

## NEW YORK CITY POLICE DEPARTMENT

### NOTICE OF ADOPTION OF EMERGENCY RULES FOR RECEIVING A CONCEALED CARRY HANDGUN LICENSE AND RESUBMITTING CERTAIN RECENTLY DENIED APPLICATIONS

The New York City Police Department (“NYPD”), pursuant to the authority granted by New York City Charter sections 435 and 1043(i), hereby adopts the following emergency rule, effective immediately, for receiving a concealed carry handgun license.

#### **Statement of Basis and Purpose of Emergency Rule**

Prior to June 23, 2022, New York State required applicants to meet a “proper cause” standard in order to obtain a concealed carry handgun license. The “proper cause” standard required applicants to demonstrate a special need for self-protection, distinguishable from that of the general community, in order to qualify for a carry license. On June 23, 2022, the United States Supreme Court ruled in N.Y. State Rifle & Pistol Ass’n v. Bruen, 142 S. Ct. 2111 (2022), that the State of New York’s “proper cause” requirement for obtaining a concealed carry firearm license was an unconstitutional restriction on an individual’s Second Amendment right to bear arms for self-defense.

Consistent with State law, NYPD rules have required applicants to show “proper cause” to obtain a concealed carry handgun license, including a carry business license, a limited carry business license, and a special license. In light of the Supreme Court’s decision in Bruen, however, New York City can no longer impose the “proper cause” standard on individuals applying for a carry license. The State of New York has enacted legislation establishing new statewide licensing standards without the “proper cause” criterion, but they did not take effect until September 1, 2022 (Chapter 371 of the Laws of 2022). Accordingly, the NYPD promulgated an emergency rule, published in the City Record on August 23, 2022, to immediately implement an operative concealed carry licensing scheme that addresses an imminent threat to safety and property. That emergency rule ensures that applications for carry and special licenses that were pending as of August 31, 2022 or were denied or were offered a more restrictive license solely on proper cause grounds prior to that date (that is, before the new licensing standards set forth in Chapter 371 took effect) are evaluated consistent with the Supreme Court’s ruling in Bruen, while also maintaining a licensing scheme that preserves public safety within the city.

This amendment to the NYPD’s emergency rule clarifies that applicants with pending applications, or whose applications were recently denied or were offered a more restrictive license solely for failure to meet the proper cause standard, must complete the live firearms safety course, required under section 400.00(19) of the Penal Law. As set forth in the Penal Law, this safety course requirement applies to all applicants whose carry licenses are issued after September 1, 2022. This amendment ensures that the live firearms safety course requirement applies to all applications currently being processed by the NYPD under the emergency rule. Delaying implementation of this amendment would severely impede New York City’s ability to regulate handgun use and ownership within its jurisdiction.

The following rules govern the NYPD's administration of handgun licenses and are issued on an emergency basis pursuant to Section 1043(i) of Chapter 45 of the New York City Charter.

New material is underlined.

Brackets indicate deletions.

“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. Subdivision (a) of Section 5-12 of Chapter 5 of Title 38 of the Rules of the City of New York, as added by an emergency rule published in the City Record on August 23, 2022, is amended by adding a new paragraph (4) to read as follows:

**§ 5-12 Modifications to Review of Pending Applications Filed On or Before August 31, 2022, and Certain Previously Denied Applications.**

(a) Notwithstanding any provision in this chapter to the contrary, any pending application for a handgun license submitted pursuant to subdivisions (b), (c) or (e) of section 5-01 that was submitted on or before August 31, 2022 shall be evaluated in accordance with the version of Chapter 5 of Title 38 of the Rules of the City of New York in effect on the date of the emergency rule that added this section, subject to the following modifications:

(1) Section 5-03 shall not apply;

(2) The Department shall not consider any letter of necessity submitted pursuant to paragraph (8) of subdivision (b) of section 5-05, or require that such letter be submitted, provided that an application filed after the effective date of the emergency rule that added this section but on or before August 31, 2022 shall contain a statement with the following information:

(i) A statement that the applicant has read and is familiar with the provisions of New York State Penal Law Articles 35 (use of deadly force), 265 (criminal possession and use of a firearm), and 400 (responsibilities of a handgun licensee);

(ii) A statement describing the manner in which the handgun shall be safeguarded by the applicant when not being carried; and

(iii) A statement indicating that the applicant has been trained or will receive training in the use and safety of a handgun.

(3) An application for a limited carry business license pursuant to subdivision (c) shall be treated as an application for a carry business license, subject to the modifications set forth in this subdivision[.];

(4) Prior to the issuance of a license, the applicant must affirm that they have completed the live firearms safety course required pursuant to subdivision 19 of section 400.00 of the Penal Law.

(b) Notwithstanding any provision in this chapter to the contrary, an individual who applied for a license pursuant to subdivisions (b), (c) or (e) of section 5-01 after June 23, 2019, and was denied or was offered a more restrictive license solely on the grounds that such individual did not show proper cause as defined in Section 5-03, may within 60 days of the effective date of the emergency rule that added this section resubmit their application without being subject to additional fees. Such resubmission shall be evaluated in accordance with subdivision (a) of this section.

### **Required Finding Pursuant to New York City Charter Section 1043(i)(1)**

IT IS HEREBY CERTIFIED that the immediate effectiveness of this emergency rule, which establishes additional rules, regulations, and procedures for obtaining a concealed carry handgun license, is required to revise existing rules in light of the Supreme Court’s decision in N.Y. State Rifle & Pistol Ass’n v. Bruen, 142 S. Ct. 2111 (2022).

Prior to June 23, 2022, New York State had a proper cause requirement for obtaining a concealed carry handgun license. This required applicants to demonstrate a special need for self-protection, distinguishable from that of the general community in order to qualify for a carry license. Consistent with State law, Police Department rules also required applicants for handgun carry licenses to establish “proper cause.”

On June 23, 2022, the United States Supreme Court ruled in Bruen that New York State’s proper cause requirement was an unconstitutional restriction on carry licenses. New York City likewise cannot impose the proper cause requirement. Due to the high density and high traffic nature of New York City’s public spaces, serious concerns are raised about public safety, which necessitates a clear and consistent licensing scheme. The New York State Legislature has passed a series of reforms to the licensing process that went into effect on September 1, 2022. The law requires any individual who receives a license after that date to have completed a state mandated training course.

The amendments to the NYPD rules contained in this emergency rulemaking will ensure that the Police Department can comply with the Bruen decision in a timely and appropriate fashion. Furthermore, the amendments will provide clarification of the procedures applicable to applicants thereby assisting in the City’s compliance with the Bruen decision. The amendments will additionally provide an opportunity to reapply for a specified category of previous applicants who were denied or offered a more restrictive license under then existing law.

Delaying implementation of these emergency rules and procedures would be detrimental to the public’s safety and creates ambiguity for individuals exercising their constitutional rights of license applicants within New York City. Furthermore, delaying implementation would severely impede New York City’s ability to regulate handgun use and ownership within its boundaries.

Pursuant to section 1043(i)(2) of New York City Charter, the emergency rule will remain in effect for 60 days while the NYPD prepares a permanent rule.

IT IS HEREBY CERTIFIED that the immediate effectiveness of a rule authorizing the NYPD to regulate concealed carry handguns within in New York City in order to maintain the public’s safety is necessary in light of the Bruen decision.

Dated: September 14, 2022

*/s/ Keechant L. Sewell*

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Keechant L. Sewell  
Police Commissioner

Dated: September 15, 2022

Approved:

*/s/ Eric Adams*

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Eric Adams, Mayor