

NEW YORK CITY POLICE DEPARTMENT

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The New York City Police Department (“NYPD”) is proposing to amend its rules to create a procedure by which members of the public may submit applications to launch or land an unmanned aircraft, including a “drone,” within New York City.

When and where is the hearing? The NYPD will hold a public hearing on the proposed rules in person. The public hearing will take place at 10:00 am on July 7, 2023 in the Auditorium on the first floor of 1 Police Plaza, New York, NY 10038.

How do I comment on the proposed amendments? Anyone can comment by:

- **Website.** You can submit comments to the NYPD through the NYC rules website at rules.cityofnewyork.us.
- **Email.** You can email written comments to the NYPD at NYCRules@NYPD.org.
- **Mail.** You can mail written comments to the NYPD Legal Bureau at One Police Plaza, Room 1406, New York, NY 10038 c/o Agency Attorney Melanie Braverman.
- **Fax.** You can fax written comments to the NYPD at 646-610-8428.
- **Speaking at the hearing.** Anyone who wants to comment on the proposed rules at the public hearing must sign up to speak. You can sign up before the hearing by calling 646-610-5400 and asking for Melanie Braverman or by emailing your name and affiliation NYCRules@nypd.org by June 30, 2023. While you will be given the opportunity during the hearing to indicate that you would like to provide comments, we prefer that you sign up in advance. You can speak for up to three minutes.

Is there a deadline for submitting written comments? Yes, you must submit written comments by July 7, 2023.

What if I need assistance to participate in the hearing? If you need a reasonable accommodation of a disability, advanced notice is requested to allow sufficient time to arrange the accommodation. You may contact us by telephone at 646-610-5400 and asking for Melanie Braverman, or by emailing NYCRules@nypd.org. Please contact us by June 30, 2023.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at rules.cityofnewyork.us. After the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public, upon request.

What authorizes the NYPD to amend these rules? Sections 389(b) and 1043 of New York City Charter and section 10-126(h) of the Administrative Code authorize the NYPD to amend these

rules. These proposed rules were not included in the NYPD's regulatory agenda because the NYPD did not publish a regulatory agenda for Fiscal Year 2022.

Where can I find NYPD's rules? The NYPD's rules are found in Title 38 of the Rules of the City of New York.

What laws govern the rulemaking process? The NYPD must meet the requirements of section 1043 of the New York City Charter when creating, changing rules or repealing rules. This notice is made in accordance with the requirements of section 1043 of the New York City Charter.

STATEMENT OF BASIS AND PURPOSE OF PROPOSED RULES

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 most 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.

The take-off and landing of drones, like any other aircraft, in New York City is governed by section 10-126 of the Administrative Code of the City of New York. 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, the New York City Police Department is proposing the following permitting scheme that will allow for lawful take-off and landing of unmanned aircraft, including drones, across the City of New York.

The proposed amendment to the New York City Police Department Rules, to be added as a new Chapter 24 to Title 38 of the Rules of the City of New York, would:

- Add new § 24-01 defining key terms relevant to the permit application process.
- Add new § 24-02 requiring a permit to launch or land an unmanned aircraft, including a drone, within New York City, with limited exceptions.
- Add new § 24-03 establishing a permitting process for the take-off and/or landing of an unmanned aircraft, including a drone, within New York City, including an application that must be submitted at least 30 days before the earliest proposed take-off or landing, consisting of various elements, 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 specific geographic area where the flight of the unmanned aircraft will be conducted;
 - Information regarding the unmanned aircraft, such as manufacturer or 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.
- Add new § 24-04 detailing procedures for the approval and disapproval of applications, the appeal procedure for disapproved applications, and the reasons for denial of a permit application.
- Add new § 24-05 providing terms and conditions with which the permittee and any operator of the unmanned aircraft must comply.
- Add new § 24-06 establishing minimum insurance requirements.
- Add new § 25-07 establishing a civil penalty for launching or landing an unmanned aircraft within New York City without a permit, or for violating a term of a permit or any provision of Chapter 24.

These proposed rules are based on the authority granted to the Police Commissioner and the Police Department by sections 435 and 1043(a) of the New York City Charter and section 10-126 (h) of the Administrative Code.

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, videos, 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 permit issued pursuant to this chapter is required to take-off or land an unmanned aircraft within New York City, except where such take-off or landing occurs in an area designated by the Department of Parks and Recreation pursuant to section 18-146(c) of the Administrative Code, or where such unmanned aircraft 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, or 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 submitted to the Department at least thirty days (30) prior to the proposed date of take-off or landing.
- (b) Such application 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, audio, or video;

- (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 where such person would have a reasonable expectation of privacy, including redaction or pixelization of such material;
- (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 shall 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) A signed statement affirming 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.

- (c) 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 pursuant to this chapter for the take-off and landing of one or more unmanned aircraft or for one or more proposed dates and times of take-off and landing, provided that all information required by this section must be included for each such unmanned aircraft or each proposed date and time for takeoff and landing.
- (d) A non-refundable fee of \$150.00 shall accompany the application. The applicant shall pay such fee in a manner prescribed on the Department's website.
- (e) 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.

§ 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 denied 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 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 longer 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 affirmation in a form and manner as prescribed on the Department's website within thirty (30) days of receiving the notification of disapproval. Such affirmation 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 his or her 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 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, audio, or video during its operation, no later than 48 hours prior to the date and time for take-off of the unmanned aircraft as expressed 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, audio, or video, and each member of the City Council for the council district or districts where the unmanned aircraft is anticipated to capture or transmit still images, audio, or video, of the following:

- (i) An unmanned aircraft capturing or transmitting video, still images, or audio will be utilized in their district;
 - (ii) The take-off or 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) The applicant's 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; and
- (2) Post notices within any area where the unmanned aircraft is anticipated to capture or transmit still images, audio, or video that advise businesses and residents that an unmanned aircraft capturing or transmitting video, still images, or audio will be utilized in the area, and that set 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.

§ 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 proofs of insurance:
 - (1) On a form approved by the Workers' Compensation Board, proof that the applicant has obtained Workers' Compensation and Disability and Paid Family Leave insurance as required by law, 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 from 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.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Issuance of Permits for Takeoff and Landing of Unmanned Aircraft in New York City

REFERENCE NUMBER: 2023 RG 034

RULEMAKING AGENCY: New York City Police Department

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Senior Counsel

Date: June 2, 2023

NEW YORK CITY MAYOR’S OFFICE OF OPERATIONS

**253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Issuance of Permits for Takeoff and Landing of Unmanned Aircraft in New York City

REFERENCE NUMBER: NYPD-18

RULEMAKING AGENCY: New York Police Department

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because the violations pose significant risks to public safety.

/s/ Francisco X. Navarro
Mayor’s Office of Operations

June 2, 2023
Date