

NEW YORK CITY POLICE DEPARTMENT

NOTICE OF ADOPTION OF EMERGENCY RULES RELATING TO NON-RESIDENT APPLICANTS FOR CARRY LICENSES AND TO PURCHASE AND REGISTRATION AUTHORIZATIONS

The New York City Police Department ("NYPD"), pursuant to the authority granted by New York City Charter ("Charter") sections 435 and 1043(i), hereby adopts the following emergency rule, effective immediately, relating to non-New York resident applicants for a concealed carry handgun license and to handgun purchase and registration authorizations for all applicants.

Statement of Basis and Purpose of Emergency Rule

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. Since the issuance of that decision, New York City has revised its licensing regulations to remain consistent with current case law pertaining to handgun licensing and continues to do so in response to evolving Second Amendment jurisprudence, including the Supreme Court's decision in United States v. Rahimi, 602 U.S. __ (2024).

Current NYPD rules do not contain formal procedures for applicants who do not reside in New York State, are not principally employed within New York City, and do not have their principal place of business in New York City. A process by which non-State residents can apply for a carry license will ensure that the City is able to properly regulate handgun ownership within NYC while also complying with the Bruen decision. This emergency rule sets forth standards to submit and evaluate applications for carry licenses made by these individuals, hereinafter called "non-resident" applicants. This emergency rule also amends and clarifies the process of purchasing and adding firearms to an individual's New York City firearms license.

In order to maintain a clear and publicly accessible policy, on August 12, 2024, NYPD adopted rule amendments on an emergency basis pursuant to Charter section 1043(i) to immediately implement an operative concealed carry licensing process for non-resident applicants. Those emergency rule amendments expired on October 11, 2024, pursuant to Charter section 1043(i)(2). This emergency rule is therefore necessary to immediately implement such process for non-resident applicants, in order to address an imminent threat to safety and property, as it allows New York City to continue maintaining a licensing scheme that preserves public safety within the City while ensuring that gun license applications are evaluated in a manner consistent with the Supreme Court's ruling in Bruen.

Additionally, on October 16, 2024, NYPD published notice of proposed rules to adopt changes substantially similar to those made by the emergency rule adopted on August 12, 2024, as well as additional amendments. Such notice includes an inaccurate statement that such previous emergency rule is extended for an additional 60 days, pursuant to Charter section 1043(i)(2). NYPD expects to withdraw the October 16, 2024 proposed rules shortly, and to publish a revised notice of proposed rules that does not include the inaccurate statement of extension of the emergency rule adopted on August 12, 2024.

This new emergency rule is retroactive and applies to any application submitted between October 11, 2024, and publication of this emergency rule. Retroactive application is appropriate in light of the remedial nature of the rule and the brief hiatus separating this rule from the preceding emergency rules.

Delaying implementation of these additional rules would severely impede New York City's ability to effectively and legally regulate handgun ownership within its jurisdiction.

The following rules govern the NYPD's ability to administer 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. [Deleted material is in brackets]

“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. Section 5-03 of Title 38 of the Rules of the City of New York is amended to read as follows:

(a) In addition to the requirements in 38 RCNY § 5-02 and 38 RCNY § 5-05, an applicant seeking a carry or special handgun license or a renewal shall: have no conviction for a misdemeanor identified in paragraph (n) of subdivision (1) of section 400.00 of the penal law within five years of the date of application; meet in person with a licensing officer in the License Division for an interview; and provide the documents listed below:

(1) References. The applicant must submit a minimum of four (4) character references who can attest to the applicant's good moral character and that the applicant has not engaged in any act or made any statement that suggests the applicant is likely to engage in conduct that would result in harm to themselves or others. Two (2) of these references must be non-family members.

(2) [Social Media. The applicant must submit all of their current and former social media accounts from the past three years. For the purposes of this paragraph, the term "social media" means a website, application or other electronic platform whose principal purpose is to facilitate the public exchange of information, messages, news or ideas among such website's, application's or platform's users.

(3)]Training Certification. The applicant must submit a certification of completion of the training required by § 400.00(1)(o)(iii) of the New York State Penal Law. The applicant must complete such training and receive such certificate no more than six (6) months prior to submission of their application. Applicants whose renewal applications are not subject to such training requirement shall nevertheless, within six months of each renewal, submit a certification of completion of two hours of a live-fire range training course that meets the requirements of § 400.00(19)(b) of the Penal Law.

(b) A person who resides outside of New York State and is not principally employed within New York City may apply for a carry handgun license pursuant to this section, provided that such applicant meets the following requirements:

1) The requirements of section 5-02, except that the requirement to demonstrate a residence or principal place of business within the confines of New York City under subdivision (g) of such section shall not apply to an application submitted pursuant to this subdivision;

2) The requirements of subdivision (a) of this section;

3) The requirements of section 5-05;

4) The submission of a form, to be provided by the department, that reflects the results of a background investigation undertaken for the purposes of obtaining a firearm license or firearm. The applicant shall provide such form to the local law enforcement agency in each jurisdiction in which the applicant has been a resident in the five (5) years preceding the date of the applicant's application for a license pursuant to this subdivision and shall submit such completed form to the License Division.

5) If the applicant holds a firearms license or permit in any other jurisdiction, such applicant must submit a form, to be provided by the department, indicating the current and past status of any firearms licenses held by the applicant, including whether such other license is currently in good standing, and whether the applicant has any previous suspensions, revocations, or periods where the license was not in good standing.

(c) Provisions of this section adopted on an emergency basis pursuant to section 1043 of the New York City Charter after October 11, 2024 are deemed to have been in effect on and after such date, notwithstanding the promulgation of such provisions at a later date.

§ 2. Section 5-25 of Title 38 of the Rules of the City of New York, relating to handgun acquisition requirements is REPEALED, and a new section 5-25 is added to read as follows:

§ 5-25 Handgun Acquisition Requirements.

In addition to any applicable federal or state requirements, the following procedures apply to all licensees seeking to acquire and register a handgun to one or more of their licenses.

(a) No person shall acquire a firearm if such person has acquired a firearm within the previous ninety (90) days. Licensees who acquire and attempt to register more than one (1) firearm in a ninety (90) day period, shall not be granted an authorization form to take possession of an additional firearm until the ninety (90) day period has elapsed.

(b) Any licensee who obtains a handgun must purchase or obtain a safety locking device at the time of acquisition of such handgun, in accordance with section 10-311 of the Administrative Code, to be used for the safeguarding of the handgun when not in use. The following types of safety locking devices will be deemed to comply with the requirement to obtain a safety locking device:

(1) a trigger lock, which prevents the pulling of the trigger without the use of a key;

(2) a combination handle, which prevents the use of the weapon without the alignment of the combination tumblers; or

(3) a detachable or non-detachable locking device that is composed primarily of steel or other metal of significant gauge to inhibit breaking, and renders the weapon inoperable until the locking device is removed with a metal key or combination lock.

(c) A licensee may not take possession of a handgun without prior written authorization from the Division Head, License Division. For new and existing licensees, the License Division will provide a handgun purchase authorization form, which is valid for thirty (30) calendar days from the issuance date and must be provided to the firearms dealer at the time of purchase of such handgun.

(d) A licensee may not take possession of a handgun before it has been inspected by License Division personnel and entered on the license. A licensee must contact the License Division within 72 hours of purchase of such handgun to request inspection of the handgun and safety locking device. Requests for inspection must include the following:

(1) A completed authorization form issued by the License Division, in accordance with subdivision (c) of this section, with the background check number filled out by the firearms dealer from whom the handgun was purchased.

(2) The Bill of Sale/Receipt for the handgun which shall include the following information:

(i) make, model, calibre, and serial number of handgun sold;

(ii) Seller's name, address, and license number if applicable;

(iii) Buyer's name, address, and license number, date of sale.

If the handgun is acquired from an individual, rather than a dealer, the sale must comply with the requirements set forth in section 898 of the General Business Law and the Bill of Sale shall be signed and notarized by the transferor.

- (3) A color photograph depicting the entirety of the handgun purchased with accurate color representation,
- (4) A color photograph that legibly captures the handgun's serial number.
- (5) A color photograph depicting the safety locking device for the purchased handgun.
- (6) Proof of ownership of safe storage, which consists of:
 - (i) A Bill of Sale; and
 - (ii) Two (2) color photos of the safe or other locked container, one with the door open and one with the door closed. Photos may not be stock images and must depict the entirety of the safe, not merely a portion thereof.

The Division Head, License Division may reject the type of safe proposed for safeguarding the handgun, where it is determined that the safety features are insufficient to safeguard such handgun.

- (7) Where the licensee has acquired a handgun from the estate of a deceased immediate family member, the licensee shall also provide:
 - (i) A copy of the voucher for the handgun(s).
 - (ii) The decedent's license, if not previously surrendered, showing registration of the handgun(s) in question.
 - (iii) A copy of the death certificate.
 - (iv) A notarized Bill of Sale from the Executor or Administrator of the decedent's estate, indicating the weapon, make, model, caliber and serial number, and stating that they are being sold to: the licensee's name, address and license number.
 - (v) If there is a Will: a short certificate of Letters Testamentary that gives the Executor the authority to dispose of the property.
 - (vi) If there is no Will: a short certificate of Letters of Administration that gives the administrator the authority to dispose of the property.

(e) For new licensees, the completed authorization form and license card with the registered handgun printed on such card shall be mailed to the licensee's address of record. The licensee shall use these documents to take possession of the registered handgun purchased from the seller. Following a completed transaction, or within ten (10) calendar days of its expiration date, the completed authorization form shall be returned to the License Division.

(f) The License Division may waive specific requirements identified in subdivision (d) of this section for extenuating circumstances, including, but not limited to, where a licensee lawfully acquired a handgun in another jurisdiction and has not maintained the Bill of Sale. The licensee

shall contact the License Division via email at DG_LIC-Purchaseorders@NYPD.org with a detailed explanation of such extenuating circumstances so that the License Division may provide individualized guidance on lawfully registering their firearm(s). The License Division may require the submission of additional information in such circumstances.

(g) Number of handguns allowed on a handgun license. The number of handguns allowed under each type of handgun license is listed below:

- (1) Premises Residence – One handgun, except that additional handguns shall be approved upon request after the licensee shows evidence of appropriate safeguarding and establishes compliance with the mandatory waiting periods pursuant to subdivision (b) of § 10-302.1 of the Administrative Code and § 400.20 of the Penal Law.
- (2) Premises Business – One handgun.
- (3) Carry and Special Carry – Two handguns, provided that requests for additional handguns shall be evaluated in accordance with the standards set forth for a premise residence license in paragraph (1) of this subdivision. Carry and Special Carry licensees may only carry one (1) handgun at a time. Additional handguns must remain safeguarded.
- (4) Carry Guard and Special Carry Guard – One handgun. Requests for additional handguns shall be reviewed on an individual basis.
- (5) Gun Custodian – Number of handguns shall be determined by the Division Head, License Division, consistent with the demonstrated needs of the applicant.

(h) Requests for amendments to “Special Carry” and “Special Carry Guard” licenses – Holders of “Special Carry” licenses shall comply with the purchase authorization request guidelines of the county in which they hold their Carry handgun license. Once the addition has been made to a county handgun license, a request to amend a licensee’s New York City Special Carry license may be made to the License Division, in writing, via email to: DG_LIC-Purchaseorders@NYPD.org. The following documents shall accompany the request:

- (1) The licensee’s current County Carry license;
- (2) A copy of the county Handgun Purchase Authorization form; and
- (3) A copy of the Bill of Sale.

(i) Provisions of this section adopted on an emergency basis pursuant to section 1043 of the New York City Charter after October 11, 2024 are deemed to have been in effect on and after such date, notwithstanding the promulgation of such provisions at a later date.

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 by a non-resident applicant, is required to adequately regulate handgun use and ownership by non-residents.

Current NYPD rules do not contain formal procedures for applicants who do not reside in New York State, are not principally employed within New York City, and do not have their principal place of business in New York City. A process by which non-State residents can apply for a carry license will ensure that the City is able to properly regulate handgun ownership within the NYC while also complying with the Bruen decision.

In order to maintain a clear and publicly accessible policy, New York City must immediately implement an operative concealed carry licensing process for non-resident applicants to address an imminent threat to safety and property. This emergency rule ensures that all applications are evaluated consistent with the Supreme Court's decisions in N.Y. State Rifle & Pistol Ass'n v. Bruen, 142 S. Ct. 2111 (2022), and United States v. Rahimi, 602 U.S. ___ (2024), while also maintaining a licensing scheme that preserves public safety within the City. Delaying implementation of the additional rules would severely impede New York City's ability to effectively and legally regulate handgun ownership within its jurisdiction.

Additional amendments to the NYPD rules contained in this emergency rulemaking will ensure that the Police Department can continue to comply with the standards articulated in the Bruen and Rahimi decisions in a timely and appropriate fashion. Delaying implementation would severely impede New York City's ability to effectively and legally 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 is necessary in order to maintain the public's safety.

Dated: October 17, 2024

_____/s_____

Thomas G. Donlon
Police Commissioner

Dated: October 18, 2024

Approved

_____/s_____

Eric Adams
Mayor of the City of New York