

## NOTICE OF PUBLIC HEARING

**Subject:** Opportunity to Comment on Proposed Rule Amendment regarding the issuance of Certificates of Conduct.

**Date / Time:** October 17, 2012 at 10:00 A.M. until 1:00 P.M.

**Location:** One Police Plaza  
2<sup>nd</sup> Floor Press Room  
New York, NY

**Contact:** Commanding Officer, Legal Bureau  
One Police Plaza  
Room 1406A  
New York, NY 10038  
(646) 610-5400

### Proposed Rule

Pursuant to the authority vested in the Police Commissioner by Sections 434 (b) and 1043 of the New York City Charter, the New York City Police Department (the "Department") is proposing to amend Chapter 9 of Title 38 of the Rules of the City of New York regarding the issuance of Good Conduct Certificates. This proposed rule did not appear in the Department's regulatory agenda because it was not anticipated at the time the agenda was published.

### Instructions

- Prior to the hearing, you may submit written comments about the proposed amendment by mail to the address above, or electronically to the NYC Rules website at [www.nyc.gov/nycrules](http://www.nyc.gov/nycrules) by 10:00 A.M. on October 17, 2012.
- Individuals who would like to testify are requested, but not required, to notify the Commanding Officer, Legal Bureau, at the above address at least five (5) days before the hearing.
- To request a sign language interpreter or other form of reasonable accommodation for a disability at the hearing, please notify the Commanding Officer, Legal Bureau at the above address by 5:00 P.M. on October 10, 2012.
- Written comments and a summary of oral comments received at the hearing will be available for public inspection, within a reasonable time after receipt, between the hours of 9:30 AM and 4:30 PM at the office of the Commanding Officer, Legal Bureau.

## Statement of Basis and Purpose

Sections 434 (b) and 1043 of the New York City Charter authorize the Police Commissioner to promulgate rules regarding the issuance of Good Conduct Certificates. These certificates give City residents a reliable way to officially document their personal criminal record histories, or lack thereof, in order to secure employment, immigration services and visas, and for various other purposes.

The Department has reviewed the Certificate issuance process and is proposing the following amendments to Chapter 9 of Title 38 of the Rules of the City of New York:

1. Better identify the nature of the Certificate.
  - The name of the Certificate would be changed from Good Conduct Certificate to Certificate of Conduct, because a certificate may include a listing of an applicant's criminal record.
2. Raise the fee for the Certificate.
  - The required fee would be raised for the first time in at least twenty years to better reflect the increased costs incurred by the Police Department.
3. Ensure the Certificate is more secure against fraud and abuse.
  - The amendments would delete a provision that allowed former City residents to obtain a Certificate by mail, and would change some additional documentation requirements.
  - These changes are necessary in order to help reduce fraudulent applications and prevent individuals from wrongfully using the Certificate in order to obtain documents from other entities. Document security is an important consideration in combating identity theft and terrorism.
4. Create a mechanism for applicants, for immigration purposes only, who are not able to be fingerprinted.
  - The amendments would codify existing practice that, for immigration purposes only, certain people, including those who do not have fingerprints, the aged or the infirmed, may be issued a Police Clearance Letter without fingerprints, instead of a Certificate. The Police Clearance Letter would note that it was issued without a search using the applicant's fingerprints and would be delivered directly to the United States Department of Homeland Security.
5. Change hours of operation.
  - The office hours of the Public Inquiry & Request Section at One Police Plaza would be changed to allow employees more time to process applications during the workday.

The Department is also proposing to amend section 14-04 of Chapter 14 of Title 38:

- This section sets the fees the Police Department may charge when a person requests fingerprinting for purposes not related to criminal proceedings.
- The Police Department seeks to change the fee charged in these circumstances to better reflect increased costs; the fee has not been changed in at least twenty years.

“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.

New text is underlined; deleted material is in [brackets].

\* \* \*

Section 1. Chapter 9 of title 38 of the rules of the city of New York is amended to read as follows:

Chapter 9  
[Good Conduct Certification] Certificate of Conduct

**§ 9-01 Instructions for Obtaining a [Good Conduct] Certificate of Conduct**

**§ 9-02 [Additional Instructions] Required Documentation**

**§ 9-01 Instructions for Obtaining a [Good Conduct] Certificate of Conduct**

An applicant for a [Good Conduct] Certificate [who is a New York City resident] of Conduct must apply in person at the Public Inquiry & Request Section, located at One Police Plaza, New York, New York, Room 152-A, Monday through Friday, from 9 a.m. to [4:30] 3 p.m. except for legal holidays.

An applicant will be fingerprinted only at the Public Inquiry & Request Section and will be required to present a [thirty (\$30.00)] fifty (\$50.00) dollar Money Order or Certified Check payable to the New York City Police Department, or a valid credit card. This fee covers fingerprinting and application processing costs. Processing takes approximately ten working days. A Certificate of Conduct may not be issued without the taking of fingerprints.

In cases where the taking of fingerprints is an impossibility due to the applicant’s physical condition, where the applicant is aged or infirm, or where other conditions exist as determined by the Commissioner that would render the taking of fingerprints a physical hardship, the Department may issue a Police Clearance Letter. Police Clearance Letters will be issued for immigration purposes only and will be issued based solely on a criminal record search using the applicant’s name and date of birth. Police Clearance Letters will not be provided directly to the applicant; instead, the Department will deliver the Police Clearance Letter to the United States Department of Homeland Security. Applicants requiring a Police Clearance Letter must pay the same fee that Certificate of Conduct applicants pay.

**§ 9-02 [Additional Instructions] Required Documentation**

(a) United States Citizens. A United States citizen is required to bring [a letter from the Consulate or requesting source i.e., Adoption Agency, State Liquor Authority, etc. and] the following as proof of citizenship:

- (1) [Birth certificate or] Valid U.S. Passport, OR
- (2) Birth Certificate AND either a valid Driver's License or a DMV-issued Identification Card, OR
- (3) Voter's Registration Card [(3) Passport] AND either a valid Driver's License or a DMV-issued Identification Card, OR
- (4) Naturalization Certificate.

(b) Non-citizens. A Non-citizen is required to bring the following when making application:

- (1) Valid Passport or Alien Registration Card or Employment Authorization Card, OR
- (2) Letter from [the Department of Immigration and Naturalization Service] the Department of Homeland Security (United States Citizenship and Immigration Services) indicating applicant's name, address, alien registration number and current status in this Country AND a valid U.S. government photo identification, OR
- (3) Letter from applicant's Consulate or Attorney which contains applicant's physical description and date of birth AND a valid U.S. government photo identification.

[(c) Former New York City Residents. To obtain a Good Conduct Certificate for someone residing outside New York City, who was formerly a New York City resident, the following must be sent or delivered to the Public Inquiry & Request Section, One Police Plaza, New York, New York 10038-1497, Room 152-A:

- (1) An official fingerprint chart bearing applicant's fingerprints from the location where the applicant resides. The chart must contain the signature of the official who fingerprinted the applicant and the date the applicant was fingerprinted.
- (2) Thirty (\$30.00) dollar Money Order or Certified Check, payable to the New York City Police Department.]

§ 2. Section 14-04 of chapter 14 of title 38 of the rules of the city of New York is amended to read as follows:

**§14-04 Fees for Non-Criminal Fingerprinting.**

When a person requests a member of the Department to take his or her fingerprints for purposes not related to criminal proceedings, the following fees shall be collected:

- (a) [Fifteen (\$15.00)] Twenty-five (\$25.00) dollars for first set of fingerprints.
- (b) One (\$1.00) dollar for each additional set of prints taken at the time the first set of fingerprints is taken.
- (c) The above fees shall be tendered at the time of fingerprinting by Money Order or Certified Check made payable to the New York City Police Department, or a valid credit card.

**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: Amendment of Rules Governing Issuance of Certificates of Conduct**

**REFERENCE NUMBER: NYPD-2**

**RULEMAKING AGENCY: New York City 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 it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Rachel Squire  
Mayor's Office of Operations

8/13/2012  
Date

**NEW YORK CITY LAW DEPARTMENT**

**100 CHURCH STREET**

**NEW YORK, NY 10007**

**212-788-1087**

**CERTIFICATION PURSUANT TO**

**CHARTER §1043(d)**

**RULE TITLE:** Amendment of Rules Governing Issuance of Certificates of Conduct

**REFERENCE NUMBER:** 2012 RG 50

**RULEMAKING AGENCY:** 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

Date: August 10, 2012

Acting Corporation Counsel