

New York City Police Department

NOTICE OF ADOPTION OF FINAL RULE

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of the New York City Police Department (“NYPD”) by Sections 435 and 1043 of the New York City Charter (“Charter”) and Section 10-126 of the New York City Administrative Code (“Administrative Code”), in accordance with the requirements of Section 1043 of the Charter, that the NYPD hereby amends Title 38 of the Rules of the City of New York by adding a new Chapter 24, establishing a permitting process for the take-off and landing of unmanned aircraft, including drones.

The proposed rules were first published in the City Record on June 6, 2023, and a public hearing was held on July 7, 2023.

STATEMENT OF BASIS AND PURPOSE

As the availability and capabilities of unmanned aircraft, including “drones,” have increased, there has been a swell of support for the integration of these devices into recreational, commercial, educational, and governmental endeavors. With regard to the operation of drones, New York City is a unique location, including three separate airports, the densest population in the United States, and towering skyscrapers. These attributes create hazards that are not present in other jurisdictions, significantly complicating the use of drones in the City. As drones have been increasingly used to film stunning cinematic videos, support first responder rescue efforts, aid in research projects, and conduct surveys, it is clear that the City must balance the ever present safety and privacy concerns inherent in widespread drone use against the important gains that may result from this new technology.

Consistent with the City’s valid interest in regulating where aircraft may operate on the ground within City limits, the locations for take-off and landing of aircraft are governed by section 10-126 of the Administrative Code. That law provides that “[t]he police commissioner is authorized to make such rules and regulations as the commissioner may deem necessary to enforce the provisions of this section.” Accordingly, this rule establishes a process by which members of the public may apply to the NYPD for permits to take off and land unmanned aircraft, including drones, across New York City. Such permits will include a site temporarily designated as a take-off or landing site by the New York City Department of Transportation (“DOT”). NYPD will be working closely with DOT to review proposed sites prior to such designation.

The final rules, added as a new Chapter 24 to Title 38 of the Rules of the City of New York, include:

- § 24-01, defining key terms relevant to the permit application process.
- § 24-02, requiring a permit to take off or land an unmanned aircraft, including a drone, within New York City, with limited exceptions.
- § 24-03, establishing an application process for permits to take off or land an unmanned aircraft, including a drone, within New York City, including:

- Name and contact information of the applicant, and any proposed operator and visual observer;
 - A description of the intended purpose or use of the unmanned aircraft;
 - The proposed date, time, and location of the take-off and landing of the unmanned aircraft;
 - Information regarding the unmanned aircraft, such as manufacturer and model number;
 - Documentation of FAA authorization to operate an unmanned aircraft, any relevant waivers, and registration certificate for the unmanned aircraft;
 - A copy of the required insurance policies;
 - Copies of the applicants' data privacy and cybersecurity policies, or details regarding the applicant's data privacy and cybersecurity practices; and
 - Any additional information that the Department determines is necessary to make a determination as to whether a permit should be issued.
- § 24-04, detailing procedures for the approval and disapproval of applications, the appeal procedure for disapproved applications, and the reasons for disapproval of a permit application.
 - § 24-05, providing terms and conditions with which the permittee and any operator of the unmanned aircraft must comply.
 - § 24-06, establishing minimum insurance requirements.
 - § 25-07, establishing a civil penalty for the unauthorized take-off or landing of an unmanned aircraft within New York City without a permit, or for violating a term of a permit or any provision of Chapter 24.

Based upon consideration of testimony and comments submitted during the public review period, NYPD has made several revisions to the final rules, including:

- Consistent with section 10-126(c) of the Administrative Code, section 24-02 was amended to explicitly exclude the take-off and landing of unmanned aircraft, for which a permit would otherwise be required, in emergency circumstances.
- In response to public comments regarding the requirement in the proposed rules to submit an application 30 days prior to the proposed date and time of take-off and landing, section 24-03(c) establishes a fourteen (14) day processing period for certain eligible applications. The shorter period is available for applications where each proposed operator, including proposed alternate operators, have been listed as an operator on at least one (1) previously-issued permit within one-hundred and eighty (180) days prior to the date of submission of the application, and the previously-issued permit was not revoked for failure to comply with any term or condition of the permit or any other applicable law or rule. Additionally, section 24-03(g) provides that NYPD will review the thirty (30) day processing period for all other applications prior to August 1, 2024 to determine if a shorter time period is operationally feasible.
- Section 24-03(d) allows a single application to include multiple proposed dates, times, and locations. However, to prevent popular locations from being monopolized, applications are capped at five (5) requested combinations of proposed dates, times, and locations.

Additionally, applicants may submit an application no earlier than one hundred and eighty (180) days prior to the earliest proposed date and time for take-off or landing.

- Section 24-03(e) was amended to allow for refunds of application fees where a permit is granted but then revoked pursuant to section 24-05 for reasons that are not the fault of the applicant or of any operator listed on the permit. The application fee is necessary to offset the costs of processing and reviewing applications and is calculated based upon a cost estimate in coordination with the New York City Office of Management and Budget.
- Section 24-05(e), relating to community notification of an unmanned aircraft capturing still images, video, or audio, was amended to only require posting within one hundred (100) feet of the take-off and landing site. The permittee must also notify each community board for the community district or districts where the unmanned aircraft is anticipated to capture or transmit such still images, video, or audio.

As set forth in the attached finding of substantial need for earlier implementation, these final rules take effect upon publication in the City Record in order to provide users of unmanned aircraft, including drones, the immediate opportunity to legally and safely take off and land unmanned aircraft so that the City can properly regulate such activity and ensure that users of drones can begin realizing their benefits without jeopardizing public safety.

New material is underlined.

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

Section 1. Title 38 of the Rules of the City of New York is amended by adding a new Chapter 24 to read as follows:

Chapter 24
Permits for Take-Off and Landing of Unmanned Aircraft

§ 24-01 Definitions.

Applicant. The term “applicant” means a natural person, corporation, organization, association, or other entity that applies for a permit to take off or land an unmanned aircraft within New York City pursuant to this chapter.

CFR. The term “CFR” means the Code of Federal Regulations.

Department. The term “Department” means the New York City Police Department.

FAA. The term “FAA” means the Federal Aviation Administration.

NYC Cyber Command. The term “NYC Cyber Command” means the Office of Cyber Command established pursuant to section 20-j of the New York City Charter.

Operator. The term “operator” means a natural person who is directly responsible for conducting the flight of an unmanned aircraft by remotely operating its flight controls.

Public Aircraft. The term “public aircraft” has the same meaning as set forth in 14 CFR § 1.1, or any successor provision.

Cybersecurity Incident. The term “cybersecurity incident” means an attempt to gain illegal or unauthorized access to an unmanned aircraft or an unmanned aircraft’s firmware or software, including any third-party application utilized for the storage or use of still images, video, or audio captured or transmitted by the unmanned aircraft, regardless of whether such attempt was successful.

Take-Off or Landing Site. The term “take-off or landing site” means the location for take-off, or for landing, or for take-off and landing, of an unmanned aircraft, designated by the Department of Transportation pursuant to section 10-126 of the Administrative Code, as expressed on a permit issued pursuant to this chapter.

Unmanned Aircraft. The term “unmanned aircraft” means an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft, including but not limited to a drone or a model aircraft.

§ 24-02 Unmanned Aircraft Permit Requirement.

(a) A permit issued pursuant to this chapter is required to take off or land an unmanned aircraft within New York City, except as provided in subdivision (b) of this section.

(b) A permit issued pursuant to this chapter is not required:

- (1) To take off or land an unmanned aircraft in an area designated by the Department of Parks and Recreation pursuant to section 18-146(c) of the Administrative Code;
- (2) To take off or land an unmanned aircraft that is a public aircraft operated by an agency of the City or other governmental entity pursuant to a Certificate of Authorization issued by the FAA;
- (3) In an emergency, which for purposes of this chapter includes emergency response operations conducted by a government agency or volunteer fire department; or
- (4) As otherwise authorized pursuant to section 10-126 of the Administrative Code.

§ 24-03 Applications.

(a) An application for a permit to take off or land an unmanned aircraft within New York City must be filed in a form and manner as prescribed on the Department’s website. Applications must contain:

- (1) The name, address, e-mail, and telephone number of the applicant and, where the applicant is a natural person, a copy of a government-issued photo ID for the applicant; provided that where the applicant is a corporation, organization, association, or other entity, the application must also contain the name, address, e-mail, and telephone number of the person submitting the application on behalf of the applicant, a copy of a government-issued photo ID for such person, and a statement certifying that such person is authorized to sign and submit the application on behalf of the applicant;

- (2) The name, address, e-mail, and telephone number of each proposed operator and each person proposed to serve as an alternate operator or visual observer on the proposed date of take-off or landing of the unmanned aircraft, and a copy of a government-issued photo ID for each such proposed operator or person;
- (3) A description of the intended purpose or use of the unmanned aircraft, including whether the unmanned aircraft will be used to capture or transmit still images, video, or audio;
- (4) The proposed date and time of the take-off of the unmanned aircraft, and the proposed date and time of the landing of the unmanned aircraft;
- (5) The proposed take-off or landing site;
- (6) A description of the specific geographic area where the flight of the unmanned aircraft will be conducted between the proposed take-off and landing sites, or a map showing such specific geographic area, and the anticipated altitude and duration of the flight;
- (7) The make, model, year of manufacture, and weight of the unmanned aircraft;
- (8) Documentation of FAA authorization to operate the unmanned aircraft pursuant to Part 107 of Title 14 of the CFR, including any certifications or waivers, or pursuant to an exemption authorized in accordance with Part 11 of Title 14 of the CFR, for each proposed operator, including any alternate operator;
- (9) A copy of the FAA registration certificate for the unmanned aircraft;
- (10) Proof of insurance as required by subdivision (b) of section 24-06 of this chapter;
- (11) A copy of the applicant's data privacy policy, or a description of the applicant's practices and procedures for protecting data privacy, which shall include steps the applicant will take to ensure the confidentiality of any information or material collected by the unmanned aircraft, practices and procedures for retention of information and material collected by the unmanned aircraft, and practices and procedures for handling still images, video, or audio of a person recorded by the unmanned aircraft, including redaction or pixelization of such material in appropriate circumstances;
- (12) A copy of the applicant's cybersecurity policy, or a description of the applicant's policies and procedures for securing the confidentiality, integrity, and availability of an unmanned aircraft's systems and underlying data, which must include the steps an applicant will take in the event of a cybersecurity incident involving an unmanned aircraft operated pursuant to a permit issued under this chapter;
- (13) A copy of the proposed notice required by subdivision (e) of section 24-05 of this chapter, if applicable;
- (14) Any additional information that the Department determines is required to make a determination as to whether a permit should be issued pursuant to this chapter; and
- (15) An affirmation that:
 - (i) All answers and statements provided on the application are complete and accurate;
 - (ii) All supporting documents submitted with the application are complete and accurate;
 - (iii) The applicant understands and acknowledges that the operator of the unmanned aircraft is responsible for the safe operation of the unmanned aircraft; and

- (iv) Any operator of the unmanned aircraft will comply with all applicable federal, state, and local laws, as well as rules and regulations promulgated thereunder.
- (b) Applications may be submitted up to one-hundred and eighty (180) days prior to the proposed date and time of the take-off and landing.
- (c) Applications must be submitted no less than thirty (30) days prior to the earliest proposed date of take-off or landing, except that applications may be submitted no less than fourteen (14) days prior to the earliest proposed date of take-off or landing where:
 - (1) Each proposed operator, including any alternate proposed operator, included on the application has been listed as an operator on at least one permit previously issued pursuant to this chapter within the one-hundred and eighty (180) days prior to the date of submission of the application; and
 - (2) Such previously issued permit was not revoked for failure to comply with the terms and conditions of the permit, these rules, or other applicable laws or rules.
- (d) As used in this chapter, terms in the singular shall include the plural. Notwithstanding any provision of this chapter to the contrary, an applicant may submit a single application for multiple unmanned aircraft, proposed dates and times of take-off and landing, and proposed take-off and landing sites, provided that:
 - (1) All information required by this section must be included for each such unmanned aircraft, proposed date and time of take-off and landing, or proposed take-off and landing site included in the application; and
 - (2) The application includes a total of no more than five (5) combinations of proposed dates and times of take-off and landing and proposed take-off and landing sites.
- (e) A fee of \$150.00 shall accompany the application. The applicant shall pay such fee in a manner prescribed on the Department's website. The fee shall be non-refundable unless the applicant demonstrates that the permit associated with the fee was revoked pursuant to section 24-05(f) of this chapter and that such revocation was not based upon the actions of the applicant or of any operator or alternate operator listed on the permit or the application.
- (f) Applications will be reviewed in the order in which they are received. The Department will only review complete applications. An application will be considered complete after the applicant has submitted all required information, materials, and documents to the Department.
- (g) No later than August 1, 2024, the Department will review the application procedures set forth in this chapter and any other information it deems relevant to determine whether applications not eligible to be processed within fourteen (14) days pursuant to subdivision (c) of this section may be processed in less time than thirty (30) days.

§ 24-04 Approval/Disapproval Procedures.

- (a) The Department will notify the applicant that the application is either approved or disapproved. If the application is disapproved, the Department will notify the applicant of the basis of the disapproval and of the appeal process.
- (b) Applications may be disapproved for any of the following reasons:
 - (1) The application is not complete;
 - (2) The Department has reason to believe that the application contains a material falsehood or misrepresentation;

- (3) The application proposes activities that would violate a federal, state, or local law, or rules or regulations promulgated thereunder;
 - (4) A proposed operator or proposed alternate operator of the unmanned aircraft does not have the requisite authorization from the FAA to operate an unmanned aircraft pursuant to Part 107 of Title 14 of the CFR, including any certifications or waivers, or pursuant to an exemption authorized in accordance with Part 11 of Title 14 of the CFR;
 - (5) A proposed unmanned aircraft required by Part 107 of Title 14 of the CFR to be registered with the FAA is not registered with the FAA;
 - (6) Granting of the application could cause an unreasonable danger to the health or safety of the applicant, operator, or others, including members of the public, such as proximity to another take-off or landing site for which a permit has been issued pursuant to this chapter on the same date or at the same time proposed in the application, proximity to known areas of signal interference, or potential interference with necessary public services;
 - (7) The applicant or a proposed operator of the unmanned aircraft has previously submitted an application for a permit to take off or land an unmanned aircraft that contained a material falsehood or misrepresentation, or has failed to comply with the terms and conditions of a permit previously issued pursuant to this chapter; or
 - (8) The application proposes that a location be designated as a take-off or landing site for an unreasonable length of time not less than 24 hours.
- (c) If an application is approved, the Department will provide the applicant with a permit, which will identify the designated take-off or landing site and provide any additional information relevant to such take-off or landing.
- (d) If the application is disapproved, the applicant may appeal the disapproval by submitting a signed statement in a form and manner as prescribed on the Department's website within thirty (30) days of issuance of the notification of disapproval. Such statement must set forth the reasons for the appeal.

§ 24-05 Permit Conditions.

- (a) An operator must comply with all applicable federal, state, and local laws, as well as rules and regulations promulgated thereunder, including, where applicable, Part 107 of Title 14 of the CFR.
- (b) At the date and time of take-off and landing, an operator must have in their physical possession and readily available for inspection, upon request from any federal, state, or local law enforcement official:
 - (1) The permit issued pursuant to this chapter;
 - (2) Documentation of FAA authorization to operate an unmanned aircraft pursuant to Part 107 of Title 14 of the CFR, including any certifications or waivers, or pursuant to an exemption authorized in accordance with Part 11 of Title 14 of the CFR;
 - (3) A copy of the FAA registration certificate for the unmanned aircraft; and
 - (4) A copy of the insurance policies required by section 24-06 of this chapter.
- (c) A permittee must inform the Department of any collision, crash, accident, or other unplanned incident involving the unmanned aircraft that occurs during the take-off, operation, or landing of the unmanned aircraft, including the date, time, and location of any such incident and whether such incident resulted in harm to any person or property. The applicant and

- operator, and any alternate operator, visual observer, or other natural person named in the application, must cooperate with the Department as necessary with respect to any investigation relating to such incident.
- (d) In the event of a cybersecurity incident involving an unmanned aircraft or data collected by an unmanned aircraft operated pursuant to a permit issued under this chapter, the permittee must:
- (1) Notify NYC Cyber Command at the telephone number provided on the Department's website within 24 hours of becoming aware of the cybersecurity incident; and
 - (2) Cooperate with the Department and NYC Cyber Command as necessary with respect to any investigation relating to such cybersecurity incident, including notifying third parties of such cybersecurity incident as required by law and responding to reasonable inquiries and requests for records from the Department or NYC Cyber Command.
- (e) Where an unmanned aircraft for which a permit has been issued pursuant to this chapter will capture or transmit still images, video, or audio during its operation, no later than 48 hours prior to the earliest date and time for take-off of the unmanned aircraft as set forth on such permit, the permittee must:
- (1) Notify each community board for the community district or districts where the unmanned aircraft is anticipated to capture or transmit still images, video, or audio of the following:
 - (i) That an unmanned aircraft capturing or transmitting still images, video, or audio will be utilized in their district;
 - (ii) The take-off and landing site designated on the permit, the date and time of the take-off of the unmanned aircraft, the date and time of the landing of the unmanned aircraft, and the expected duration of the operation of the unmanned aircraft; and
 - (iii) Contact information, including the name and telephone number of a representative of the applicant that persons may contact with questions or concerns relating to the operation of the unmanned aircraft.
 - (2) Post notices within one hundred (100) feet of the take-off and landing site designated on the permit advising businesses and residents that an unmanned aircraft capturing or transmitting still images, video, or audio will be utilized in the area, and setting forth the take-off and landing site, the date and time of the take-off and landing of the unmanned aircraft, the expected duration of the operation of the unmanned aircraft, and the name and telephone number of a representative of the applicant that persons may contact with questions or concerns relating to the operation of the unmanned aircraft. A permittee may post such notices on poles, trees, and other similar City-owned structures, provided that, if a permittee posts such notices on trees, elastic bands or string must be used; tape is prohibited. A permittee must remove all signs, including tape, upon completion of the permit.
- (f) The Department may suspend or revoke a permit for failure to comply with any of the terms and conditions of the permit, these rules, or other applicable laws or rules, or upon a determination by the Department that the permitted take-off or landing would pose a risk to the health or safety of the operator or others, or would violate a federal, state, or local law, rule, or regulation.

§ 24-06 Insurance.

(a) An applicant must obtain and maintain continuously throughout the term of a permit issued pursuant to this chapter, at its own expense, Commercial General Liability (CGL) insurance and Drone Aviation Liability/Unmanned Aircraft Systems (UAS) coverage. Each such CGL and Drone Aviation Liability/UAS insurance policy must:

- (1) Cover operations of all owned and non-owned unmanned aircraft operated pursuant to such a permit, whether such operations are pre-take-off, during take-off, in-flight, during landing, or post-landing, and must include coverage for Bodily Injury, Property Damage, Personal Injury, Invasion of Privacy, and Trespass;
- (2) Be provided by a company that may lawfully issue such policy and that has an A.M. Best rating of at least A- / VII, a Standard & Poor's rating of at least A, a Moody's Investors Service rating of at least A3, or a Fitch Ratings rating of at least A-;
- (3) Be written on an occurrence basis, and have limits applicable exclusively to operations pursuant to a permit issued under this chapter of two million dollars (\$2,000,000) per occurrence and four million dollars (\$4,000,000) aggregate, which may be obtained through a combination of primary and excess policies, provided that:
 - (i) Coverage under the CGL insurance policy must be at least as broad as that provided by the most recent edition of Insurance Services Office ("ISO") Form CG 00 01; and
 - (ii) Coverage under the Drone Aviation Liability/UAS insurance must be at least as broad as the most recent edition of ISO Form CG 24 50, and must specifically describe, in an endorsement schedule or otherwise, any unmanned aircraft that is the subject of the permit, and may not exclude coverage for any such unmanned aircraft under any circumstance; and
- (4) Include the City of New York, together with its officials and employees, as an Additional Insured, on a primary and non-contributory basis, for claims that may arise from any of the operations of the applicant, its agents, employees, consultants, or independent contractors pursuant to a permit issued under this chapter, with ongoing-operations and completed-operations coverage at least as broad as the most recent editions of ISO Forms CG 20 26 and 20 37.

(b) As part of an application submitted pursuant to section 24-03 of this chapter, an applicant must provide the Department with the following:

- (1) Where required by applicable law, on a form approved by the Workers' Compensation Board, proof that the applicant has obtained Workers' Compensation and Disability and Paid Family Leave insurance or an attestation of exemption from any such requirement;
- (2) A certificate of insurance that certifies the issuance and effectiveness of the CGL and Drone Aviation Liability/UAS insurance policies, including that each such policy includes the minimum limits specified in this section, provided that the specific endorsements or policy language by which the City of New York, including its officials and employees, has been made an Additional Insured must be provided with such certificate of insurance; and
- (3) Either a duly executed "Certification by Insurance Broker or Agent" in a form available on the Department's website, or certified copies of all policies referenced

in the certificate of insurance, provided that, notwithstanding any provision of this chapter to the contrary, an applicant must submit certified copies of all policies required by this section upon request by the Department or the New York City Law Department.

§ 24-07 Penalties.

(a) Any person subject to this chapter who controls, operates, or otherwise causes an unmanned aircraft to take off or land within New York City without a permit issued pursuant to this chapter, or who violates the terms and conditions of such permit or any provision of this chapter, shall be subject to a civil penalty in an amount as follows:

(1) For a first violation, \$250.00;

(2) For a second violation within a one-year period, \$500.00; and

(3) For a third and subsequent violation within a one-year period, \$1,000.00.

(b) Notwithstanding subdivision (a) of this section, any person who causes an unmanned aircraft to take off or land in violation of section 10-126 of the Administrative Code may be charged with a misdemeanor pursuant to such section.

FINDING OF SUBSTANTIAL NEED FOR EARLIER IMPLEMENTATION

In accordance with Section 1043(f)(1)(d) of the New York City Charter, the New York Police Department (“NYPD”) has determined there is a substantial need for the earlier implementation of the NYPD rules creating a permitting process allowing for lawful take-off and landing of unmanned aircraft, including drones, throughout the City of New York. The permitting process will be set forth in new Chapter 24 of Title 38 of the Rules of the City of New York immediately upon its final publication in the City Record, thereby waiving the requirement that thirty days elapse prior to the effective date of the rules.

Unmanned aircraft, including drones, are an adaptable, flexible, and efficient technology that can operate in a variety of locations and circumstances, including those posing high risks to human life. These devices can be utilized in countless applications, and allowing for permitted take-offs and landings of such unmanned aircraft will improve sustainability and efficiency in a number of industries within the City. However, privacy concerns, airspace regulations, and public safety must also be considered. The permitting process established in Chapter 24 of Title 38 of the Rules of the City of New York balances the potential benefits offered by unmanned aircraft with privacy and public safety concerns.

Like most outdoor activities, drone use has the potential to increase during warmer weather. As summer has already started, it is imperative that users of drones be given the immediate opportunity to legally and safely launch and land such drones so that the City can properly regulate such activity and enable these users to begin realizing the benefits of drones without jeopardizing public safety.

Therefore, I find pursuant to Section 1043(f)(1)(d) of the New York City Charter that there is a substantial need for the immediate implementation of this rule to create a process by which the public can obtain permits for lawful take-off and landings of unmanned aircraft within New York City.

/s/ Eric Adams

Eric Adams
Mayor

July 19, 2023

Date

/s/ Edward A. Caban

Edward A. Caban
Police Commissioner

July 18, 2023

Date