

Title 38 of the Rules of the City of New York is amended by adding a new Chapter 20, to read as follows:

**Chapter 20 Possession and Deployment of Biological, Chemical and Radiological Detectors**

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**§ 20-01 Introduction.**

The following rules and regulations are hereby promulgated for the purpose of implementing Chapter 8 of Title 10 of the New York City Administrative Code, regarding the possession and/or deployment of biological, chemical or radiological detectors. Permit holders are held responsible for the strict adherence to these rules. Any violation thereof is punishable as a misdemeanor and is cause for suspension and/or revocation of the subject permit.

**§ 20-02 Definitions.**

**Alarm.** The term “alarm” shall mean any alarm or other indication of a biological, chemical or radiological detector that indicates the presence of a biological agent, chemical agent, radiation or radioactive substance at the level or levels prescribed in these rules.

**Applicant.** The term “applicant” shall mean the person, firm, partnership, corporation or company who intends to possess and/or deploy a biological, chemical or radiological detector.

**Biological agent.** The term “biological agent” shall mean any micro-organism, including bacteria and viruses, or structural components or products of such micro-organisms, including toxins, whether engineered or naturally-occurring, that are capable of causing death, disease or other biological malfunction in a living organism, deterioration of food or water, or deleterious alteration of the environment.

**Biological detector.** The term “biological detector” shall mean an instrument used for the purpose of monitoring the release or presence of one or more biological agents, including an instrument which samples the atmosphere for such purpose.

**Chemical agent.** The term “chemical agent” shall mean a chemical which through its action on life processes can cause death, serious physical injury or permanent harm to humans or animals and shall include but not be limited to toxic industrial chemicals and chemical warfare agents as identified by the Commissioner.

**Chemical detector.** The term “chemical detector” shall mean an instrument used for the purpose of monitoring the release or presence of one or more chemical agents, including an instrument which samples the atmosphere for such purpose.

**Commissioner.** The term “Commissioner” shall mean the police commissioner of the city of New York or his or her designee.

1 **Deploy.** The term “deploy” shall mean use or operate a biological, chemical or radiological  
2 detector.

3 **Deployment.** The term “deployment” shall mean the use or operation of a biological, chemical  
4 or radiological detector.

5 **License Division.** The term “License Division” shall mean the License Division of the New  
6 York City Police Department.

7 **Permit.** The term “permit” shall mean the permit issued by the Commissioner for possession or  
8 deployment of a biological, chemical or radiological detector.

9 **Radioactive substance.** The term “radioactive substance” shall mean a substance that emits  
10 ionizing radiation including alpha, beta, gamma or neutron radiation.

11 **Radiological detector.** The term “radiological detector” shall mean an instrument used for the  
12 purpose of monitoring the release or presence of radiation or a radioactive substance.

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14 **§ 20-03 Applications.**  
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16 (a) Application for a permit or for renewal of such permit shall be made to the License Division,  
17 New York City Police Department, One Police Plaza, Room 110A, New York, New York  
18 10038, (646) 610-5560. If the applicant is a partnership, the application shall be filed by a  
19 partner. If the applicant is a corporation, the application shall be filed by an officer of the  
20 corporation. Applications shall be filed upon a form prescribed by the Commissioner and  
21 subscribed and sworn to by the applicant, under penalty of perjury. A false statement on the  
22 application or false or misleading documentation submitted with the application shall be grounds  
23 for disapproval.

24 (b) The applicant shall provide a certified copy of its articles of incorporation, if applicable. If  
25 the names of current officers do not appear in articles, a certified copy of the minutes of the  
26 directors' meeting at which current officers were elected shall be submitted with the application.  
27 If the applicant is a partnership or uses a trade name, a certificate from the county clerk of the  
28 county in which the certificate is recorded shall be filed with the application. Applicants shall  
29 also provide a list of the names and positions of all individuals who will have access to the  
30 biological, chemical and/or radiological detector(s) intended to be possessed and/or deployed.

31 (c) The applicant shall provide a detailed description of the biological, chemical and/or  
32 radiological detector(s) intended to be possessed and/or deployed, including the maker, model  
33 number (if applicable), technical specifications, threshold alarm setting(s), ~~the manner in which~~  
34 the detector(s) will be installed and maintained, ~~the location of such installation (or, if such~~  
35 detector is portable, a description of the types of locations in which it will be deployed), and the  
36 manner by which such detector will indicate or transmit an alarm. The applicant shall further  
37 provide a copy of the ~~proposed~~ emergency action plan to be implemented in the event of an

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1 alarm, including any such plan developed pursuant to section 27-4267.4 of the New York City  
2 Administrative Code.

3 (d) No permit will be issued unless the applicant is of good moral character and fit to possess  
4 and deploy the biological, chemical or radiological detector(s) for which the permit is sought. In  
5 determining the character and fitness of the applicant, the Commissioner may consider material  
6 information including but not limited to:

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7 (i) whether an individual applicant, partner or corporate officer has been convicted of a  
8 crime;

9 (ii) whether the applicant has made a false material statement in the application or has  
10 failed to provide additional material information as required by these rules;

11 (iii) whether the applicant has the resources necessary to properly install and maintain the  
12 detector(s);

13 (iv) whether the applicant has previously been denied approval of a permit application  
14 and if so the grounds for such denial;

15 (v) whether the applicant or his or her authorized employees or agents have failed to  
16 comply with the provisions of Chapter 8 of Title 10 of the New York City Administrative Code  
17 or these rules or the terms and conditions of a permit;

18 (vi) whether the permit holder or his or her authorized employees or agents have failed to  
19 comply with the instructions of the Police Department or cooperate in any investigation relating  
20 to the permit or to the biological, chemical or radiological detector for which a permit was  
21 issued; or

22 (vii) whether a permit held by the applicant has previously been suspended or revoked.

23 (e) Individuals or entities seeking to possess or deploy multiple detectors or seeking to deploy a  
24 detector in multiple locations may so specify in their application, so that they may receive a  
25 permit which will cover such specified possession and deployment without requiring an  
26 individual permit for each detector and/or location.

27 (f) Applications will be reviewed and investigated, including whether the biological, chemical  
28 and/or radiological detector(s) sought to be possessed and/or deployed meet the minimum  
29 technical standards prescribed in Section 20-04 of these rules. Applicants shall cooperate with  
30 all reasonable requests by the Commissioner for additional information as necessary, including  
31 making the detector(s) available for inspection or testing at the discretion of the Commissioner.  
32 Applicants may also be required to meet with the Commissioner's designee and/or  
33 representatives of other appropriate City agencies in order to coordinate potential emergency  
34 response to an alarm indicated or transmitted by a biological, chemical and/or radiological  
35 detector.

36 (g) During the pendency of the application, the applicant shall notify the License Division of any  
37 necessary correction to or modification of the information provided in the original application, or

1 any material change in the applicant's status or circumstances. For purposes of these rules, a  
2 "material change" shall include information which it is reasonable to assume would affect the  
3 Commissioner's consideration of the permit application.

4 (h) Permit holders shall be required to sign an acknowledgment that they shall be responsible for  
5 compliance with all laws, rules, regulations, standards, and procedures promulgated by federal,  
6 state, or local jurisdictions, and by federal, state, or local law enforcement agencies, that are  
7 applicable to the permit, including but not limited to standards for installation, maintenance,  
8 monitor and repair of detectors and training of personnel responsible for such activities. The  
9 License Division shall provide the licensee with the acknowledgment statement to be executed.  
10 This acknowledgment statement shall be notarized. Failure to execute the acknowledgment  
11 statement and to have it notarized shall result in the license application being denied.

12 (i) The Commissioner shall render a determination on an application for a permit or for  
13 renewal thereof within 30 days of completion of the review and investigation of the permit  
14 application, provided that where the Commissioner has previously approved a permit for the  
15 same type and model of biological, chemical or radiological detector sought to be possessed or  
16 deployed, whether submitted by the applicant or by another individual or entity, the  
17 Commissioner shall render a determination on an application for a permit or for renewal thereof  
18 within 30 days of receipt of a completed application. *Where the commissioner fails to render a*  
19 *determination on an application for a permit or for renewal thereof in accordance with this*  
20 *subdivision, such application shall be deemed approved and the applicant shall be subject to the*  
21 *requirements applicable to a permit holder set forth in Chapter 8 of Title 10 of the New York*  
22 *City Administrative Code and these rules until such time as such person's application for a*  
23 *permit or renewal thereof is denied.*

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26 **§ 20-04 Minimum Technical Standards.**

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28 (a) In order to be eligible for issuance of a permit, detectors must employ sampling, collection  
29 and detection technologies as well as laboratory analytical methods which have been validated  
30 by a U.S. governmental entity which possesses authority and/or expertise in the field relating to  
31 the type of detector to be possessed and/or deployed. Examples of entities promulgating relevant  
32 standards include the Department of Homeland Security, Centers for Disease Control and  
33 Prevention, National Institute of Standards and Technology, and the Occupational Safety and  
34 Health Administration. Such technologies and analytical methods shall be evaluated by the  
35 Police Department and must compare favorably to technologies and analytical methods currently  
36 used by the City of New York for the early warning of biological, chemical or radiological  
37 incidents.

(b) Detectors must be installed and maintained in accordance with manufacturer specifications and consistent with applicable standards established or validated by a U.S. governmental entity which possesses authority and/or expertise in the field relating to the type of detector to be possessed and/or deployed as provided in subdivision (a) of this section.

**§ 20-05 Exceptions.**

(a) Notwithstanding the provisions of Chapter 8 of Title 10 of the New York City Administrative Code, no permit or notification of alarm is required for the following types of detectors:

(i) Smoke alarms;

(ii) Carbon monoxide detectors;

(iii) Radon detectors;

(iv) Hand-held or portable radiological detectors or Geiger counters designed and

intended for use by individuals; and

(v) Detectors which are not possessed or deployed with a purpose of detecting a possible biological, chemical or radiological weapons attack, including:

(A) Detectors possessed or deployed by an accredited academic or instructional

institution in an academic setting, whether in a laboratory, classroom or in the field, by

instructors or students, for the purpose of academic instruction;

(B) Radiation detectors possessed and deployed by hospitals and other health care delivery settings, except for fixed portal radiation detectors;

(C) Detectors possessed or deployed by utilities or in an industrial setting for the purpose of monitoring internal air quality or leakage of hazardous materials; and

(D) Detectors possessed or deployed by certified industrial hygienists, labor unions and other individuals or entities responsible for or engaging in testing or monitoring of workplace or environmental safety.

(b) The determination regarding whether a detector shall not require a permit or notification of an alarm pursuant to subdivision a of this section because it is not possessed or deployed with a purpose of detecting a possible biological, chemical or radiological weapons attack shall be made by the commissioner based upon the totality of the circumstances surrounding the proposed or actual possession or deployment of such detector.

(c) It shall be unlawful for any person to misrepresent the nature of the proposed or actual possession or deployment of a biological, chemical or radiological detector.

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**§ 20-06 Issuance of Permit and Conditions.**

1 (a) A permit shall be issued by the Commissioner if he or she determines that the application and  
2 the biological, chemical or radiological detector(s) to be possessed or deployed meet the  
3 requirements of Chapter 8 of Title 10 of the New York City Administrative Code and these rules  
4 and that the applicant has shown good character and fitness to possess and deploy such detector.  
5 No permit shall be transferable to any other person or location. The permit shall describe the  
6 detector and location for which it is issued and shall be valid only for such detector and location.  
7 For individuals or entities possessing or deploying multiple detectors and/or one detector in  
8 multiple locations, the permit shall be issued to the individual or entity making application, and  
9 shall contain an appropriate description of the detectors, locations, and/or types of locations for  
10 which the permit is issued. The permit shall also describe the terms and conditions upon which it  
11 is issued, including but not limited to the conditions under which notification of an alarm is to be  
12 made to the Commissioner, the manner in which such notifications shall be made, the permittee's  
13 emergency response protocols, and the emergency action plan to be maintained by the permittee.  
14 (b) For detectors maintained in a stationary location, a permit issued pursuant to these rules shall  
15 be prominently displayed in close proximity to the detector for which it is issued, and shall be  
16 available at all times for inspection by members of the Police Department. For permits issued to  
17 an individual or entity possessing or deploying multiple detectors and/or one detector in multiple  
18 locations, the individual or authorized employee or agent of such entity shall be in possession of  
19 a copy of the permit issued to that individual or entity while possessing or deploying a detector  
20 for which a permit is required. Failure of any permittee to exhibit or produce the permit or a  
21 copy of the permit shall be presumptive evidence that the detector is not permitted.  
22 (c) If there is a change of officers in a corporation, the corporation shall send to the License  
23 Division a certified copy of the minutes showing names of new officers.  
24 (d) Change of address for any individual permit holder or for the location of the partnership,  
25 corporation or company shall be forwarded to the License Division within 48 hours after change  
26 becomes effective.  
27 (e) The permit holder shall notify the License Division of any material change in the information  
28 contained in the application, or in information subsequently supplied, or of other relevant  
29 circumstances affecting the permit. For purposes of these rules "material change" or "relevant  
30 circumstances" shall include information which it is reasonable to assume would affect the  
31 Commissioner's consideration of the continued possession of a permit, including but not limited  
32 to a change in the personnel having access to such detector, a malfunction of such detector,  
33 issuance of a false alarm by such detector, or the acquisition of a biological, chemical or  
34 radiological detector different from the detector for which the permit was issued.  
35 (f) Permit holders shall be held responsible for having knowledge of all new laws and/or  
36 amendments or regulations that may be enacted through legislation or promulgated by the Police  
37 Department affecting detectors.

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1 (g) Permit holders shall cooperate with all reasonable requests by the Police Department for  
2 information and assistance in matters relating to the permit.

3 (h) The permit shall expire on the last day of the fifth December after the date of issue and may  
4 be renewed for five-year terms thereafter by submission of an application for renewal as  
5 described in Section 20-03 of these rules. All permit holders shall be held responsible for  
6 renewing their permits upon expiration. Failure to renew a permit after expiration shall result in  
7 the cancellation of the permit. Any application to renew a permit that has not previously expired,  
8 been revoked, suspended or cancelled shall thereby extend the term of the license until  
9 disposition is made of the application.

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11 **§ 20-07 Disapproval of Application.**

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13 If the application is disapproved the applicant shall receive a written "Notice of Application  
14 Disapproval" from the License Division indicating the reason(s) for the disapproval. If the  
15 applicant seeks to appeal the decision it shall submit a sworn written statement, which shall be  
16 known as an "Appeal of Application Disapproval," to the Division Head, License Division, One  
17 Police Plaza, Room 110A, New York, New York 10038 within 30 calendar days of the date on  
18 the "Notice of Application Disapproval" requesting an appeal of the denial, and setting forth the  
19 reasons supporting the appeal. The Appeal of Application Disapproval shall become part of the  
20 application. It shall state the grounds for the appeal and shall contain the following statement to  
21 be signed by the applicant and notarized: "Under penalty of perjury, deponent being duly sworn,  
22 says that s/he is familiar with all of the statements contained herein and that each of these  
23 statements is true, and no pertinent facts have been omitted." All timely appeals shall receive a  
24 complete review of the applicant's entire file by the Division Head, License Division, who shall  
25 notify the applicant of his/her determination. If the appeal of the disapproval is denied, the  
26 organization shall receive a "Notice of Disapproval After Appeal" letter from the Division Head,  
27 License Division. This notice concludes the administrative review procedure.

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29 **§ 20-08 Notification of Alarm.**

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31 (a) The permit shall indicate the threshold level for the presence of a biological agent, chemical  
32 agent, radiation or radiological substance which shall be considered an alarm for the specified  
33 biological, chemical or radiological detector.

34 (b) The permit holder shall comply with directions contained in the permit regarding the manner  
35 of notification to the Commissioner of an alarm including utilization of specified technologies as  
36 prescribed in the permit, shall comply with the instructions of Police Department personnel, and  
37 shall cooperate in any resulting law enforcement investigation.

1 (c) If a biological, chemical or radiological detector for which a permit is required pursuant to  
2 Chapter 8 of Title 10 of the New York City Administrative Code is not permitted, an individual  
3 possessing and/or deploying such detector shall immediately call 9-1-1 if such detector indicates  
4 the presence of a biological agent, chemical agent, radiation or radiological substance at any  
5 level.

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7 **§ 20-09 Suspension and Revocation.**

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9 (a) A permit may be suspended and/or revoked by the License Division for good cause by the  
10 issuance of a “Notice of Determination Letter” to the permit holder, which shall state in brief the  
11 grounds for the suspension or revocation and notify the permit holder of the opportunity for a  
12 hearing. Good cause includes but is not limited to failure to adhere to the terms and conditions  
13 upon which the permit was issued, the malfunction of the subject detector, the issuance of a false  
14 alarm by the subject detector, or the acquisition of a biological, chemical or radiological detector  
15 different from the detector for which the permit was issued.

16 (b) If the permit is suspended or revoked, the permit holder shall be prohibited from deploying  
17 any detector in its possession and may be required to surrender such detector to the Police  
18 Department, at the discretion of the Commissioner.

19 (c) Upon issuance of a Notice of Determination Letter notifying the permit holder of suspension  
20 or of revocation of the permit, the permit holder shall immediately forward the permit to the  
21 License Division, and shall have 30 calendar days from the date on the Notice of Determination  
22 Letter to submit a written request for a hearing to the Commanding Officer, License Division,  
23 One Police Plaza, Room 110A, New York, New York, 10038.

24 (d) Upon receipt of the permit holder’s letter, the License Division shall schedule the permit  
25 holder for a hearing and notify the permit holder by mail.

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27 **§ 20-10 Request to Cancel Permit.**

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29 The permit holder shall notify the License Division if it wishes to cancel or decline to renew the  
30 permit by forwarding the permit and a notarized letter to the License Division.

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32 **§ 20-11 Surrender of Possession or Discontinuance of Deployment.**

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34 The Commissioner is authorized in his or her discretion to direct the surrender of possession  
35 and/or the discontinuance of deployment of a biological, chemical or radiological detector for  
36 which a permit is required pursuant to Chapter 8 of Title 10 of the New York City  
37 Administrative Code, whether permitted or not, upon the occurrence of an emergency in which

1 continued possession and/or deployment of such detector may constitute a threat to public safety  
2 or exacerbate a condition of public alarm.

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4 **§ 20-12 Consultation.**

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6 The License Division shall facilitate the ability of applicants and permit holders to consult with  
7 the Police Department regarding whether a permit is required for the possession or deployment  
8 of a biological, chemical or radiological detector or to make other inquiries relevant to the permit  
9 process by providing access to appropriate Police Department personnel, through telephone  
10 inquiries to (646) 610-5560 or electronic mail inquiries to XXXX.