to be served. Such records must be kept in a searchable manner that permits ready identification of (i) the daily activity of each such individual process server and (ii) any or all process assigned or distributed for service by the name of the person or entity from whom the process serving agency received such papers for service.

- (1) **Maintenance of records.** Process serving agencies must maintain electronic records by copying records to an electronic records management system or by submitting records to a third party contractor.

(i) **Electronic records management system.** If the process serving agency elects to store records itself rather than through a third party contractor, it must save the record to an electronic records management system within three business days from the last event recorded in the record. Such electronic records management system must maintain electronic records, including the required records described in 6 RCNY § 2-233(b)(2), in a manner that:

(A) ensures the authenticity, reliability and integrity of the electronic records;

(B) permits the efficient retrieval of electronic records;

(C) contains a backup support system such that the electronic records must be capable of being reconstructed if an electronic or computer malfunction or unforeseen incident results in the destruction of the system or the information contained therein.

(ii) **Third party contractor.** Where a process serving agency maintains its records with a third party contractor, the process serving agency must submit records to such contractor within three business days from the last event recorded in the record. The process serving agency must enter into a contract with such contractor pursuant to which such contractor must be required to provide services and perform functions consistent with 6 RCNY § 2-233(c).

- (2) **Required records.** Process serving agencies must maintain, at a minimum, the following records:

(i) An electronic file that legibly reproduces the original record of service or attempted service containing all of the individual process server's records maintained pursuant to 6 RCNY § 2-233(a) of this rule for each day on which the individual process server attempted or effected service of the process assigned or distributed to the individual process server by the process serving agency;

(ii) A copy of every routing sheet, work order or other written instruction given to the individual process server;

(iii) Copies of any notes, memoranda or other writings submitted by the individual process server containing information related to the attempted or effected service of process assigned by the process serving agency;

(iv) A copy of every affidavit of service signed by the individual process server for service assigned by the process serving agency;

(v) if an affidavit of service is filed with the court by the process serving agency, the record must also include the date of such filing.

(c) Storage of records with a third party contractor. Where a process server or process serving agency uses a third party contractor to maintain records consistent with 6 RCNY § 2-233(a)(1)(ii) or 6 RCNY § 2-233(b)(1)(ii), respectively, such process server or process serving agency must enter a contract with such contractor pursuant to which such contractor must be required to provide services and perform functions that include, but are not limited to:

- (1) maintain a daily backup of all submitted data, and ensure all data is available for review upon request of any and all interested parties;
- (2) maintain the original electronic record submitted by the process server unaltered for a period of not less than seven years;
- (3) prohibit the process server, the process serving agency, or any person to alter the original record;
- (4) maintain the records in a manner that will permit retrieval by the DCWP license number of the process server, the DCWP license number of the process serving agency that has distributed the process for service, the name of the plaintiff or petitioner, the name of the defendant or respondent, the docket number (if any), the name of the person to whom process is delivered and a unique file identifier of the process being served;
- (5) maintain the records in a manner that will ensure that their integrity is adequate for admissibility in a judicial proceeding under the rules of evidence applicable in the state of New York;
- (6) provide a backup support system such that the electronic records must be capable of being reconstructed if an electronic or computer malfunction or unforeseen incident results in the destruction of the system or the information contained therein;
- (7) produce upon request by the Department, a copy of the electronic records, or any reasonably described part involved, certified to be true and accurate;
- (8) produce to the Department upon request an MS Excel spreadsheet of the electronic records containing the fields and data format set forth in § 2-233(a)(2).

(d) **Integrity of records.** Corrections to bound paginated volumes and electronic records with a third party contractor must be made only as follows:

- (1) **Bound paginated volumes.** A process server may make corrections in bound paginated volumes only by drawing a straight line through the inaccurate entry and clearly printing the accurate information directly above the inaccurate entry. All other methods of correction, including but not limited to erasing, opaquing, obliterating or redacting, are prohibited.
- (2) **Electronic records with a third party contractor.** A process server and process serving agency must ensure that permissions pertaining to electronic records submitted to a third party contractor will be secured so that the data cannot be deleted upon submission to such contractor. No process server or process serving agency may tamper with data or properties of any electronic record kept pursuant to this section after a file is made by modifying, amending, deleting, rearranging or in any other way altering any such data or properties including, but not limited to, using a meta data scrubber or similar device or program. If a typographical error has occurred or if data contained in the process server or process serving agency's record was accidentally omitted from the electronic data entry, the process server or process serving agency must promptly make an amendment to their records of service with the third party contractor. A process server who attempted or effected process may make other corrective amendment, or supplement (such as concerning filing or additional mailing), to the record of service with the third party contractor. Any amendment must be made by creating a new entry in which the original record must be identified by reference in italics within the new entry.

(e) **Retention and production of records.**

- (1) Process servers and process serving agencies must retain all records required to be maintained pursuant to this section for a period of seven years from the date of service. Where a process server is employed as a process server by any person, a copy of such records must also be maintained by such person at such person's principal office for the same period;

- (2) Upon request by the Department, process servers and process serving agencies must produce a copy of any record they are required to maintain pursuant to this section, or any reasonably described part involved, certified to be true and accurate;
- (3) Except where a process server maintains records in bound paginated volumes, process servers must produce, upon request by the Department, the information required to be maintained pursuant to 6 RCNY § 2-233(a)(2) as an MS Excel spreadsheet in a format provided by the Department on its website;
- (4) Upon request by the Department, process serving agencies must produce the information required to be maintained pursuant to 6 RCNY § 2-233(a)(2) as an MS Excel spreadsheet in a format provided by the Department on its website.

§ 2-233b. Electronic Record of Service/GPS Requirements.

- (a) General Requirements for GPS. A process server licensed pursuant to this subchapter must comply with the requirement of section 20-410 of the Code to carry at all times during the commission of his or her licensed activities, and operate at the time process is served or attempted, a device to establish electronically and record the time, date, and location of service or attempted service as follows:
 - (1) Equipment.
 - (i) The process server must obtain a mobile device, such as a telephone or personal digital assistant, that utilizes the software necessary to make an electronic record of the location where, and the time and date when, the record is made as determined by Global Positioning System (“GPS”) technology or Assisted-Global Positioning System (“A-GPS”) technology, and labels the record with the network date and time maintained by the mobile device, the DCWP license number of the process server, the DCWP license number of the process serving agency that has distributed the process for service, the name of the plaintiff or petitioner, the name of the defendant or respondent, the docket number (if any), the name of the person to whom process is delivered and a unique file identifier of the process being served.
 - (ii) The mobile device must be equipped with the software necessary to make an electronic record of the location where and time and date when the record is made, as determined by triangulated cell tower signals, if at the time of the effected or attempted service of process a GPS signal is not available.
 - (iii) The mobile device software must automatically add that location, time and date information to the electronic record as soon as a GPS or cellular signal reaches the device if neither a GPS nor a cellular signal is present at the time the process server causes the electronic record to be made.
 - (2) Operation of Equipment.
 - (i) On every occasion that a process server attempts or effects service of process, the process server must ensure that the mobile device makes an electronic record of the GPS location, time and date of the attempted or effected service immediately after attempting or effecting service. If no GPS signal is available at the time of attempted or effected service of process, the location, time and date will be determined by triangulated cell tower signals.
 - (ii) Each electronic record must be labeled with the following:
 - a) the GPS or cellular network date and military time maintained by the mobile device;
 - b) the DCWP license number of the process server;
 - c) the DCWP license number of the process serving agency that distributed the process for service;
 - d) the name of the plaintiff or petitioner;

- e) the name of the defendant or respondent;
- f) the docket number, if any;
- g) the name of the person to whom process is delivered; and
- h) a unique file identifier of the process being served.

(3) **Contract for Services.** The process server must enter into a contract with an independent third party [(“the Contractor”) pursuant to which the Contractor] who will provide services and perform functions described in paragraph (4) of this subdivision that enable the process server to meet the data storage and retrieval requirements set forth in such paragraph (“the GPS Contractor”), provided, however, that if the process server performs process serving activities distributed to him or her by a licensed process serving agency, the process server may utilize the device and facilities for the electronic record of service that the process serving agency obtains under a contract with a GPS Contractor.

(4) **Data Storage and Retrieval.** The electronic record must be automatically transmitted electronically from the mobile device to the GPS Contractor as soon as a GPS or cellular signal is available and location, date and time are entered into the electronic record. The GPS Contractor must store the electronic record according to the following terms:

- (i) the original digital file must be maintained by the GPS Contractor unaltered for a period of not less than seven years;
- (ii) neither the process server nor the process serving agency will be permitted to alter the original data, but may obtain copies of the original data file;
- (iii) the GPS Contractor must maintain the records in a manner that will permit retrieval by the DCWP license number of the process server, which will be specified as a seven-digit number, where the first number must be zero if the process server's license number is less than seven digits, the DCWP license number of the process serving agency from whom the process served was received, or, if not received from a process serving agency, the name of such other person or firm from whom the process served was received, the name of the plaintiff or petitioner, the name of the defendant or respondent, the docket number (if any), the name of the person to whom process is delivered and a unique file identifier of the process being served;
- (iv) the GPS Contractor must maintain the records in a manner that will ensure that their integrity is adequate for admissibility in a judicial proceeding under the rules of evidence applicable in the state of New York;
- (v) the GPS Contractor must produce upon request by the Department, and to any other party according to an appropriate order or subpoena, a copy of the electronic records, or any reasonably described part involved, certified to be true and accurate;
- (vi) the GPS Contractor must provide to the Department upon request a street map in hard copy format and access to an interactive electronic street map that display the locations where the digital records were recorded with a date and time provided by GPS or cellular date and time;
- (vii) the GPS Contractor must provide to the Department upon request, and to any other party according to an appropriate order or subpoena, the following information as an MS Excel spreadsheet in a format provided by the Department on its website:
 - a) Plaintiff or petitioner, which must be specified by the last name of the first plaintiff, or, if not a natural person, the name of the entity, except that the field may contain the name of every plaintiff or petitioner in the case, provided that the entire record is searchable by a wildcard search of the name of any plaintiff or petitioner;

- b) Defendant or respondent, which must be specified by the last name of the first defendant, or, if not a natural person, the name of the entity, except that the field may contain the name of every defendant or respondent in the case, provided that the entire record is searchable by a wildcard search of the name of any defendant or respondent;
 - c) the full index number, entered with all information necessary to identify the case, such as XXXXXX/XX, unless the case is a Civil Local matter, in which case, it will include the prefix of CV, CC, LT, MI, NC, RE, SC, or TS;
 - d) the date that service was effected or attempted according to the device, entered as MM/DD/YYYY;
 - e) the time that service was effected or attempted according to the device, entered in military time;
 - f) the date that service was effected or attempted according to GPS or cellular signals, entered as MM/DD/YYYY;
 - g) the time that service was effected or attempted according to GPS or cellular signals, entered as military time;
 - h) the location where service was effected or attempted, which must include building number, street name, city, ZIP code, which must be five digits, and latitudinal and longitudinal coordinates returned by the GPS device. All address information must be CASS (Coding Accuracy Support System) processed to insure its accuracy with software graded to be CASS Certified by the National Customer Support Center of the United States Postal Service;
 - i) the name of the intended recipient of the process, which must be entered in two data fields such that the first data field is the last name of the intended recipient, or, if not a natural person, the name of the entity, and the second data field is the first name of the intended recipient if a natural person;
 - j) the name of the person to whom process was delivered, which must be entered in two data fields such that the first data field is the last name of the person, and the second data field is the first name of the person; and
 - k) the DCWP license number of the process server, specified as a seven-digit number, where the first number must be zero if the process server's license number is less than seven digits, the DCWP license number of the process serving agency from whom the process was received or, if not received from a process serving agency, the name of such other person or firm from whom the process served was received.
- (b) Provision of Equipment and Services by Process Serving Agency. A process serving agency licensed according to this subchapter may provide to licensed process servers the device and services required by subparagraph (a) according to a contract with an independent third party. For purposes of this Rule, a third party will not be considered independent if any officer or owner of ten percent or more of the shares of the licensed process serving agency has any interest, direct or indirect, in the third party.
- (c) Report to Department.
- (1) Within sixty days after the effective date of this Rule a licensed process server must submit to the Department in a form approved by the Commissioner a certification that he or she has secured the contract required by this Rule and identifying the name, address and account number of the GPS Contractor(s) providing the required device and services. After sixty days after the effective date of this Rule, no process server license will be issued or renewed unless the applicant submits such a certificate.

- (2) A licensed process server must submit to the Department an amended certification within two days of entering into a contract with a different GPS Contractor.
 - (3) In place of submitting the certificates required by the preceding provisions, the licensed process server may submit a certification in a form approved by the Commissioner affirmed by an owner or officer of a licensed process serving agency that the device and services the process server is required to obtain are provided by the agency under a contract with an independent third party.
- (d) Compliance with all laws. Compliance with the requirements of this Rule does not relieve a licensed process server of the obligation to make or maintain records required by any other federal, state, or local law, rule or regulation.

§ 2-234. Duty to Comply with Law.

The licensee shall at all times strictly and promptly conform to all laws, rules, regulations and requirements of the federal, state and municipal authorities relating to the conduct of licensees and the service of process in the State of New York and the preparation, notarization and filing of affidavits of service and other documents now in force or hereafter adopted during any license period.

§ 2-234a. Duties of Process Serving Agencies.

- (a) Assignment of Process to Individual Process Servers. A process serving must not assign or distribute process for service to an individual process server who:
- (1) is not licensed to serve process;
 - (2) has not complied with the requirements of Section 20-406.1 of the Administrative Code;
 - (3) does not display integrity and honesty in his or her process serving activities; and
 - (4) does not comply with the recordkeeping requirements applicable to the service of process in the City of New York, including maintaining an electronic record of service.
- (b) Compliance Plan. A process serving agency must develop and implement policies and procedures set forth in a written Compliance Plan to ensure that an individual process server acts with integrity and honesty and complies with the recordkeeping requirements applicable to process servers. Such Compliance Plan, must include, but not be limited to, the following requirements for process serving agencies:
- (1) The process serving agency must take appropriate disciplinary action against an individual process server who fails to comply with the law, including, but not limited to, suspending or terminating its employment, agency or other relationship with the individual process server;
 - (2) To ensure each process server's compliance with recordkeeping requirements, the process serving agency must:
 - (i) at least once each month, review for completeness and accuracy the records of each individual process server to whom it assigns or distributes process;
 - (ii) prepare a monthly written report of its review of the records maintained pursuant to section 2-233 of these Rules of each individual process server to whom it assigns or distributes process during that month;
 - (iii) maintain each monthly report for at least seven years;
 - (iv) maintain records of any disciplinary actions taken against the individual licensed process server;
 - (v) report to the Department in writing the name and license number of each individual licensed process server who does not comply with the law governing process servers within ten (10) days of learning of such non-compliance;

- (vi) make available, upon request, to the Department a copy of its record review procedures, any written reports of the reviews it maintains, and copies of any referrals of individual process servers to the Department.
- (c) **Implementation Affirmation.** A process serving agency in possession of a license issued by the Department on the effective date of this Rule must submit an affirmation to the Department that it has adopted a written Compliance Plan within sixty (60) days of such effective date. After the effective day of this Rule, no license will be issued or renewed until the process serving agency files with the Department an affirmation that it has adopted a Compliance Plan.
- (d) **Persons to Whom the Agency Assigns Service.**
 - (1) A process serving agency must notify the Department in a manner designated on its website at the time of the process serving agency's application or renewal, or at such times as requested by the Department of:
 - (i) the names, addresses, and Department license numbers of each process server who serves process exclusively as an employee of the process serving agency; and
 - (ii) the names, addresses, and Department license numbers of each process server who serves process on behalf of the process serving agency.
 - (2) If additional process servers are assigned process by the process serving agency or a new process server is hired to serve process exclusively as an employee of the process serving agency after the date of such application or renewal, the licensee must notify the Department in a manner designated on its website within five (5) days of the new assignment or employee with the names, addresses and Department license numbers of such additional process servers.
 - (3) If a process server ceases to serve process exclusively as an employee of a process serving agency after the date of such application or renewal, the process serving agency must notify the Department in a manner designated on its website within five (5) days that the process server ceases to serve process exclusively as an employee with the name, address and Department license number of such process server.
 - (4) The process serving agency must advise the Department of any process server who is misrepresenting his or her license status or his or her compliance with the requirements of Section 20-406.1 of the Administrative Code.

§ 2-234b. Duty of Process Servers to Report Agencies That Assign Service.

- (a) A process server must notify the Department in a manner designated on its website of the name and license number of the process serving agency for whom he or she serves process exclusively as an employee when applying for a license or renewal thereof.
- (b) A process server must notify the Department in a manner designated on its website of [to the Department in writing] when he or she ceases to exclusively serve process as an employee of a process serving agency within five (5) days that he or she ceases such employment. The process server must include the name and license number of any other process serving agency that he serves process exclusively as an employee.
- (c) When applying for a license or renewal thereof, a process server must notify the Department in a manner designated on its website of the name and license number of every process serving agency which he or she has reason to believe assigns process for service to the applicant.
- (d) A process server applying for a renewal of a licensee must notify the Department in a manner designated on its website of the name and license number of every process serving agency from which it has accepted assignment of service of process within the previous two years.
- (e) A process server must keep a list of the name and address of each process serving agency that assigns service to the process server. The process server must maintain the list for seven years and produce it upon request by the Department.

§ 2-235. Preparation of Affidavits of Service.

No licensee may sign or notarize or cause to be signed or notarized an affidavit of service until all factual averments have been set forth. The licensee must not make a false statement in an affidavit of service. The licensee must include his/her license number on all affidavits of service signed by him/her. On all affidavits of service, the licensee must: (1) specify the papers served; the person who was served; the individual who was delivered service; the date, time and address or place of service; and the manner of service; and (2) set forth facts showing that service was made in an authorized manner. The licensee must maintain a copy of every affidavit of service for at least seven years in electronic form or as a paper copy.

§ 2-236. Duty to Report Hearings Contesting Service.

- (a) Whenever a process server or process serving agency receives any type of notice, including an oral communication, that a court has scheduled a hearing to determine whether service of process made or assigned by such licensee was effective, the licensee must submit a report to the Department in the manner designated by the Department on its website within ten days of receiving such notice. Such written report must include:
- (1) the title and index number of the action;
 - (2) the court and the judge before whom the hearing is scheduled;
 - (3) the date(s) of the hearing; and
 - (4) the name and license number of every licensee who effected service or assigned or distributed the process for service.
- (b) On request, such licensee must provide copies of all records, including but not limited to, routing sheets, the pages of the licensee's logbook for each day on which service of the process in issue was attempted or effected, and all affidavits of service, pertaining to the contested service.
- (c) (1) The licensee must attempt to learn the result of such hearing, including any judicial order or voluntary settlement resolving the challenge to service of process, by making a written or email request to the party on whose behalf the challenged service of process was made or the party's attorney for a written report of the result of the hearing. Sixty days after the date of the scheduled hearing, if the party or its attorney has not provided to the licensee a written report of the result of such hearing, the licensee must search for the result in the file in the office of the clerk of the court where such hearing was scheduled to occur. If the clerk's file does not contain a result sixty days after the hearing, the licensee must search for the result in the clerk's file ninety days after the scheduled date of such hearing.
- (2) The licensee must report to the Department in the manner designated by the Department on its website (i) within ten days of learning the result, or (ii) that it made attempts to learn the result and was unable to do so not later than one-hundred days after the scheduled date of such hearing.

§ 2-237. Wearing of Insignia Prohibited.

No licensee while serving process shall wear or display any badge, insignia, shield, medal, decoration or facsimile thereof.

§ 2-238. Use of Zip Codes.

All copies of process mailed pursuant to the requirements of CPLR § 308(4) or RPAPL § 735(1) must include on the envelope as part of the address the proper ZIP code of the person served.

§ 2-239. Use of Email.

All process servers and process serving agencies must provide to the Department a regularly used email address. The Department may send licensing documents and subpoenas, notices, requests, or other communications to such address.

§ 2-240. Audits.

- (a) Pursuant to subdivision c of section 20-406.3 of the Administrative Code, the Department may audit any process server that has served at least one summons, subpoena, notice, citation or other process, directing an appearance or response to a legal action, legal proceeding or administrative proceeding that is subject to the provisions of section 110 of the civil court act. In conducting such an audit, the Department may issue a subpoena by email to a process server for the period identified by the Department in such subpoena for the following records no longer than two months:
- (1) Records that a process server is required to maintain pursuant to 6 RCNY § 2-233(a);
 - (2) Affidavits of service filed with a court by a process server or on behalf of a process server related to service;
 - (3) Records of the GPS location, time and date of attempted or effected service of process made pursuant to 6 RCNY § 2-233b(a)(2); and
 - (4) Documents sufficient to identify all traverse hearings scheduled to occur, whether or not held, by any court, including courts outside of New York City, concerning process served or attempted to be served, and any result of such hearings.
- (b) Records described by paragraphs one through three of subdivision a of this section must be produced in electronic form, unless otherwise specified by the Department, and records described by paragraph four of subdivision a of this section may be produced in paper or electronic form. Records described in paragraph two of subdivision a of this section must be produced in chronological order.
- (c) A process server must comply with a subpoena from the Department within twenty days of the date on which the subpoena was issued, provided that the monetary penalties authorized by 6 RCNY § 6-30 for violation of 6 RCNY § 2-240 will not apply while such subpoena is the subject of a pending judicial proceeding.
- (d) By February 1st and August 1st of each calendar year, a process server must submit, by electronic means, a certification to the Department stating whether it has served at least one summons, subpoena, notice, citation or other process, directing an appearance or response to a legal action, legal proceeding or administrative proceeding that is subject to the provisions of section 110 of the civil court act in the most recent six-month period, as follows: the February 1st certification must cover the six-month period from July through December of the previous year; the August 1st certification must cover the six-month period from January through June of the current year.
- (e) Nothing in this section limits the Department's authority to request or inspect records or information pursuant to any other provisions of law or rule, including, but not limited to, the Commissioner's authority to conduct audits of process servers and process serving agencies pursuant to the first sentence of subdivision c of section 20-406.3 of the Administrative Code.
- (f) A process server or process serving agency must produce all subpoenaed or requested documents and records they are required to maintain pursuant to law or rule, even where they maintain their records with a third party.

New York City Laws and Rules

New York City Administrative Code and Rules regarding License Enforcement

NEW YORK CITY ADMINISTRATIVE CODE

TITLE 20: CONSUMER AND WORKER PROTECTION

CHAPTER 1: LICENSE ENFORCEMENT

§ 20-101. Legislative Intent.

The council finds that for the protection and relief of the public from deceptive, unfair and unconscionable practices, for the maintenance of standards of integrity, honesty and fair dealing among persons and organizations engaging in licensed activities, for the protection of the health and safety of the people of New York city and for other purposes requisite to promoting the general welfare, licensing by the department of consumer and worker protection is a necessary and proper mode of regulation with respect to certain trades, businesses and industries. The council finds further that, in order to secure the above-mentioned purposes, and generally to carry out responsibilities for supervising and regulating licensed activities, trades, businesses and industries, the commissioner of consumer and worker protection requires powers, remedies and sanctions which are equitable, flexible and efficient. Finally, the council finds that sanctions and penalties applied by the commissioner and by the courts for the violation of laws and regulations by individuals and organizations engaging in various licensed activities, trades, businesses and industries, must be sufficient to achieve these above-mentioned purposes of licensing.

§ 20-102. Definitions.

Wherever used in this title:

- a. "Commissioner" shall mean the commissioner of consumer and worker protection.
- b. "Department" shall mean the department of consumer and worker protection.
- c. "License" shall mean an authorization by the department of consumer and worker protection to carry on various activities within its jurisdiction, which may take the form of a license, permit, registration, certification or such other form as is designated under law, regulation or rule.
- d. "Organization" shall mean a business entity, including but not limited to a corporation, trust, estate, partnership, cooperative, association, firm, club or society.
- e. "Person" shall mean a natural person or an organization.
- f. "Trade name" shall mean that name under which an organization or person solicits, engages in, conducts or transacts a business or activity.

§ 20-103. Construction of this Chapter and Chapter Two of this Title.

The provisions of this chapter and chapter two of this title shall be liberally construed in accordance with the legislative declaration of the city council set forth in section 20-101.

§ 20-104. Powers of the Commissioner with Respect to Licensing.

- a. The commissioner shall have cognizance and control of the granting, issuance, transferring, renewal, denial, revocation, suspension and cancellation of all licenses issued under chapter two and under all other laws conferring such powers upon him or her. The commissioner or the commissioner's designee

shall collect all fees for all such licenses and permits and shall otherwise enforce the provisions of chapter two.

- b. The commissioner shall, as he or she determines necessary and appropriate, promulgate, amend and rescind regulations and rules:
1. to carry out the powers and duties of the department;
 2. to prevent and remedy fraud, misrepresentation, deceit and unconscionable dealing, and to promote fair trade practices by those engaging in licensed activities;
 3. to require adequate disclosure by those engaging in licensed activities of both the terms and conditions under which they perform licensed activities, adequate disclosure of the true names or true corporate names of licensees, and adequate disclosure of applicable local, state and federal law pertinent to consumers' interests regarding the conduct of activities licensed under chapter two;
 4. to require that licensees keep such records as he or she may determine are necessary or useful for carrying out the purposes of chapter two and, except as specifically set forth in chapter two, retain them for three years;
 5. to ensure that all persons and organizations licensed under this title have made appropriate financial disclosure, and that the premises complies with all legal requirements necessary to engage in the licensed activity;
 6. with respect to licensed activities, to protect the health, safety, convenience and welfare of the general public; and
 7. to ensure that those engaging in licensed activities do not discriminate against any person on the basis of age, sex, race, color, national origin, creed or religion in violation of city, state or federal laws.
- c. The commissioner shall compile all regulations and rules promulgated by the department and maintain a copy thereof, available for public inspection at his or her principal office at such times as that office shall be open for business. A record of each license issued indicating its kind and class, the license number, the fee received therefor and such other records as the commissioner may require shall be kept by the department.
- d. The commissioner or the commissioner's designee shall be authorized to conduct investigations, to issue subpoenas, to receive evidence, to hear complaints regarding activities for which a license is or may be required, to take depositions on due notice, to serve interrogatories, to hold public and private hearings upon due notice, to take testimony and to promulgate, amend and modify procedures and practices governing such proceedings.
- e. (1) The commissioner shall be authorized, upon due notice and hearing, to suspend, revoke or cancel any license issued by him or her in accordance with the provisions of chapter two and to impose or institute fines or civil penalties for the violation of (i) any of the provisions of chapter two of this title and regulations and rules promulgated under chapter two of this title and (ii) any of the provisions of any other law, rule or regulation, the enforcement of which is within the jurisdiction of the department including but not limited to subchapter one of chapter five of this title (the consumer protection law) subchapter two of chapter five (the truth in-pricing-law); provided that such violation is committed in the course of and is related to the conduct of the business, trade or occupation which is required to be licensed pursuant to chapter two of this title. Except to the extent that dollar limits are otherwise specifically provided such fines or civil penalties shall not exceed five hundred dollars for each violation.
- (2) The commissioner may arrange for the redress of injuries caused by such violations, and may otherwise provide for compliance with the provisions and purposes of chapter two of this title.
- (3) The commissioner or the commissioner's designee shall be authorized to suspend the license of any person pending payment of such fine or civil penalty or pending compliance with any other lawful order of the department.
- (4) The commissioner shall be authorized to impose a fine or civil penalty or to suspend a

license or both for a failure to appear at a hearing at the department after due notice of such hearing. If a license has been suspended, it shall be returned to the department forthwith upon receipt of the order of suspension. Failure to surrender the license shall be grounds for a fine or civil penalty or revocation of the license.

(5) Any of the remedies provided for in this section shall be in addition to any other remedies provided under any other provision of law.

- f. The commissioner, upon due notice and hearing, may require that persons licensed under chapter two of this title who have committed repeated, multiple or persistent violations of chapter two or any other law, rule or regulation the enforcement of which is within the jurisdiction of the department, conspicuously display at their place of business and in advertisements a notice (of a form, content and size to be specified by the commissioner), which shall describe the person's record of such violations; provided that, for each time such display is required, the commissioner may require that such notice be displayed for not less than ten nor more than one hundred days.
- g. The commissioner may refuse to issue or renew any license issued in accordance with the provisions of chapter two of this title and may suspend or revoke any such license, after due notice and opportunity to be heard, upon the occurrence of any one or more of the following conditions:
 - 1. Two or more judgments within a two-year period against the applicant or licensee for theft of identity as defined in section three hundred eighty-s of the general business law; or
 - 2. One criminal conviction against the applicant or licensee for acts of identity theft or unlawful possession of personal identification information as defined in article one hundred ninety of the penal law; or
 - 3. Two or more criminal convictions within a two-year period of any employees or associates of the applicant or licensee for acts of identity theft or unlawful possession of personal identification information as defined in article one hundred ninety of the penal law that are committed with the use of the applicant's or licensee's equipment, data, technology, or other similar resource. It shall be an affirmative defense that a applicant or licensee did not have reasonable grounds to believe the proscribed acts were taking place with the use of the licensee's equipment, data, technology, or other similar resource or that the proscribed acts were not taking place with the use of the applicant's or licensee's equipment, data, technology, or other similar resource.

§ 20-105. Additional Powers of Commissioner with Respect to Unlicensed Activities.

- a. It shall be unlawful for any person required to be licensed pursuant to the provisions of chapter two or pursuant to provisions of state law enforced by the department to engage in any trade, business or activity for which a license is required without such license.
- b. In addition to the enforcement procedures set forth in section 20-106 of this chapter, the commissioner after notice and a hearing shall be authorized:
 - 1. to impose fines upon any person in violation of subdivision a of this section of one hundred dollars per violation per day for each and every day during which such person violates such subdivision, with each day constituting a distinct and independent violation. Except as otherwise expressly provided in chapter two of this title, fines imposed pursuant to this paragraph shall be in addition to, and shall not be offset or modified by, any fines or civil penalty prescribed by chapter two of this title.
 - 2. to order any person in violation of subdivision a of this section immediately to discontinue such activity at the premises on which such activity is occurring.
 - 3. to order that such premises on which such activity is occurring be sealed, provided that such premises are primarily used for such activity.
 - 4. to order that any devices, items or goods sold, offered for sale available for public use or utilized in the operation of a business and relating to such activity for which a license is

required but has not been obtained pursuant to the provisions of chapter two shall be removed, sealed or otherwise made inoperable.

- c. Orders of the commissioner issued pursuant to this subdivision shall be posted at the premises on which unlicensed activity occurs in violation of this section.
- d. Orders of the commissioner issued pursuant to paragraph two, three or four of subdivision b of this section shall be stayed with respect to any person who, prior to service of the notice provided in subdivision b of this section, had submitted a full and complete application in proper form and accompanied by the requisite fee for a license or the renewal of a license while such application is pending.
- e. Ten days after the posting of an order issued pursuant to paragraph two, three or four of subdivision b of this section and upon the written directive of the commissioner, officers and employees of the department and officers of the New York city police department are authorized to act upon and enforce such orders.
- f. Any devices, items or goods removed pursuant to the provisions of subdivision b of this section shall be stored in a garage, pound or other place of safety and the owner or other person lawfully entitled to the possession of such devices, items, or goods may be charged with reasonable costs for removal and storage payable prior to the release of such devices, items or goods to such owner or such other person.
- g. The commissioner shall order that any premises which are sealed pursuant to this section shall be unsealed and that any devices, items or goods removed, sealed or otherwise made inoperable pursuant to this section shall be released, unsealed or made operable upon:
 - 1. payment of all outstanding fines and all reasonable costs for removal and storage, and
 - 2. presentation of proof that a license has been obtained for such activity or, if such person or premises are for any reason ineligible to obtain a license, proof satisfactory to the commissioner that such premises, devices, items or goods will not be used in violation of this section.
- h. It shall be a misdemeanor for any person to remove the seal on any premises or remove the seal or make operable any devices, items or goods sealed or otherwise made inoperable in accordance with an order of the commissioner.
- i. The owner or other person lawfully entitled to reclaim the devices, items or goods removed pursuant to this section shall reclaim such devices, items or goods. If such owner or such other person does not reclaim such devices, items or goods within ninety days of their removal, such devices, items or goods shall be subject to forfeiture upon notice and judicial determination in accordance with provisions of law. Upon forfeiture the department shall, upon a public notice of at least five days, sell such forfeited devices, items or goods at public sale. The net proceeds of such sale, after deduction of the lawful expenses incurred, shall be paid into the general fund of the city.
- j. In the event that any removal made pursuant to this section shall include any perishable items, goods or food products which cannot be retained in custody without such items, goods or food products becoming unwholesome, putrid, decomposed or unfit in any way, they may be delivered to the commissioner of health for disposition pursuant to the provisions of section 17-323 of this code.
- k. The provisions of this section shall not be construed to apply to general vendors required to be licensed pursuant to subchapter twenty-seven of chapter two of this title.

§ 20-106. Judicial Enforcement.

- a. Except as otherwise specifically provided in chapter two of this title, or in subdivision b of this section, any person, whether or not he or she holds a license issued under chapter two, who violates any provision of chapter two or any regulation or rule promulgated under it shall, upon conviction thereof, be punished for each violation by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment not exceeding fifteen days, or both; and any such person shall be

subject also to a civil penalty in the sum of one hundred dollars for each violation, to be recovered in a civil action.

- b. Any person who engages without a license therefor in an activity for which a license is required by any provision of chapter two, shall, upon conviction thereof, be subject to the following sanctions:
 1. If he or she has never held a license for such activity, he or she shall be subject to a fine of not less than twenty-five dollars, nor more than five hundred dollars, or by imprisonment not exceeding fifteen days, or both; and any such person shall be subject also to the payment of a civil penalty in the sum of the greater of twice the applicable license fee or one hundred dollars, to be recovered in a civil action.
 2. If he or she has never held a license for such activity, and has been convicted once previously for engaging in such activity without a license, or if he or she has held such license and his or her license has lapsed prior to such person's perfecting an application for a renewal, he or she shall be subject to a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment not exceeding thirty days, or both; and he or she shall be subject also to civil penalty in the sum of one thousand dollars, to be recovered in a civil action.
 3. If such person has held such a license, but his or her license has been suspended or revoked, or he or she has twice previously been convicted of engaging in such activity without a license, he or she shall be subject to a fine of not less than two hundred dollars nor more than two thousand dollars, or by imprisonment not exceeding sixty days, or both; and he or she shall be subject also to a civil penalty in the sum of two thousand dollars, to be recovered in a civil action.
- c. Every manager or proprietor of a business required to be licensed under chapter two who consents to, causes or allows that business to operate without a license and every person aiding such unlicensed business and every owner or lessee of any building, part of building, grounds, room or place, who leases or lets the premises for the operation of any unlicensed business or assents that the premises be used for any such purpose, is in violation of this title and shall be subject to a penalty of one hundred dollars per day for every day during which the unlicensed business operates. This penalty shall be prosecuted, sued for and recovered in the name of the city.
- d. The corporation counsel is authorized to bring an injunction proceeding to restrain or enjoin any violation of this title.

§ 20-107. Application; Filing Fee; License Fee.

- a. All applications for licenses shall be made to the commissioner or the commissioner's designee in such form and detail as shall be prescribed.
- b. Except as specifically provided in chapter two, every application shall include the license fee for the full license term. If the license is not issued, the lesser of fifty dollars or one-half of the amount of the annual license fee shall be retained by the department as a non-returnable filing fee. In the event a license is issued for less than the full license term, the applicable fee shall be decreased proportionately to the nearest half year, except that in no case shall the fee be less than the fee for one-half year. Where a two year license is surrendered for a reason other than suspension or revocation and less than one year of the license term has expired, the licensee may apply for a refund of an amount equal to one year's license fee.
- c. Except as otherwise specifically provided for in chapter two, reference to fees, license fees or any other word of similar import shall be deemed to be the license fee for one year. Notwithstanding any inconsistent provision of this section, whenever the commissioner increases or decreases the term of a type of license pursuant to section 20-108 of this chapter, the fee for such license shall be increased or decreased proportionately and the amount of refund due upon surrender of such license before the expiration of the term for a reason other than suspension or revocation shall be prorated to the unexpired term.

§ 20-108. License Terms.

- a. The commissioner shall establish by regulation the expiration date of licenses issued pursuant to chapter two.
- b. Licenses issued pursuant to chapter two shall be for a two-year term unless otherwise specifically provided for in chapter two; provided, however, that whenever the commissioner changes the expiration date of a type of license pursuant to subdivision a of this section, he or she may also increase or decrease the term of such type of license by rule to the extent necessary to effectuate the change.

§ 20-109. Transferability.

No license issued under chapter two shall be assignable or transferable unless otherwise specifically provided by law or regulation or rule issued by the commissioner.

§ 20-110. Change of Corporate Ownership.

Where any person or organization becomes the beneficial owner of ten percent or more of the stock of an organization to which a license has been granted pursuant to chapter two, if such person or organization previously did not hold at least a ten percent interest, such license shall immediately become void unless prior written approval of the commissioner or the commissioner's designee is obtained.

§ 20-111. Change in a Partnership.

Any license issued under chapter two shall immediately become void upon the addition or termination of any general partner or upon the dissolution of a partnership unless prior written approval of the commissioner or the commissioner's designee is obtained.

§ 20-112. Address of Licensed Activity.

Except as specifically provided in chapter two, a license shall be valid only for the location designated upon the application therefor, except in the case of licenses issued for activities which in their nature are carried out at large and not at a fixed place of business. No license shall be issued for more than one location. Licensees shall, at least ten days prior thereto, notify the commissioner or the commissioner's designee by registered or certified mail, or personal service, of any change of address of the licensed premises or of the residence of the licensee.

§ 20-113. Trade Name.

A license issued under chapter two shall be valid only for activities conducted under the name of the person or organization to whom such license was issued or under the trade name stated in the application therefor; if a licensed activity is to be conducted under a trade name, the application must state that trade name. No license shall be issued for more than one trade name, and no licensed activity may be carried out under more than one such name; provided, however, that if a person or organization was engaged in bona fide licensed activities under more than one such trade name or was issued a license to conduct licensed activities under more than one trade name prior to June fifth, nineteen hundred seventy-three, a single license shall be issued for such trade names. Licensees shall notify the commissioner or the commissioner's designee of any change of trade name at least ten days before such change becomes effective, and no such change may take place without the prior written approval of the commissioner or the commissioner's designee.

§ 20-114 Inspection; display of license.

- a. All licensed vehicles or places of business shall be regularly inspected, and reports thereof shall be made to the commissioner.

- b. All licensees shall conspicuously post on their premises, licenses issued under chapter two and said licenses shall be accessible at all times for inspection by any interested person. Licensees having no fixed place of business shall exhibit their licenses upon the request of any interested person.

§ 20-115. Bonds.

Except as specifically provided in chapter two, a bond may be required for any licensed activity in a form and amount approved by the commissioner for the due observance of the provisions of chapter two and the laws, regulations and rules governing the conduct of licensed activities. The amount of the bond shall be established by the commissioner after a public hearing, five-day notice of which shall be published in the City Record.

§ 20-116. Advertising.

- a. Any person required to be licensed under chapter two or pursuant to provisions of state law enforced by the department to carry on a trade, occupation or business activity, who is not so licensed may not advertise the availability of goods and services related to the carrying on of such trade, occupation or business activity in any print publication or broadcast media having a circulation or audience within the city.
- b. The commissioner after notice and hearing shall be authorized to impose civil penalties upon any person found to have violated subdivision a of this section. Such penalties shall be levied for each broadcast of such advertisement and shall be not less than fifty dollars nor more than two hundred fifty dollars for each violation. Such penalties for printed advertisements shall be determined based on the period of time the publication in which the advertisement appears remains current. The current period shall be determined as that time when a publication is initially offered for sale until the period when the next dated publication is offered for sale. In no case shall this period be less than twenty-four hours. If the current period is: daily, such penalty shall be not less than fifty dollars nor more than one hundred dollars per day; weekly, such penalty shall be not less than two hundred fifty dollars nor more than three hundred fifty dollars per week; greater than one week and not more than one month, such penalty shall be not less than three hundred fifty dollars nor more than five hundred dollars; greater than one month, such penalty shall be not less than five hundred dollars nor more than one thousand dollars. Such civil penalties may be recovered in a civil action before any court having jurisdiction of such actions.
- c. The commissioner shall promulgate regulations requiring that any person required to be licensed under this title or pursuant to provisions of state law enforced by the department shall state in all print advertising with respect to such licensed activity the license number, and that the activity is licensed by the department.

§ 20-117 Licensee disclosure of security breach; notification requirements.

[Repealed by Local Law 80 of 2021, effective 11/15/2021]

§ 20-118 Notifications regarding identity theft.

[Repealed by Local Law 80 of 2021, effective 11/15/2021]

§ 20-119 Penalties.

[Amended by Local Law 80 of 2021, effective 11/15/2021]

Except as otherwise provided in this chapter, any person who violates any provision of this chapter or any rules promulgated pursuant to this chapter shall be subject to a civil penalty of: (i) one hundred seventy-five dollars for the first violation (ii) three hundred dollars for the second violation committed; and (iii) five hundred dollars for the third and any subsequent violation committed except that a person shall be subject to a civil penalty of zero dollars for a first-time violation of paragraph 2 of subdivision d of section

20-104 or any rule or regulation promulgated thereunder, if such person proves to the satisfaction of the department, within thirty days of the issuance of the notice of violation and prior to the commencement of an adjudication of the violation, that the violation has been cured. The submission of proof of a cure, if accepted by the department as proof that the violation has been cured, shall be deemed an admission of liability for all purposes. The option of presenting proof that the violation has been cured shall be offered as part of any settlement offer made by the department to a person who has received, for the first time, a notice of violation of paragraph 2 of subdivision d of section 20-104 or any rule or regulation promulgated thereunder. The department shall permit such proof to be submitted electronically or in person. A person may seek review, in the department's administrative tribunal or the tribunal to which the department has delegated its adjudicatory authority, of the determination that the person has not submitted proof of a cure within fifteen days of receiving written notification of such determination.

RULES OF THE CITY OF NEW YORK
TITLE 6: DEPARTMENT OF CONSUMER AND WORKER PROTECTION
CHAPTER 1: LICENSE ENFORCEMENT

§ 1-01. Fingerprinting.

- (a) The Department may require applicants to appear in person at the Department or a location designated by the Department to be fingerprinted. This requirement applies to: an individual, if the applicant is an individual; the general partners, if the applicant is a partnership; the officers, directors and stockholders owning more than ten percent of the stock of the corporation ("principal stockholders"), if the applicant is a corporation; and the members, if the applicant is a limited liability company.
- (b) The Commissioner may, in his or her discretion, waive the fingerprint requirement if a person required to be fingerprinted is unavailable, or for other good cause shown.

§ 1-01.1. Applications.

- (a) No applicant for a license or a renewal thereof shall fail to provide complete and truthful responses to all the information requested on an application for such license or renewal thereof and any documents related thereto.
- (b) No applicant for a license or a license renewal shall conceal any information, make a false statement or falsify or allow to be falsified any certificate, form, signed statement, application or report required to be filed with an application for a license or license renewal to be issued by the department.
- (c) Unless otherwise provided by law or rule, no applicant for a license or renewal thereof, or licensee, including the general partners, officers, directors, members, and principal stockholders of such applicant or licensee, whose application or renewal thereof is denied or whose license is revoked by the Department may submit a new application for the same license for a period of 12 months from the date the initial application or renewal was denied or the license was revoked. This subsection shall only apply if the initial application or renewal was denied, or the license was revoked, because the applicant or licensee concealed information, made a false statement, or falsified or allowed to be falsified any certificate, form, signed statement, application or report required to be filed with an application for a license that is to be issued by the Department or for a renewal thereof.
- (d) The commissioner may deny any license application or refuse to renew any license, and may, after due notice and opportunity to be heard, suspend or revoke such license, if the applicant or person holding such license, or where applicable, any of its officers, principals, directors, members, managers, employees, or stockholders owning ten percent or more of the outstanding stock of the corporation, has been found to have violated subdivisions a or b of this section in connection with the application or licensed business.

§ 1-02 Term and Expiration Date of Licenses.

- (a) The licenses and permits listed below expire on the dates indicated:

| License | Date (years refer to calendar years) |
|--|---|
| Amusement Arcades | January 16 of Even Years |
| Auctioneer and Night Auction Sales | June 15 of Even Years |
| Booting of Motor Vehicles | December 31 of Odd Years |
| Debt Collection Agency | January 31 of Odd Years |
| Electronic or Home Appliance Service Dealers | June 30 of Even Years |
| Electronic Stores | December 31 of Even Years |

| | |
|---|---------------------------|
| Employment Agency | May 1 of Even Years |
| Garage, Parking Lot | March 31 of Odd Years |
| Home Improvement Contractor | February 28 of Odd Years |
| Horse Drawn Cab | March 31 of Even Years |
| Horse Drawn Cab Driver | May 31 of Even Years |
| Laundry – Retail, Industrial, and Industrial Delivery | December 31 of Odd Years |
| Locksmith; Locksmith Apprentice | May 31 of Odd Years |
| Process Server | February 28 of Even Years |
| Products-for-the-Disabled Dealer | March 15 of Odd Years |
| Secondhand Dealer | July 31 of Odd Years |
| Sightseeing Bus | March 31 of Even Years |
| Sightseeing Guide | March 31 of Even Years |
| Stoop Line Stand | March 31 of Even Years |
| Storage Warehouse | April 1 of Odd Years |
| Towing Vehicles Company | April 30 of Even Years |
| Towing Vehicles Driver | October 31 of Even Years |

- (b) General vendor licenses are valid for one year. Such licenses shall expire September 30 of each year.
- (c) Newsstand licenses are valid for a two year term and shall expire on either March 31 or September 30 and in either odd or even numbered years, depending on the date designated in the license document.
- (d) After the effective date of this subdivision, the expiration dates for revocable consents and licenses to operate an unenclosed sidewalk café shall be as follows:
1. The grant of a revocable consent to operate an unenclosed sidewalk café shall be for one license period and will be concurrent with such license period that expires in the second calendar year following the calendar year in which such consent and license are granted, and such term shall expire on the day and month in such second calendar year as specified below:
 - A. September 15 if the last digit of the license number of the sidewalk café ends in a number evenly divisible by three;
 - B. December 15 if the last digit of the license number of the sidewalk café ends in zero or in an even number that is not evenly divisible by three;
 - C. April 15 if the last digit of the license number of the sidewalk café ends in an odd number that is not evenly divisible by three;
 2. The grant during the same calendar year of a license to operate an unenclosed sidewalk café license as the year in which the revocable consent to operate such unenclosed sidewalk cafe is granted shall be for a term that expires on the same date on which such revocable consent expires in accordance with paragraph 1 of this subdivision.
 3. The licenses that are renewed thereafter shall be for two year terms that expire on the day and month in the second calendar year of such term as specified in paragraph 1 of this subdivision.
 4. Revocable consents that are renewed thereafter will be for two consecutive license periods and shall be concurrent with license periods that expire on the day and month in the last year of the second license period of such term as specified in paragraph 1 of this subdivision.
- (e) After the effective date of this subdivision, the expiration dates for revocable consents and licenses to operate an enclosed sidewalk cafe shall be as follows:
1. The grant of a revocable consent to operate an enclosed sidewalk café shall be for one license period and will be concurrent with such license period that expires in the second calendar year

following the calendar year in which such consent and license are granted, and such term shall expire on the day and month in such second calendar year as specified below:

- A. May 15 of the first even numbered year that is at least two years after the date such revocable consent is issued or renewed if the last digit of the license number of such sidewalk café is an even number; or
 - B. May 15 of the first odd numbered year that is at least two years after the date such revocable consent is issued or renewed if the last digit of the license number of such sidewalk café is an odd number.
2. The grant during the same calendar year of a license to operate an enclosed sidewalk café license as the year in which the revocable consent to operate such enclosed sidewalk cafe is granted shall be for a term that expires in the same year in which such revocable consent expires in accordance with paragraph 1 of this subdivision.
 3. The licenses that are renewed thereafter shall be for two year terms that expire on the day in the month in the second calendar year of such term as specified in paragraph 1 of this subdivision.
 4. Revocable consents that are renewed thereafter will be for two consecutive license periods that expire on the day and month in the last year of the second license period of such term as specified in paragraph 1 of this subdivision.
- (f) Pedicab business licenses and pedicab driver licenses are valid for one year. Pedicab business licenses shall expire November 1 of each year and pedicab driver licenses shall expire April 30 of each year.
 - (g) Car wash licenses are valid for a two year term and shall expire October 31 of odd-numbered years.
 - (h) In all instances where the license expiration dates differ from those in existence prior to the effective date of this section, or amendments thereto, the License Issuance Division of the Department shall make appropriate adjustments.

§ 1-03. Display of License Sign.

- (a) Every licensee, except for those licensed to operate a sidewalk cafe as described in subdivision b of this section, must post conspicuously at his or her place of business the license sign provided by the Department that includes the license information, instructions on contacting the Department to file a complaint, and other important information for consumers as the Department deems appropriate. A licensee may post a copy of such sign at the licensee's place of business only if the original is available at such place of business for inspection by any person. A licensee having no fixed place of business must exhibit his or her license upon the request of any person.
- (b) Every licensee licensed to operate a sidewalk cafe pursuant to § 20-224 of subchapter 6 of Chapter 2 of Title 20 of the Administrative Code of the City of New York is required to post a sign provided by the Department that includes the license information, instructions on contacting the Department to file a complaint, the maximum number of tables and chairs permitted for the sidewalk cafe, and any other pertinent information for consumers as the Department deems appropriate, at a location from which it must be visible to persons on that portion of the sidewalk adjacent to such licensee's sidewalk cafe. A licensee may post a copy of such sign at a location as described in this subdivision only if the original is available at the licensee's place of business for inspection by any person.

§ 1-04. Making False Representations and Altering or Falsifying Department Documents.

- (a) No licensee or employee or agent of such licensee shall make a false representation to the Department or falsify or allow to be falsified any certificate, form, signed statement, application or report required to be filed with the Department.

- (b) No licensee or employee or agent of such licensee shall forge, counterfeit, alter, fabricate, or falsely make any document issued by the Department or purported to be issued by the Department, including, but not limited to, Department licenses, permits, and letterhead.
- (c) No licensee or employee or agent of such licensee shall use, attempt to use, possess, obtain, accept, receive, or provide to another any document prohibited by subdivision b of this section.
- (d) The commissioner may deny any license application or refuse to renew any license, and may, after due notice and opportunity to be heard, suspend or revoke such license, if the applicant or person holding such license, or where applicable, any of its officers, principals, directors, members, managers, employees, or stockholders owning ten percent or more of the outstanding stock of the corporation, has been found to have violated subdivisions a, b, or c of this section in connection with the application or licensed business.

§ 1-05. License Number in Advertisements and Other Printed Matter.

Any advertisement, letterhead, receipt, online media, website, electronic advertisement, or other printed or electronic matter of a licensee must contain the license number assigned to the licensee by the Department. If a licensee uses email to communicate with consumers, the licensee's email must contain the license number assigned to the licensee by the Department. The license number must be clearly identified as a New York City Department of Consumer Affairs license number and must be disclosed and disseminated in a lawful manner. Any telephone listing consisting solely of the name, address, and telephone number of the licensee need not specify the licensee's license number. Licensees holding licenses for more than one location must also include their respective license number(s) clearly identified as New York City Department of Consumer Affairs license number(s) on all correspondence and other matter which contains or makes reference to one or more of such licensees' licensed location(s).

§ 1-06. Proof of Surety Bond.

No license or renewal shall be issued unless the licensee or applicant submits proof that every bond required by the Department for the license is in effect and does not expire prior to the end of the licensing period. Except where otherwise provided, all such bonds must allow any person aggrieved by the bondholder's breach of the conditions of the bond to proceed against the bond.

§ 1-07. Liability Insurance.

Every licensee required to have liability insurance must obtain a liability insurance policy that obligates the insurer to notify the License Issuance Division of the Department if the policy is canceled or if the insured fails to renew 30 days prior to the expiration of the policy.

§ 1-08. Change of Address.

A licensee shall notify the Department in writing of any change of address within 10 days of the change. This requirement applies to the address of the licensed business, and to the residence addresses of: individual licensees; all partners of partnership licensees; and the officers and principal stockholders of corporate licensees.

§ 1-09. Late Renewal.

Any application for a license renewal that is filed sixty days or more after the expiration date of such license shall be treated as a new license application.

§ 1-10. Lost or Mutilated Licenses and License Plates and Lost or Stolen Records.

- (a) *Lost License or License Plate.* A licensee shall immediately report, in an affidavit, the loss of a license or license plate issued to him or her by the Department, requesting the issuance of a new license or plate. Replacement licenses and plates are issued at the discretion of the Department.
- (b) *Mutilated License or License Plate.* Should a license or license plate issued by the Department to any licensee become mutilated or otherwise illegible, the holder of the license or plate shall promptly surrender it to the Department and request the issuance of a new license or plate. The request shall be made upon a form provided by the Department.
- (c) *Fee.* A fee of fifteen dollars (\$15) shall be charged for the issuance of a replacement license, and a fee of twenty-five dollars (\$25) shall be charged for the issuance of a replacement license plate. This fee must be paid when the affidavit for a lost license or plate is filed or when a mutilated or otherwise illegible license or plate is surrendered and a request for the issuance of a new license or plate is filed. This fee will be refunded should the Department decide not to issue the replacement license or plate. This fee shall not be charged if the license or license plate is not received by the licensee and the Department receives a certification from the licensee that such license or license plate was not received within 30 days of the license or license plate being issued.
- (d) *Lost or Stolen Records.* A licensee shall report to the Department, in an affidavit, the loss or theft of any records required to be maintained by it under Chapters 1 and 2 of Title 20 of the New York City Administrative Code, within ten calendar days of such loss or theft.

§ 1-11. Dishonored Check Fee.

Any licensee or license applicant who, in payment of a license fee, renewal fee, fine or other fee or charge assessed by the Department, tenders or causes to be tendered to the Department a check or other item that is subsequently dishonored, shall pay to the Department, in addition to any other fees or penalties provided by law, the amount of any fee for a dishonored check or other item that is charged to the Department for such check or item.

§ 1-12. Compliance with the Consumer Protection Law.

[Repealed City Record 2/24/2020, effective 3/25/2021]

§ 1-13. Response to Complaints.

A licensee or license applicant must respond in writing to the Department about any complaint sent to the licensee or applicant by the Department. The response must be made within 20 days of the date the complaint is sent to the licensee or applicant and must set forth the licensee's or applicant's position regarding the transaction which is the subject of the complaint, including the facts which the licensee or applicant believes justify its position. The licensee or applicant must also provide with its response any documents in its possession related to the transaction which is the subject of the complaint. The licensee or applicant must respond to subsequent communications from the Department concerning the complaint within 10 days after receiving a communication. The Department may rely on any complaint, regardless of whether it has been resolved, or any response to such complaint, in any subsequent Department action, including, but not limited to, decisions to deny, suspend, or revoke an application or license.

§ 1-14. Requests for Documents, Subpoenas, Interrogatories, and Notices of Deposition.

- (a) This section applies to requests for documents, subpoenas, interrogatories, or notices of depositions issued to licensees or applicants pursuant to Section 2203 of the Charter, title 20 of the New York City Administrative Code, or any other provisions of law or rule within the jurisdiction of the Department.
- (b) A licensee must reply to a subpoena, a request for documents or interrogatories within twenty days of the date the request was mailed or otherwise served upon the licensee.

- (1) If the licensee fails to respond to a subpoena, a request for documents or interrogatories, the licensee is liable for a separate violation for each day the licensee fails to respond to the requests.
 - (2) If the licensee provides an incomplete response to a subpoena, a request for documents or interrogatories, the Department may send a deficiency letter to the licensee. If the licensee does not provide a complete response within 14 days of the deficiency letter being sent, the licensee is liable for a separate violation for each day the licensee fails to provide a complete response. If the licensee provides an incomplete response to a subpoena, a request for documents or interrogatories, or to a subsequent deficiency letter, there will be a presumption that the licensee has neglected to respond to each such subpoena, request for documents, interrogatory, or deficiency letter unless the licensee states that the licensee has no responsive documents to that particular request or no information responsive to that particular interrogatory.
 - (3) Licensees must include a notarized certification that each subpoena, request for documents or interrogatory was answered fully and truthfully, accompanying their response. Responses to a subpoena, request for documents or interrogatories will not be deemed complete until they are accompanied by such certification.
- (c) A licensee must appear at a time and place designated by the Department for a deposition. Failure to appear for a noticed deposition will be grounds for revocation of the licensee's license upon notice and opportunity to be heard. If the licensee is an individual, he or she must appear; if a partnership, one of its general partners with relevant knowledge of the partnership must appear; and if a corporation or limited liability company, one of its members or officers with relevant knowledge of the corporation must appear.
 - (d) The Department may serve subpoenas, interrogatories, requests for documents, and notices of deposition upon an applicant regarding materials related to a license or renewal application. Failure by the applicant to fully respond to a subpoena, interrogatories or a request for documents, or to appear for a deposition, within twenty days of the mailing date of the request or of the date indicated on the notice of deposition will be grounds for denial of the license application.
 - (e) Subpoenas, interrogatories, requests for documents and notices of deposition pursuant to this section may be served by ordinary mail addressed to the licensee's or applicant's place of business. They may also be served by ordinary mail addressed to the residence of an individual licensee; the residence of a general partner of a partnership licensee; the residence of an officer or principal stockholder of a corporate licensee, or the residence of a member of a limited liability company licensee. They may also be served by email if an email address has been provided by the licensee or applicant.
 - (f) Upon good cause shown, the Department may extend the time to respond as required under this section.

§ 1-14.1. Notices of Hearing.

A licensee must appear at the Office of Administrative Trials and Hearings to answer a notice of hearing served upon that licensee. If the licensee is an individual, he or she must appear; if a partnership, one of its general partners must appear; if a corporation, one of its officers must appear; and if a limited liability company, one of its members must appear. A notice of hearing pursuant to this section may be served by ordinary mail addressed to the licensee's place of business. It may also be served by ordinary mail addressed to the residence of an individual licensee; the residence of a general partner of a partnership licensee; the residence of an officer or principal stockholder of a corporate licensee, or the residence of a

member of a limited liability company licensee. It may also be served by email if an email address has been provided by the licensee or applicant. Notices of hearing includes summonses, petitions, and other notices of violation filed by the Department.

§ 1-15. Judgments.

A licensee or license applicant must satisfy any outstanding judgment against him or her that has been obtained by a consumer and that relates to activities for which a license is required:

- (a) within thirty (30) days from the date of entry of the judgment; or
- (b) if the judgment has been stayed or appealed, within thirty (30) days from the date the stay is lifted or the appeal decided; or
- (c) according to a payment schedule the parties agree upon.

§ 1-16. Inspections of Records and Business Premises.

- (a) Every licensee shall maintain the records which it is required to maintain under Chapters 1 and 2 of Title 20 of the New York City Administrative Code and the regulations promulgated thereunder, and, except as otherwise set forth in said chapters or regulations, shall retain such records for three years. Licensees shall make such records available for inspection at the offices of the Department of Consumer Affairs, or at licensee's place of business, during business hours.
- (b) The Commissioner or authorized representatives of the Commissioner may enter the business premises of a licensee during business hours for the purposes of:
 - (1) Inspecting or examining licensee's place of business in order to verify compliance with the provisions of Chapters 1 and 2 of Title 20 of the New York City Administrative Code and the regulations promulgated thereunder; and
 - (2) Inspecting or examining any records or documents licensee is required to maintain pursuant to said chapters and regulations; and
 - (3) Inspecting or examining non-public areas of licensee's place of business for the purposes stated in paragraph (b)(1) above.
- (c) Inspections of the type described above will be conducted at least once in every two-year period, and additional inspections will be conducted if an inspection reveals alleged violations of Chapters 1 and 2 of Title 20 of the New York City Administrative Code or the regulations promulgated thereunder. Additional inspections shall also be conducted whenever the Department receives information alleging violation of said chapters or regulations.

§ 1-17. Wearing of Badge Prohibited.

No licensee or employee or agent of such licensee shall purchase, procure, or have made, or shall wear, display, carry, possess or exhibit any badge, insignia, shield, medal, decoration or facsimile thereof that in any way denotes, suggests, implies or could lead anyone to believe it confers or represents its wearer has an official or governmental status, except when required to do so by law or rule, nor shall a licensee in any way permit, authorize, encourage, acquiesce or consent to, any employee or agent doing so.

§ 1-18 Destruction of Identification Documents Issued by the Department.

Whenever any licensee has not renewed a license upon its expiration, such former licensee must, not later than 10 business days after the expiration of such license, destroy all license and identification documents that have been issued to such licensee and to any of its employees or agents.

§ 1-19 Presumption of Continued Unlicensed Activity.

- (a) Unless otherwise specified in the notice, if the Department, on notice, charges a business or individual with engaging in activity without a license required under Chapter 2 of Title 20 of the New York City Administrative Code or under provisions of state law enforced by the Department, there shall be a rebuttable presumption that the unlicensed activity continued every day, without interruption, from the date specified by the Department in the notice as the first date of unlicensed activity through the hearing date.
- (b) The first date of unlicensed activity specified by the Department in the notice may be the date of an inspection at which unlicensed activity is identified, the date on which a previously-held license expired, was suspended or revoked, or became void by operation of law, or any other date on which unlicensed activity first occurred, such as the date the business or individual entered into a contract to conduct business for which a license was required or the first date a business or individual advertised or offered services for which a license was required.
- (c) Regardless of the date specified by the Department in the notice, if the Department presents at the hearing a copy of a decision or order from a prior proceeding finding that the business or individual engaged in the same unlicensed activity, or a copy of a settlement from a prior proceeding resolving a charge of the same unlicensed activity, there shall be a rebuttable presumption that the unlicensed activity continued every day, without interruption, from the date of the decision, order or settlement through the date of the hearing, unless the decision, order or settlement specifically provides otherwise.
- (d) Regardless of the date specified by the Department in the notice, if the Department presents at the hearing a copy of a decision or order from a prior proceeding revoking or suspending the license to engage in the same activity forming the basis of the charge of unlicensed activity, or a copy of a settlement from a prior proceeding that includes such license revocation or suspension, there shall be a rebuttable presumption that the unlicensed activity continued every day, without interruption, from the date following the decision, order or settlement through the date of the hearing.
- (e) A party may present credible evidence at the hearing to rebut the presumption of continued unlicensed activity, such as written proof that the party obtained a license; receipts or other documentation indicating that merchandise was returned to distributors; written termination of leases or agreements; or photographs demonstrating the discontinuance of the unlicensed activity.

§ 1-20 Non-Payment of Civil Penalties.

- (a) The Commissioner may deny a new or renewal application for any license, permit or registration, and may revoke, suspend, cancel, or terminate any license, permit or registration, if (i) the applicant, licensee, permittee or registrant has failed to timely pay civil penalties imposed by a tribunal of the New York City Office of Administrative Trials and Hearings (OATH), and (ii) an agency has provided the Commissioner with the following information: the name, address, Department license number and license category, where applicable, and information sufficient to determine the delinquency and monetary amount of the outstanding civil penalties owed by the applicant, licensee, permittee or registrant.
- (b) In determining whether to exercise the power granted by paragraph (a) of this section, the Commissioner shall consider the amount of time that has passed since the applicant, licensee, permittee or registrant failed to satisfy a final judgment, order or decision imposing civil penalties from OATH, the amount of the outstanding civil penalties, whether the applicant, licensee, permittee

or registrant has committed a series of violations, and any such other matters as justice may require, as follows:

1. New applications for licenses, permits or registrations may be denied where there is an outstanding final judgment, order, or decision of any amount older than thirty (30) days.
 2. Licenses, permits or registrations may be suspended, and renewal applications denied, where outstanding final judgments, orders, or decisions are:
 - A. Older than sixty (60) days; and
 - B. Five hundred dollars (\$500) or more.
 3. Licenses, permits or registrations may be revoked or cancelled where outstanding final judgments, orders, or decisions are:
 - A. Older than ninety (90) days; and
 - B. One thousand dollars (\$1,000) or more; and
 - C. The applicant, licensee, permittee or registrant violated any provision the enforcement of which is within the jurisdiction of the Department in the previous five (5) years.
- (c) If the applicant, licensee, permittee or registrant breaches the terms of a settlement agreement or payment plan reached with the City for satisfaction of a final judgment, order or decision imposing civil penalties, time will be calculated from the date of the breach or first missed payment, unless otherwise set forth in the agreement.
- (d) For purposes of this subsection, a judgment, order or decision imposing civil penalties from OATH is considered “final” when:
1. An appeal or motion to vacate challenging the judgment, order, or decision has been resolved;
 2. The entity or legal representative against whom the judgment, order or decision was imposed fails to appeal within the time allotted by OATH; or
 3. The entity or legal representative against whom the judgment, order or decision was entered on default fails to move to vacate the judgment, order or decision within sixty (60) of the date entered.
- (e) The Department reserves the right to take any action on an application or license for any monies owed to the Department regardless of the criteria provided in this section.

§ 1-21 Injurious Conduct by Licensees.

- (a) No licensee, or employee or agent of a licensee, shall assault, menace, unlawfully imprison, or harass, or attempt to assault, menace, unlawfully imprison, or harass, any employee of the Department engaged in carrying out any duty for the Department.
- (b) In addition to any of the powers that may be exercised by the commissioner pursuant to any other provision of law or rule, upon the issuance of a summons alleging a violation of subdivision (a) by a licensee, or employee or agent of a licensee, the commissioner may suspend any license held by the licensee, subject to a prompt post-suspension hearing held no more than 7 business days after the suspension.
- (c) At the post-suspension hearing prescribed by subdivision (b) of this section, the Department may request continued suspension or revocation of any license held by the licensee.
- (d) As used in this section, the following terms shall be defined as follows:
 - (1) “Assault” shall mean to intentionally or recklessly cause physical injury to another person.

- (2) “Menace” shall mean to intentionally place another person in reasonable fear of physical injury.
- (3) “Unlawfully imprison” shall mean to restrict a person’s movements intentionally and unlawfully in such manner as to interfere substantially with his or her liberty by moving him or her from one place to another, or by confining him or her either in the place where the restriction commences or in a place to which he or she has been moved, without consent and with knowledge that the restriction is unlawful. A person is so moved or confined “without consent” when such is accomplished by physical force, intimidation or deception.
- (4) “Harass” shall mean to intentionally and repeatedly harass another person by following such person in or about a public place or places or by engaging in a course of conduct or by repeatedly committing acts which places such person in reasonable fear of physical injury.

§ 1-22 Reservation of Rights.

Nothing in this chapter shall impair, diminish, or otherwise affect any other authority granted to the Department by any general, special or local law or any rule promulgated pursuant thereto to deny an application for a license, permit or registration, or suspend, terminate or revoke a license, permit or registration.

§ 1-23 References to the Department of Consumer Affairs.

Any reference to the Department of Consumer Affairs in this title shall be deemed to be a reference to the Department of Consumer and Worker Protection.

New York General Business Law

§ 11. Serving civil process on Sunday.

All service or execution of legal process, of any kind whatever, on the first day of the week is prohibited, except in criminal proceedings or where service or execution is specially authorized by statute. Service or execution of any process upon said day except as herein permitted is absolutely void for any and every purpose whatsoever.

§ 13. Maliciously serving process on Saturday on person who keeps Saturday as holy time.

Maliciously serving process on Saturday on person who keeps Saturday as holy time. Whoever maliciously procures any process in a civil action to be served on Saturday, upon any person who keeps Saturday as holy time, and does not labor on that day, or serves upon him any process returnable on that day, or maliciously procures any civil action to which such person is a party to be adjourned to that day for trial, is guilty of a misdemeanor.

§ 89-bb. Definitions.

For the purposes of this article:

1. A "process server" is a person, other than an attorney or a party to an action acting on his own behalf, who: (a) derives income from the service of papers in an action; or (b) has effected service of process in five or more actions or proceedings in the twelve month period immediately preceding the service in question. A person who serves interlocutory papers upon an attorney or who serves papers on behalf of a federal, state or local governmental agency in the course of his employment by such agency shall not be deemed a process server within the meaning of this article by virtue of such service.
2. A "process serving agency" is any person, firm, partnership, association or corporation, other than an attorney or a law firm located in this state, who, as owner, manager or contractor, maintains an office, bureau or agency for the purpose of assigning or distributing process to individual process servers for actual service.

§ 89-cc. Process server records.

1. Each process server shall maintain a legible record of all service made by him or her as prescribed in this section. Such records shall be kept, either:
 - (a) in chronological order in a bound, paginated volume. Corrections in records shall be made only by drawing a straight line through the inaccurate entry and clearly printing the accurate information directly above the inaccurate entry. All other methods of correction, including but not limited to erasing, opaquing, obliterating or redacting, are prohibited; or
 - (b) by submitting recorded entries to a third party contractor within three days of service or attempted service, provided, however that permissions pertaining to such data will be secured so that the data cannot be deleted upon submission. Records shall be reported in chronological order. It shall be unlawful for any process server to tamper with data or properties of any electronic record kept pursuant to this section after an image file is made by modifying, amending, deleting, rearranging or in any other way altering any such data or properties including, but not limited to, using a meta data scrubber or similar device or program. If a typographical error has occurred or if data contained in the process server's record was accidentally omitted from the electronic data entry, the third party contractor may make an amendment in which the original record shall be identified by entering it in italics. All third party contractors must maintain a daily backup of all submitted data, and all data must be available for review upon request of any and all interested parties.

2. The record to be maintained shall include the following information, where applicable:
 - (a) the title of the action or a reasonable abbreviation thereof;
 - (b) the name of the person served, if known;
 - (c) the date and approximate time service was effected;
 - (d) the address where service was effected;
 - (e) the nature of the papers served;
 - (f) the court in which the action has been commenced;
 - (g) the index number of the action, if known;
 - (h) if service is effectuated pursuant to subdivision four of section three hundred eight of the civil practice law and rules or subdivision one of section seven hundred thirty-five of the real property actions and proceedings law, a description of the color of the door to which the summons is affixed;
 - (i) the process serving agency from whom the process served was received, if any;
 - (j) type of service effected whether personal, substituted or conspicuous;
 - (k) if service is effected pursuant to subdivision one, two or three of section three hundred eight of the civil practice law and rules, the record shall also include the description of the person served, including, but not limited to sex, color of skin, hair color, approximate age, height and weight and other identifying features;
 - (l) if service is effected pursuant to subdivision four of section three hundred eight of the civil practice law and rules, the record shall also include the dates, addresses and time of attempted service pursuant to subdivision one, two or three of such section;
 - (m) if the process server files an affidavit of service with the court, his record shall include the date of such filing.

§ 89-dd. Process serving agency records.

1. Each process serving agency shall be required to keep complete and accurate records with respect to each process server to whom it distributes, assigns or delivers process to be served. Corrections in records shall be made only by drawing a straight line through the inaccurate entry and clearly printing the accurate information directly above the inaccurate entry. All other methods of correction, including but not limited to, erasing, opaquing, obliterating, or redacting, are prohibited.
2. Such records shall include, where applicable:
 - (a) The name of the process server to whom process is distributed, assigned or delivered to be served;
 - (b) The titles or a reasonable abbreviation thereof and index numbers of each case if filed in court by the agency;
 - (c) The date that such papers were assigned for service, and the date that service was effected;
 - (d) The person from whom such papers were received for service;
 - (e) The date of filing of papers with the court if filed by the agency;
 - (f) The type of service effected whether personal, substituted or conspicuous.

§ 89-ee. Responsibility of process serving agency and process servers.

1. It shall be unlawful for a process server to fail to comply with all legal requirements for the service of process.
2. A process serving agency shall be legally responsible for the acts of each process server to whom it has distributed, assigned or delivered process for service if it could reasonably have known that the process server was acting improperly.

3. It shall be unlawful for a process serving agency or a process server to fail to comply with all laws and regulations respecting preparation, notarization and filing of affidavits of service of process and other documents.

§ 89-ff. Affidavits of service.

It shall be unlawful for a process server to fail to set forth on any affidavit of service or process signed by him his license or registration number if such process server is required to be licensed or registered pursuant to any state or local law and the name and address of any process serving agency from whom he obtained the process for service if any.

New York Civil Practice Law and Rules

§ 303. Designation of attorney as agent for service.

The commencement of an action in the state by a person not subject to personal jurisdiction is a designation by him of his attorney appearing in the action or of the clerk of the court if no attorney appears, as agent, during the pendency of the action, for service of a summons pursuant to section 308, in any separate action in which such a person is a defendant and another party to the action is a plaintiff if such separate action would have been permitted as a counterclaim had the action been brought in the supreme court.

§ 306. Proof of service.

- (a) Generally. Proof of service shall specify the papers served, the person who was served and the date, time, address, or, in the event there is no address, place and manner of service, and set forth facts showing that the service was made by an authorized person and in an authorized manner.
- (b) Personal service. Whenever service is made pursuant to this article by delivery of the summons to an individual, proof of service shall also include, in addition to any other requirement, a description of the person to whom it was so delivered, including, but not limited to, sex, color of skin, hair color, approximate age, approximate weight and height, and other identifying features.
- (c) Other service. Where service is made pursuant to subdivision four of section three hundred eight of this chapter, proof of service shall also specify the dates, addresses and the times of attempted service pursuant to subdivisions one, two or three of such section.
- (d) Form. Proof of service shall be in the form of a certificate if the service is made by a sheriff or other authorized public officer, in the form of an affidavit if made by any other person, or in the form of a signed acknowledgement of receipt of a summons and complaint, or summons and notice or notice of petition as provided for in section 312-a of this article.
- (e) Admission of service. A writing admitting service by the person to be served is adequate proof of service.

§ 306-a. Index number in an action or proceeding commenced in supreme or county court.

- (a) Upon filing the summons and complaint, summons with notice or petition in an action or proceeding commenced in supreme or county court with the clerk of the county, an index number shall be assigned and the fee required by subdivision (a) of section eight thousand eighteen of this chapter shall be paid. Upon the filing of a summons and complaint against a person not already a party, as permitted under section one thousand seven or rule one thousand eleven of this chapter, the fee required by subdivision (a) of section eight thousand eighteen of this chapter shall be paid, but a separate index number shall not be assigned.
- (b) If a person other than the plaintiff or third-party plaintiff who served the summons or third-party summons obtains the index number and pays the fee therefor, the clerk shall issue an order directing the plaintiff or the third-party plaintiff to pay such person the amount of the fee paid. If such fee is not paid within thirty days of service of the order with notice of entry, the person who paid the fee, in addition to any other remedies available at law, may apply to the clerk for an order dismissing the action without prejudice.

§ 306-b. Service of the summons and complaint, summons with notice, third-party summons and complaint, or petition with notice of petition or order to show cause.

Service of the summons and complaint, summons with notice, third-party summons and complaint, or petition with a notice of petition or order to show cause shall be made within one hundred twenty days after the commencement of the action or proceeding, provided that in an action or proceeding, except a proceeding commenced under the election law, where the applicable statute of limitations is four months or less, service shall be made not later than fifteen days after the date on which the applicable statute of limitations expires. If service is not made upon a defendant within the time provided in this section, the court, upon motion, shall dismiss the action without prejudice as to that defendant, or upon good cause shown or in the interest of justice, extend the time for service.

§ 307. Personal service upon the state.

1. Personal service upon the state shall be made by delivering the summons to an assistant attorney-general at an office of the attorney-general or to the attorney-general within the state.
2. Personal service on a state officer sued solely in an official capacity or state agency, which shall be required to obtain personal jurisdiction over such an officer or agency, shall be made by (1) delivering the summons to such officer or to the chief executive officer of such agency or to a person designated by such chief executive officer to receive service, or (2) by mailing the summons by certified mail, return receipt requested, to such officer or to the chief executive officer of such agency, and by personal service upon the state in the manner provided by subdivision one of this section. Service by certified mail shall not be complete until the summons is received in a principal office of the agency and until personal service upon the state in the manner provided by subdivision one of this section is completed. For purposes of this subdivision, the term "principal office of the agency" shall mean the location at which the office of the chief executive officer of the agency is generally located. Service by certified mail shall not be effective unless the front of the envelope bears the legend "URGENT LEGAL MAIL" in capital letters. The chief executive officer of every such agency shall designate at least one person, in addition to himself or herself, to accept personal service on behalf of the agency. For purposes of this subdivision the term state agency shall be deemed to refer to any agency, board, bureau, commission, division, tribunal or other entity which constitutes the state for purposes of service under subdivision one of this section.

§ 308. Personal service upon a natural person.

Personal service upon a natural person shall be made by any of the following methods:

1. by delivering the summons within the state to the person to be served; or
2. by delivering the summons within the state to a person of suitable age and discretion at the actual place of business, dwelling place or usual place of abode of the person to be served and by either mailing the summons to the person to be served at his or her last known residence or by mailing the summons by first class mail to the person to be served at his or her actual place of business in an envelope bearing the legend "personal and confidential" and not indicating on the outside thereof, by return address or otherwise, that the communication is from an attorney or concerns an action against the person to be served, such delivery and mailing to be effected within twenty days of each other; proof of such service shall be filed with the clerk of the court designated in the summons within twenty days of either such delivery or mailing, whichever is effected later; service shall be complete ten days after such filing; proof of service shall identify such person of suitable age and discretion and state the date, time and place of service, except in matrimonial actions where service hereunder may be made pursuant to an order made in accordance with the provisions of subdivision a of section two hundred thirty-two of the domestic relations law; or

3. by delivering the summons within the state to the agent for service of the person to be served as designated under rule 318, except in matrimonial actions where service hereunder may be made pursuant to an order made in accordance with the provisions of subdivision a of section two hundred thirty-two of the domestic relations law;
4. where service under paragraphs one and two cannot be made with due diligence, by affixing the summons to the door of either the actual place of business, dwelling place or usual place of abode within the state of the person to be served and by either mailing the summons to such person at his or her last known residence or by mailing the summons by first class mail to the person to be served at his or her actual place of business in an envelope bearing the legend "personal and confidential" and not indicating on the outside thereof, by return address or otherwise, that the communication is from an attorney or concerns an action against the person to be served, such affixing and mailing to be effected within twenty days of each other; proof of such service shall be filed with the clerk of the court designated in the summons within twenty days of either such affixing or mailing, whichever is effected later; service shall be complete ten days after such filing, except in matrimonial actions where service hereunder may be made pursuant to an order made in accordance with the provisions of subdivision a of section two hundred thirty-two of the domestic relations law;
5. in such manner as the court, upon motion without notice, directs, if service is impracticable under paragraphs one, two and four of this section.
6. For purposes of this section, "actual place of business" shall include any location that the defendant, through regular solicitation or advertisement, has held out as its place of business.

§ 309. Personal service upon an infant, incompetent or conservatee.

- (a) Upon an infant. Personal service upon an infant shall be made by personally serving the summons within the state upon a parent or any guardian or any person having legal custody or, if the infant is married, upon an adult spouse with whom the infant resides, or, if none are within the state, upon any other person with whom he resides, or by whom he is employed. If the infant is of the age of fourteen years or over, the summons shall also be personally served upon him within the state.
- (b) Upon a person judicially declared to be incompetent. Personal service upon a person judicially declared to be incompetent to manage his affairs and for whom a committee has been appointed shall be made by personally serving the summons within the state upon the committee and upon the incompetent, but the court may dispense with service upon the incompetent.
- (c) Upon a conservatee. Personal service on a person for whom a conservator has been appointed shall be made by personally serving the summons within the state upon the conservator and upon the conservatee, but the court may dispense with service upon the conservatee.

§ 310. Personal service upon a partnership.

- (a) Personal service upon persons conducting a business as a partnership may be made by personally serving the summons upon any one of them.
- (b) Personal service upon said partnership may also be made within the state by delivering the summons to the managing or general agent of the partnership or the person in charge of the office of the partnership within the state at such office and by either mailing the summons to the partner thereof intended to be served by first class mail to his last known residence or to the place of business of the partnership. Proof of such service shall be filed within twenty days with the clerk of the court designated in the summons; service shall be complete ten days after such filing; proof of service shall identify the person to whom the summons was so delivered and state the date, time of day and place of service.
- (c) Where service under subdivisions (a) and (b) of this section cannot be made with due diligence, it may be made by affixing a copy of the summons to the door of the actual place of business of the

partnership within the state and by either mailing the summons by first class mail to the partner intended to be so served to such person to his last known residence or to said person at the office of said partnership within the state. Proof of such service shall be filed within twenty days thereafter with the clerk of the court designated in the summons; service shall be complete ten days after filing.

- (d) Personal service on such partnership may also be made by delivering the summons to any other agent or employee of the partnership authorized by appointment to receive service; or to any other person designated by the partnership to receive process in writing, filed in the office of the clerk of the county wherein such partnership is located.
- (e) If service is impracticable under subdivisions (a), (b) and (c) of this section, it may be made in such manner as the court, upon motion without notice directs.

§ 310-a. Personal service upon a limited partnership.

- (a) Personal service upon any domestic or foreign limited partnership shall be made by delivering a copy personally to any managing or general agent or general partner of the limited partnership in this state, to any other agent or employee of the limited partnership authorized by appointment to receive service or to any other person designated by the limited partnership to receive process, in the manner provided by law for service of summons, as if such person was the defendant. Personal service upon a limited partnership subject to the provisions of article eight-A of the partnership law may also be made pursuant to section 121-109 of such law.
- (b) If service is impracticable under subdivision (a) of this section, it may be made in such manner as the court, upon motion without notice, directs.
- (c) A limited liability partnership may also be served pursuant to section 121-1505 of the partnership law.

§ 311. Personal service upon a corporation or governmental subdivision.

- (a) Personal service upon a corporation or governmental subdivision shall be made by delivering the summons as follows:
 - 1. upon any domestic or foreign corporation, to an officer, director, managing or general agent, or cashier or assistant cashier or to any other agent authorized by appointment or by law to receive service. A business corporation may also be served pursuant to section three hundred six or three hundred seven of the business corporation law. A not-for-profit corporation may also be served pursuant to section three hundred six or three hundred seven of the not-for-profit corporation law;
 - 2. upon the city of New York, to the corporation counsel or to any person designated to receive process in a writing filed in the office of the clerk of New York county;
 - 3. upon any other city, to the mayor, comptroller, treasurer, counsel or clerk; or, if the city lacks such officers, to an officer performing a corresponding function under another name;
 - 4. upon a county, to the chair or clerk of the board of supervisors, clerk, attorney or treasurer;
 - 5. upon a town, to the supervisor or the clerk;
 - 6. upon a village, to the mayor, clerk, or any trustee;
 - 7. upon a school district, to a school officer, as defined in the education law; and
 - 8. upon a park, sewage or other district, to the clerk, any trustee or any member of the board.
- (b) If service upon a domestic or foreign corporation within the one hundred twenty days allowed by section three hundred six-b of this article is impracticable under paragraph one of subdivision (a) of this section or any other law, service upon the corporation may be made in such manner, and proof of service may take such form, as the court, upon motion without notice, directs.

§ 311-a. Personal service on limited liability companies.

- (a) Service of process on any domestic or foreign limited liability company shall be made by delivering a copy personally to (i) any member of the limited liability company in this state, if the management of the limited liability company is vested in its members, (ii) any manager of the limited liability company in this state, if the management of the limited liability company is vested in one or more managers, (iii) to any other agent authorized by appointment to receive process, or (iv) to any other person designated by the limited liability company to receive process, in the manner provided by law for service of a summons as if such person was a defendant. Service of process upon a limited liability company may also be made pursuant to article three of the limited liability company law.
- (b) If service is impracticable under subdivision (a) of this section, it may be made in such manner as the court, upon motion without notice, directs.

§ 312. Personal service upon a court, board or commission.

Personal service upon a court consisting of three or more judges may be made by delivering the summons to any one of them. Personal service upon a board or commission having a chairman or other presiding officer, secretary or clerk, by whatever official title he is called, may be made by delivering the summons to him. Personal service upon a board or commission of a town or village may also be made by delivering the summons to the clerk of the town or village. Personal service upon any other board or commission shall be made by delivering the summons to any one of the members.

New York Civil Court Act

§ 400. Method of commencing action or special proceeding.

1. An action is commenced in this court by filing a summons and complaint. A special proceeding is commenced by filing a notice of petition and petition or order to show cause and petition. For purposes of this section, and for purposes of section two hundred three of the civil practice law and rules, filing shall mean the delivery of the summons and complaint, the notice of petition and petition or order to show cause and petition to the clerk of the court in the county in which the action or special proceeding is brought together with any fee required by section nineteen hundred eleven of this act. At the time of filing, the original and a copy of the papers shall be date stamped by the court clerk who shall file the original and maintain a record of the filing and shall return the copy to the party who brought the filing. The clerk shall accept the fee and file the papers as soon as reasonably practicable.
2. Jurisdiction is acquired over a party to an action or special proceeding by service upon such party of a copy of the summons and complaint, the notice of petition and petition or the order to show cause and petition.
3. The actual index number shall be on the summons, notice of petition or order to show cause as served. Failure to include the index number on the papers as served shall be cured by stipulation between the parties or by leave of court, which shall not be unreasonably withheld.

§ 403. Summons; method and place of service.

Service of summons shall be made in the manner prescribed in supreme court practice, including the optional method of service by mail authorized by CPLR 312-a, but it shall be made only within the city of New York unless service beyond the city be authorized by this act or by such other provision of law, other than the CPLR, as expressly applies to courts of limited jurisdiction or to all courts of the state

§ 404. Summons; personal jurisdiction by acts of non-residents.

- (a) Acts which are the basis of jurisdiction. The court may exercise personal jurisdiction over any non-resident of the city of New York, or his executor or administrator, as to a cause of action arising from any of the acts enumerated in this section, in the same manner as if he were a domiciliary of the state and a resident of the city of New York if, in person or through an agent, he:
 1. transacts any business within the city of New York or contracts anywhere to supply goods or services in the city of New York; or
 2. commits a tortious act within the city of New York, except as to a cause of action for defamation of character arising from the act; or
 3. owns, uses or possesses any real property situated within the city of New York.
- (b) Service of summons. Service of summons under this section may be made in such manner and at such place, regardless of city or state lines, as would confer jurisdiction on supreme court in a like case.
- (c) Effect of appearance. Where personal jurisdiction is based solely upon this section, an appearance does not confer such jurisdiction with respect to causes of action not arising from an act enumerated in this section.
- (d) Corporation or association. If service of the summons cannot be effected by personal delivery thereof within the city of New York so as to acquire in personam jurisdiction of a corporation or unincorporated association, such corporation or association shall be deemed a non-resident of the city of New York for purposes of this section.

Uniform Civil Rules of the New York City Civil Court

Section 208.29 Traverse hearings.

Whenever the court has scheduled a hearing to determine whether process was served validly and timely upon a party, and where a process server will testify as to the service, the process server shall be required to bring to the hearing all records in the possession of the process server relating to the matter at issue.

Where the process server is licensed, he or she also shall bring the license to the court.

New York Domestic Relations Law

Chapter 14

§ 232. Notice of nature of matrimonial action; proof of service.

- a. In an action to annul a marriage or for divorce or for separation, if the complaint is not personally served with the summons, the summons shall have legibly written or printed upon the face thereof: "Action to annul a marriage", "Action to declare the nullity of a void marriage", "Action for a divorce", or "Action for a separation", as the case may be, and shall specify the nature of any ancillary relief demanded. A judgment shall not be rendered in favor of the plaintiff upon the defendant's default in appearing or pleading, unless either (1) the summons and a copy of the complaint were personally delivered to the defendant; or (2) the copy of the summons (a) personally delivered to the defendant, or (b) served on the defendant pursuant to an order directing the method of service of the summons in accordance with the provisions of section three hundred eight or three hundred fifteen of the civil practice law and rules, shall contain such notice.
- b. An affidavit or certificate proving service shall state affirmatively in the body thereof that the required notice was written or printed on the face of the copy of the summons delivered to the defendant and what knowledge the affiant or officer who executed the certificate had that he was the defendant named and how he acquired such knowledge. The court may require the affiant or officer who executed the affidavit or certificate to appear in court and be examined in respect thereto.

New York Real Property Actions and Proceedings Law

Sec. 735. Manner of service; filing; when service complete.

1. Service of the notice of petition and petition shall be made by personally delivering them to the respondent; or by delivering to and leaving personally with a person of suitable age and discretion who resides or is employed at the property sought to be recovered, a copy of the notice of petition and petition, if upon reasonable application admittance can be obtained and such person found who will receive it; or if admittance cannot be obtained and such person found, by affixing a copy of the notice and petition upon a conspicuous part of the property sought to be recovered or placing a copy under the entrance door of such premises; and in addition, within one day after such delivering to such suitable person or such affixing or placement, by mailing to the respondent both by registered or certified mail and by regular first class mail,
 - (a) if a natural person, as follows: at the property sought to be recovered, and if such property is not the place of residence of such person and if the petitioner shall have written information of the residence address of such person, at the last residence address as to which the petitioner has such information, or if the petitioner shall have no such information, but shall have written information of the place of business or employment of such person, to the last business or employment address as to which the petitioner has such information; and
 - (b) if a corporation, joint-stock or other unincorporated association, as follows: at the property sought to be recovered, and if the principal office or principal place of business of such corporation, joint stock or other unincorporated association is not located on the property sought to be recovered, and if the petitioner shall have written information of the principal office or principal place of business within the state, at the last place as to which petitioner has such information, or if the petitioner shall have no such information but shall have written information of any office or place of business within the state, to any such place as to which the petitioner has such information. Allegations as to such information as may affect the mailing address shall be set forth either in the petition, or in a separate affidavit and filed as part of the proof of service.
2. The notice of petition, or order to show cause, and petition together with proof of service thereof shall be filed with the court or clerk thereof within three days after;
 - (a) personal delivery to respondent, when service has been made by that means, and such service shall be complete immediately upon such personal delivery; or
 - (b) mailing to respondent, when service is made by the alternatives above provided, and such service shall be complete upon the filing of proof of service.

New York Business Corporation Law

§ 306. Service of process

- (a) Service of process on a registered agent may be made in the manner provided by law for the service of a summons, as if the registered agent was a defendant.
- (b) * (1) Service of process on the secretary of state as agent of a domestic or authorized foreign corporation shall be made by personally delivering to and leaving with the secretary of state or a deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement. Service of process on such corporation shall be complete when the secretary of state is so served. The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such corporation, at the post office address, on file in the department of state, specified for the purpose. If a domestic or authorized foreign corporation has no such address on file in the department of state, the secretary of state shall so mail such copy, in the case of a domestic corporation, in care of any director named in its certificate of incorporation at the director's address stated therein or, in the case of an authorized foreign corporation, to such corporation at the address of its office within this state on file in the department.

* NB Effective until January 1, 2023

* (1) Service of process on the secretary of state as agent of a domestic or authorized foreign corporation shall be made in the manner provided by clause (i) or (ii) of this subparagraph. Either option of service authorized pursuant to this subparagraph shall be available at no extra cost to the consumer. (i) Personally delivering to and leaving with the secretary of state or a deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement. Service of process on such corporation shall be complete when the secretary of state is so served. The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such corporation, at the post office address, on file in the department of state, specified for the purpose. If a domestic or authorized foreign corporation has no such address on file in the department of state, the secretary of state shall so mail such copy, in the case of a domestic corporation, in care of any director named in its certificate of incorporation at the director's address stated therein or, in the case of an authorized foreign corporation, to such corporation at the address of its office within this state on file in the department. (ii) Electronically submitting a copy of the process to the department of state together with the statutory fee, which fee shall be a taxable disbursement, through an electronic system operated by the department of state, provided the domestic or authorized foreign corporation has an email address on file in the department of state to which the secretary of state shall email a notice of the fact that process has been served electronically on the secretary of state. Service of process on such corporation shall be complete when the secretary of state has reviewed and accepted service of such process. The secretary of state shall promptly send a notice of the fact that process has been served to such corporation at the email address on file in the department of state, specified for the purpose and shall make a copy of the process available to such corporation.

* NB Effective January 1, 2023

(2) An additional service of the summons may be made pursuant to paragraph four of subdivision (f) of section thirty-two hundred fifteen of the civil practice law and rules.

- (c) If an action or special proceeding is instituted in a court of limited jurisdiction, service of process may be made in the manner provided in this section if the office of the domestic or foreign corporation is within the territorial jurisdiction of the court.
- (d) Nothing in this section shall affect the right to serve process in any other manner permitted by law.