

# NEW YORK CITY FIRE DEPARTMENT

## NOTICE OF OPPORTUNITY TO COMMENT

Notice of Opportunity to Comment on the Proposed Promulgation of a  
New Fire Department Rule, 3 RCNY §4900-03, entitled  
“Schedule of Charges For Fire Department Motorist Services”

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED in the Fire Commissioner of the City of New York pursuant to Section 487 of the New York City Charter, and in accordance with the requirements of Section 1043 of the New York City Charter, that the New York City Fire Department intends to promulgate a new rule, 3 RCNY §4900-03, entitled “Schedule of Charges For Fire Department Motorist Services.” The entire proposed rule is underlined to indicate that it is new.

A public hearing will be held on Friday, January 14, 2011, at 10:30 a.m., in the Auditorium at Fire Department Headquarters, located at 9 MetroTech Center, Brooklyn, New York 11201-3857. Persons seeking to testify are requested to notify the Counsel to the Department at New York City Fire Department, Bureau of Legal Affairs, 9 Metro Tech Center, 4th Floor, Brooklyn, New York 11201-3857. Persons who request that a sign language interpreter or other form of reasonable accommodation for a disability be provided at the hearing are requested to notify the Counsel of the Department at the foregoing address by December 23, 2010.

Written comments regarding this rule may be sent to the Counsel to the Department on or before January 14, 2011, at the above address. All 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 9:00 a.m. and 5:00 p.m., at the Office of the Counsel.

The Notice of Opportunity to Comment, Proposed Rule and Statement of Basis and Purpose will be available on the New York City Rules website, [www.nyc.gov/nycrules](http://www.nyc.gov/nycrules), and on the Fire Department Website at [www.nyc.gov/fdny](http://www.nyc.gov/fdny).

This Department did not include this proposed rule in a regulatory agenda because the need for such rule was not anticipated.

The Fire Department proposes to promulgate a new rule, §4900-03 of Title 3 of the Rules of the City of New York, to adopt the following schedule of charges for motorist services provided by the Fire Department:

**§4900-03 Schedule of Charges for Fire Department Motorist Services**

(a) Scope. This section sets forth the charges for Fire Department *motorist services* and provisions relating to the billing of such charges.

(b) Definitions. The following term shall, for purposes of this section and as used elsewhere in the *rules*, have the meaning shown herein:

**Motorist.** Any person who operates a motor vehicle, as that term is defined in New York State Vehicle and Traffic Law §125, or who is an owner of such vehicle, as defined in New York State Vehicle and Traffic Law §128.

**Motorist services.** Roadway and roadside services provided to *motorists* when their motor vehicles are involved in a collision or other motor vehicle-related incident on New York City highways, streets, private roads, or other locations where vehicles are operated. Such services include extinguishment of motor vehicle fires; securing the accident scene; stabilizing and searching the motor vehicle; evaluating *motorists* for injuries, providing first aid and assisting ambulance personnel; and washing off or otherwise removing debris from the roadway.

(c) General Provisions

(1) Billing of motorist services. The Department will bill the *motorist* to whom *motorist services* are provided; the insurance company insuring the *motorist* with respect to the motor vehicle for which the *motorist services* were provided; and/or other third party insurer or payor for such *motorist*. Such bill will be based on police and New York State Department of Motor Vehicles reports or other information obtained from the *motorists* involved in the incident or on-scene personnel. Nothing contained herein shall be deemed to affect the obligations of any other party, including the liability of the *motorist* at fault in the incident, or the insurance company insuring such *motorist*, to pay for such services under applicable insurance regulations, policies or practices.

(2) No denial of services. The Fire Department will provide *motorist services* irrespective of whether charges for such services have been billed or payment for such services have been received from any source.

(d) Schedule of Charges. Effective January \_\_\_\_, 2011, the charges for Fire Department motorist services are as follows:

<u>Type of Service</u>	<u>Charge</u>
<u>Vehicle Fire or Other Vehicle Incident</u>	
<u>    With Injuries</u>	<u>\$ 490.00</u>
<u>Vehicle Fire Without Injuries</u>	<u>\$ 415.00</u>
<u>Other Vehicle Incident Without Injuries</u>	<u>\$ 365.00</u>

*Note: Retain underlining of **highlighted** text in publication of final rule.*

#### STATEMENT OF BASIS AND PURPOSE FOR PROPOSED RULEMAKING:

The Fire Department is regularly called upon to provide services to motorists at the scene of vehicle collisions and other incidents on the city's highways, streets and private roads. These roadway and roadside services are the type of motorist services that are commonly covered by automobile insurance policies. Other jurisdictions currently bill motorists and their insurance companies as a means of recouping the high costs of providing such services. In these difficult economic times, the Fire Department can no longer afford to provide such services at no cost to those who require them.

This proposed rule sets forth the services for which motorists will be charged, the amount of the charges and the manner in which such charges will be billed.

The schedule of charges set forth in the proposed rule reflects the Fire Department's cost of providing these motorist services. The Fire Department has calculated its cost utilizing the standard City user cost analysis that includes the time spent by Fire Department engine company, ladder company and battalion personnel in providing these services; the apparatus, equipment and supplies they utilize; and administrative overhead (direct and indirect) and fringe benefits.

The Fire Department personnel costs includes the time spent responding to the accident scene; securing the roadway for safe operation; stabilizing the vehicle; searching the vehicle; evaluating motorists and their passengers for injuries; shutting off the engine and disconnecting the battery; washing off or otherwise removing debris from the roadway; and assisting other emergency responders and tow truck personnel. When there are injuries, Fire Department personnel triage the injured; provide first aid; and assist ambulance personnel. When there is a vehicle fire, Fire Department personnel open the engine compartment or trunk to facilitate firefighting operations, stretch a fire hose and/or use fire extinguishers to extinguish a fire. Regardless of the type of incident, Fire Department personnel normally remain on scene until the police arrive to ensure that there is no secondary accident.

The proposed rule specifically provides that the Fire Department will not deny motorist services based on the status of the billing or payment for such services.

4900-03 (motorist services rates) (12/3/10 publication)