
Firearms Laws and Permits



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April 2022

A Note About Content Updates to the NCSA Firearms Laws and Permits Publication

The NCSA Firearms Laws and Permits publication has been updated by John J. Aldridge, III, who is currently a partner at Smith Rogers & Aldridge, PLLC. Prior to entering private practice, John was an Assistant General Counsel to the North Carolina Sheriffs' Association and is also retired from the North Carolina Department of Justice (DOJ). At the time of his retirement from DOJ, John was the Special Deputy Attorney General in charge of the Law Enforcement Liaison Section.

John received a Bachelor of Science degree in Business Administration from East Carolina University in 1980 and a Juris Doctor from Campbell University School of Law in 1983. Following completion of law school, John was accepted into the United States Air Force Judge Advocate General's Corps where he served as a criminal prosecutor and advisor to the Air Force Office of Special Investigations. Following his active-duty tour, John served in the Judge Advocate General's Corps of the Air Force Reserves for 21 years. He retired from the United States Air Force on August 31, 2008, at the rank of Colonel. He also received North Carolina's highest award for public service, the Order of the Long Leaf Pine in 2013.

John has authored several publications on various aspects of North Carolina's Firearms Laws, Domestic Violence Laws, and North Carolina's Sex Offender Registry Program.

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1. Introduction

These materials are designed to provide the sheriffs of North Carolina training on the federal and State standards for the transfer and possession of the different types of firearms in North Carolina. They will also provide sheriffs with basic information and requirements for the issuance and revocation of pistol purchase permits and concealed handgun permits. These materials are intended to be a reference guide and questions on the application of these firearms laws to a particular fact situation should be addressed to your legal counsel.

2. Requirements for the Purchase of Firearms

The Brady Handgun Violence Prevention Act in 1994 established numerous procedures that govern purchases of firearms from federally licensed firearms dealers (FFL). On November 30, 1998, the “permanent” provisions of the Brady Law took effect and established the National Instant Criminal Background Check System (NICS) that FFLs must contact before transferring any firearm (handgun or long gun) to individuals. 28 CFR 25.1. The NICS system is operated by the Federal Bureau of Investigation (FBI).

The Bureau of Alcohol, Tobacco, and Firearms (BATF) concluded that the handgun permitting scheme established in N.C. complies with the exceptions provided in the Brady Law. Therefore, our handgun purchase permits and concealed handgun permits will suffice as a suitable alternative method for the purchase of a firearm in N.C. from an FFL under federal law.

All firearm sales from an FFL after November 30, 1998 must include a NICS inquiry or a recognized alternative, such as a valid N.C. pistol purchase permit or N.C. concealed handgun permit. The specifics of NICS and its alternatives are discussed below.

2.1 Federal Requirements

Unless an alternative is recognized, if an individual wants to purchase a firearm from an FFL, the FFL must contact the FBI’s NICS Operations Center by telephone. 18 U.S.C. § 922(t)(1)(A). The FFL will provide pertinent information about the purchaser to the NICS Center, which will conduct a check of their databases to verify or deny the individual’s eligibility to receive or possess firearms.

The NICS databases are:

1. Illegal/Unlawful Alien Files;
2. Controlled Substance Abuse Files;
3. Dishonorable Discharge Files;
4. Citizenship Renunciant Files;
5. Mental Commitment Order Files;
6. Wanted Persons Files;
7. Domestic Violence Protection Order Files; and

8. Criminal History Files 28 CFR 25.1

Prior to the sale taking place, the FFL will have the purchaser complete and sign BATF Form 4473, Firearms Transactions Record. 27 CFR § 478.124(a). The FFL will then verify the identity of the purchaser by examining a government-issued photographic identification card (for example, a driver's license). 27 CFR § 478.124(c)(3)(I). The dealer will then contact NICS.

The NICS Center will respond to the FFL with either a "proceed," "denied," or "delayed" response. If a "denied" response is received, the dealer will provide the person with literature on his/her appellate rights. If a "delayed" response is received and there is no additional response from the system, the sale can take place after three (3) business days have elapsed. 27 CFR § 478.102(a)(1).

FFLs must keep a copy of each BATF 4473 for which a NICS check has been initiated, regardless of whether the transfer of the firearm took place. If the transfer is not completed, the FFL must keep the Form 4473 for five (5) years after the date of the NICS inquiry. If the transfer is completed, the FFL must keep the Form 4473 for twenty (20) years after the date of the sale or disposition. 27 CFR § 478.129(b).

Since N.C. pistol purchase permits and N.C. concealed handgun permits qualify as an alternative to a NICS check, an FFL may conclude a sale of a handgun or long gun without a NICS check, if the purchaser presents a valid N.C. pistol purchase permit or N.C. concealed handgun permit.

NOTE: State law allows for the purchase of a single handgun with a single valid purchase permit. Multiple long guns may be purchased with a single pistol purchase permit or concealed handgun permit; however, they must be purchased in a single transaction. Therefore, if a person wishes to buy one, or several, long guns at a time, the purchaser could present a N.C. purchase or N.C. concealed handgun permit to the firearms dealer and a NICS check would not be required to be accomplished.

If the transfer of a firearm is made by an FFL to a person pursuant to the permit alternative, the purchaser must first complete and sign the BATF Form 4473. As usual, the dealer will verify the identity of the purchaser by photographic identification. The permit must be valid and issued within the preceding five (5) years. 27 CFR § 478.102(d)(1)(ii). If a pistol purchase permit is used, the dealer will retain the original permit for the transaction. If a concealed handgun permit is used to buy a long gun, the dealer will either make a copy of the permit and attach it to the Form 4473 or record the permit number, issuance date and expiration date on the form.

Transfers of firearms to law enforcement officials for their official use are exempt from the provisions of the Brady Law under certain conditions. The purchaser must provide a certification on agency letterhead, signed by a person in authority within the agency (other than the officer purchasing the firearm), stating that the officer will use the firearm in official duties, and that a records check reveals that the purchasing officer has no convictions for misdemeanor crimes of domestic violence. If these conditions are met, the purchasing officer is not required to undergo a NICS check. However, the FFL must record the transaction in their permanent records and retain a copy of the certification letter. 27 CFR § 478.134.

2.2 North Carolina Requirements

Under State law, it is unlawful for any person, firm, or corporation to sell, give away, transfer, purchase, or receive, at any place in the State, any pistol, unless the purchaser or receiver has first obtained a permit to receive such a pistol by the sheriff of the county where the purchaser or receiver resides, or the purchaser or receiver possesses a valid N.C. issued concealed handgun permit. This requirement to obtain a permit prior to the transfer of a pistol applies to transactions between private individuals or companies throughout

the State. G.S. § 14-402(a).

A pistol purchase permit must also be obtained by the receiver of a handgun when such person inherits a pistol. In such a case, the permit should be given to the executor or receiver of the estate of the deceased person. The permit should be retained by the seller or donor of the handgun. If the purchaser or receiver uses a North Carolina concealed handgun permit for the transfer, the seller should reference such permit on a bill of sale.

Further, it is unlawful for any person to receive from any postmaster, postal clerk, employee in the parcel post department, rural mail carrier, express agent or employee, or railroad agent or employee, within the State, any pistol without having in his/her possession, such a pistol purchase permit or N.C. concealed handgun permit.

A violation of this pistol permit law is a Class 2 misdemeanor under N.C. law.

These pistol purchase permit requirements do not apply to the transfer of antique firearms or historic-edged weapons. An “antique firearm” is one that was manufactured on or before 1898 and includes any firearm with a matchlock, flintlock, percussion cap, or similar ignition system. It also includes a replica thereof if the replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition. It also includes any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder substitute, and which cannot use fixed ammunition. G.S. § 14-409.11(a).

However, the term “antique firearm” does not include any weapon which incorporates a firearm frame or receiver; is converted into a muzzle loading weapon; or is a muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breech lock, or any combination thereof. G.S. § 14-409.11(b).

2.3 Eligible Persons

2.3.1 Federal Law Requirements

The following categories of persons are ineligible to receive a firearm under federal law:

1. Persons under indictment or information in any court for “a crime punishable by imprisonment for a term exceeding one (1) year”;¹
2. Persons convicted in any court of a crime punishable by imprisonment for a term exceeding one (1) year.

NOTE: A person would be eligible however to possess a firearm if the person has been pardoned for the crime or conviction, the crime or conviction has been expunged or set aside, or the person has had his/her civil rights restored, and under the law where the conviction occurred, the person is not prohibited from receiving or possessing any firearm;

3. The person is a fugitive from justice;
4. The person is an unlawful user of, or addicted to, marijuana, or any depressant, stimulant, or narcotic drug, or any other controlled substance;

¹ A crime punishable by imprisonment for a term exceeding one (1) year, as discussed in 2.3.1 above, excludes state misdemeanors punishable by imprisonment for 2 years or less. Certain domestic violence misdemeanors discussed herein are however disqualifying misdemeanors under federal law. 18 USC § 922(d). SEC 6.c below

5. The person has been adjudicated mentally defective or has been committed to a mental institution. To be prohibiting, a commitment to a mental institution must be involuntary and it must result in the person being committed to either in-patient or out-patient treatment by a court.

NOTE: The Clerk of Superior Court in the county of record will transmit to the NICS system any court orders finding that a person has been involuntarily committed for in-patient or out-patient mental health or substance abuse treatment; that an individual is not guilty by reason of insanity; or that an individual is found to be mentally incompetent. G.S. § 14-409.43;

6. The person has been discharged from the U.S. armed forces under dishonorable conditions;
7. The person is illegally in the United States; or
8. The person, having been a citizen of the United States, has renounced his or her citizenship;
9. The person is convicted of a “misdemeanor crime of domestic violence.” This crime must have, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with, or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim. 18U.S.C. § 921(a)(33) and 18 U.S.C. § 922(g)(9).

NOTE: Under *U.S. v. Vinson*, 794 F. 3d 418 (2015) and *Underwood v. Hudson*, 781 S.E. 2d 295 (2015), the Fourth Circuit Court of Appeals and the N.C. Court of Appeals, respectively, held that the various N.C. assaultcrimes did not qualify as a “misdemeanor crime of domestic violence”.

2.3.2 North Carolina Requirements

A county sheriff is only authorized under G.S. § 14-402 to issue a permit to receive or purchase a handgun when an application is submitted by a person who is a resident of their particular county. The sole exception is that the sheriff may issue a permit to a non-resident when the purpose of the permit is for collecting. Prior to issuing a permit, the sheriff must fully satisfy themselves by affidavits, oral evidence, or otherwise, that the applicant is of “good moral character” and that the person, firm, or corporation wants to possess the handgun for one of the following purposes:

1. The protection of the applicant’s home, business, person, family, or property;
2. Target shooting;
3. Collecting; or
4. Hunting.

For purposes of determining an applicant’s good moral character, the sheriff can only consider the applicant’s “conduct and criminal history” for the five-year period prior to the date of the application. If a crime or condition occurs outside this five-year period, the sheriff may consider it only if the crime or condition is independently a disqualifier for a pistol purchase permit (i.e. a felony conviction or involuntary commitment).

What is “good moral character?” The term “good moral character” is not defined in our statutes, nor is there a case specifically on point as to what constitutes good moral character for purposes of a pistol purchase permit. However, there are a number of North Carolina appellate court cases that discuss an individual's good moral character for purposes of receiving a permit or license. The Supreme Court of North Carolina has said “that good moral character is honesty, fairness, and respect for the rights of others and for the laws of the State and nation.” *In re Willis*, 288 N.C.1, 10 (1975).

A lack of good moral character can be shown when surrounding facts or circumstances, viewed as a whole, reveal “a pattern of conduct that permeates the applicant's character and could seriously undermine public confidence...” *In re Legg*, 325 N.C. 658, 674 (1989). However, a person's good moral character can also be focused or defined by one or more instances if appropriately egregious. *In re Rogers*, 297 N.C. 48 (1979).

As applied to a pistol purchase permit, sheriffs should look at a pattern of conduct or a significant event occurring in the preceding five years which is representative of the person's current character and has a relationship to the individual's inability to possess firearms in a safe and responsible manner. For example, an individual with multiple charges involving unlawful discharge of or carrying of a firearm while using alcohol may fit these criteria.

Additionally, the sheriff must verify by a criminal history background investigation that it is not a violation of State or federal law for the applicant to purchase, transfer, receive, or possess a handgun. The sheriff shall determine the criminal history of any applicant by accessing computerized criminal history records as maintained by the State and Federal Bureaus of Investigation, by conducting a national criminal history records check, and by conducting a criminal history check through the Administrative Office of the Courts. G.S. § 14-404.

State law further specifies that a permit shall not be issued to the following:

1. An applicant who is under an indictment, or information for, or has been convicted in any state, or in any court of the United States, of a felony (other than an offense pertaining to anti-trust violations, unfair trade practices, or restraints of trade). However, a person who has been convicted of a felony and is later pardoned may obtain a permit, if the purchase or receipt of the pistol does not violate the conditions of the pardon, or the person has had their firearms rights restored under North Carolina law;
2. The applicant is a fugitive from justice;
3. The applicant is an unlawful user of or addicted to marijuana, any depressant, stimulant, or narcotic drug;
4. The applicant has been adjudicated incompetent or has been committed to any mental institution;
5. The applicant is an alien illegally or unlawfully in the United States;
6. The applicant has been discharged from the U.S. Armed Forces under dishonorable conditions;
7. The applicant, having been a citizen of the United States, has renounced his/her citizenship; or
8. The applicant is subject to a court order that:
 - a. Was issued after a hearing of which the applicant received actual notice, and at which the applicant had an opportunity to participate;

- b. Restrains the person from harassing, stalking or threatening an intimate partner of the person or child of the intimate partner of the person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
- c. Includes a finding that the person represents a credible threat to the physical safety of the intimate partner or child, or by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury.

G.S. § 14-404.

NOTE: The requirement for obtaining a permit before purchasing or receiving a handgun does not apply to law enforcement officers of North Carolina who are authorized by law to carry firearms.

2.4 Application Process, Public Records, Denials and Revocations

Applicants for a pistol purchase permit can only be required to submit the following items:

1. The permit application (created by the SBI) (Attachment 1);
2. \$5.00 for each permit requested;
3. A government-issued identification;
4. Proof of residency; and
5. A signed release (created by AOC) that authorizes and requires any entity that has court orders concerning the mental health or capacity of the applicant to be disclosed to the sheriff. (Attachment 1)

Each applicant for a permit must be informed by the sheriff within fourteen (14) days of the date of his/her completed application whether the permit will be granted or denied. When a sheriff is not fully satisfied with the applicant's good moral character or eligibility to receive a permit, he/she should notify the applicant of the reasons for his/her refusal to issue a permit within seven (7) days of the decision. **This notification must explain the specific facts and law upon which the sheriff concluded that the applicant was not qualified for the permit.** An applicant denied a permit has a right to appeal such denial to the superior court. G.S. § 14-404.

A permit is valid for a period of five (5) years. G.S. § 14-403. A sheriff is required to keep a list of all permits issued. This list should include the date of issuance, name, age, place of residence, and former place of residence of each person, firm, or corporation to whom a permit has been issued. G.S. § 14-405.

The sheriff must also keep a list of all permit denials, which includes the specific reasons for the denial; however, the list cannot contain any information that would identify the applicants.

Unlike the list of issued permits which is not public record, this list of denied permits is public record.

There is no limit to the number or frequency of permit applications and the sheriff will charge \$5.00 for each permit requested.

The sheriff must revoke a pistol purchase permit upon the occurrence of any event or condition that occurs after the issuance of the permit which would render the individual unable to lawfully receive a pistol purchase permit. The sheriff must provide written notice to the permittee that the permit is revoked. This notice shall also provide the permittee with information on how to appeal the revocation. Upon receipt of this written notice, the permittee must surrender the permit to the sheriff. Any law enforcement officer serving the notice is authorized to take immediate possession of the permit. If the notice was served on the permittee by means other than a law enforcement officer, the permittee must surrender his/her permit to the sheriff no later than forty-eight (48) hours after service of the notice. Any permittee who fails to do so is guilty of a Class 2 misdemeanor. The permittee may appeal the revocation by petitioning a district court judge of the district where the permittee lives. (Attachment 3)

The list of issued permits will also include the date that a permit was revoked, the date the permittee received notice of the revocation, whether the permit was surrendered, as well as the reason for the revocation. This list is updated upon each revocation so that any potential transferor may check on the status of a permit. These records are confidential and are not a public record. They may however be made available upon request to any federal, State, and local law enforcement agencies. Additionally, the sheriff will make the records available to a court if required to be released by court order.

The Pistol Purchase Permit Application and Mental Health Order Release form is attached to this document as Attachment 1.

A complete list of all pistol purchase permit requirements and disqualifiers is attached to this document as Attachment 2.

Pistol purchase permit denial and revocation instructions and forms are attached to this document as Attachment 3.

2.5 Temporary Transfers of Firearms

The transfer of a pawned firearm from a licensed pawnbroker back to the owner of the firearm is subject to the requirements of the Brady Law. A NICS inquiry, or an alternative, must therefore be accomplished prior to the redemption of a pawned firearm. North Carolina law does not require the owner to procure a handgun permit when redeeming the firearm.

It is the opinion of the BATF that a consigned handgun, which is not sold by the FFL and is subsequently returned to its true owner, is subject to the Brady Law.

A handgun which is delivered to an FFL by a person for the purposes of repair is not subject to the requirements of the Brady Law.

If the firearm is loaned or rented for use on the licensee's premises, the transaction is not subject to the Brady Law. However, if the firearm is loaned or rented for use off the premises, the licensee must comply with the Brady Law. 27 C.F.R. § 478.97.

2.6 Soliciting Unlawful Purchase

Any person who knowingly solicits, persuades, encourages, or entices an FFL or private seller of firearms or ammunition to transfer a firearm or ammunition under circumstances that the person knows would violate the laws of this State or the United States is guilty of a Class F felony.

Any person who provides to an FFL or private seller of firearms or ammunition information that the person knows to be materially false information with the intent to deceive the dealer or seller about the legality of a transfer of a firearm or ammunition is guilty of a Class F felony.

Any person who willfully procures another to engage in conduct prohibited by this section shall be held accountable as a principal to the crime.

This section does not apply to a law enforcement officer acting in his/her official capacity or to a person acting at the direction of the law enforcement officer. G.S. § 14-408.1.

2.7 Out-of-State Purchase

Unless otherwise prohibited by law, a citizen of this State may purchase a firearm in another state if the citizen undergoes a background check that satisfies the laws in the state of purchase and that includes an inquiry of the National Instant Background Check System. G.S. § 14-409.10.

3. Possessing and Carrying Firearms

3.1 Carrying Concealed Weapons

North Carolina law strictly controls the ability of individuals to carry weapons concealed. Except under the limited concealed handgun permit provisions of State law, described in Sections III. B. and C. below, and the exemptions set out below, it is unlawful for any person in this State, except when on his/her own premises, to willfully and intentionally carry concealed, either on or about his/her person, any “Bowie Knife, dirk, dagger, slungshot, loaded cane, metallic knuckles, razor, shurikin, stungun, or other deadly weapon of like kind.” Specifically exempted from the requirements of this law are ordinary pocket knives carried in a closed position. An ordinary pocket knife is defined as being “a small knife, that is designed to be carried in a pocket or purse, which has its cutting edge and point entirely enclosed by its handle. The knife must not be capable of being opened by a throwing, explosive, or spring action.” G.S. § 14-269.

Whether, in a given case, a weapon is concealed from the public is a question of fact. By using the phrase “concealed about his or her person,” this law makes it illegal to have a weapon concealed not only on a person, but also within a person’s convenient control and easy reach.

Only certain categories of persons in North Carolina are allowed, in particular circumstances, to carry concealed weapons. Concealed handgun permits will be discussed in detail later. The following categories of persons are generally exempt from the restriction of this State’s concealed weapons laws:

1. Officers and enlisted personnel of the armed forces of the United States when in the discharge of their official duties as such and when acting under orders requiring them to carry arms and weapons;
2. Civil and law enforcement officers of the United States;
3. Officers and soldiers of the Militia and the National Guard when called to actual service and any member of the N.C. National Guard who has a valid concealed handgun permit, has been designated by the N.C. Adjutant General, and is acting in the discharge of his/her duties, so long as the member is not consuming alcohol or unlawful controlled substances;

4. Officers of the State, or of any county, city, or town, charged with the execution of the laws of the State, when acting in the discharge of their official duties;
5. Any person who is a district attorney, an assistant district attorney, or an investigator employed by the office of a district attorney and who has a N.C. concealed handgun permit or permit considered valid under G.S. § 14-415.24. Except for district attorneys, the person shall not carry a concealed weapon at any time while in a courtroom. None of these people can carry a concealed weapon while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body. The district attorney, assistant district attorney, or investigator must secure the weapon in a locked compartment when it is not carried on his/her person;
6. Any person who is a qualified retired law enforcement officer as defined in G.S. § 14-415.10 and meets **any one (1)** of the following conditions:
 - a. Is the of a concealed handgun permit issued in accordance with Article 54B of Chapter 14.
 - b. Is exempt from obtaining a permit pursuant to G.S. § 14-415.25.
 - c. Is certified by the North Carolina Criminal Justice Education and Training Standards Commission pursuant to G.S. § 14-415.26;
7. Detention personnel or correctional officers employed by the State or a unit of local government who park a vehicle in a space that is authorized for their use in the course of their duties may transport a firearm to the parking space and store that firearm in the vehicle parked in the parking space, provided that: (i) the firearm is in a closed compartment or container within the locked vehicle; or (ii) the firearm is in a locked container securely affixed to the vehicle;
8. State probation or parole certified officers, State corrections officers, when off-duty, provided that an officer does not carry a concealed weapon while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the officer's body;
9. Sworn law enforcement officers, when off duty, provided that an officer does not carry a concealed weapon while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the officer's body;
10. Any person who is a North Carolina district court judge, superior court judge, magistrate, or an administrative law judge who has a concealed handgun permit, provided that the person cannot carry a concealed weapon at any time while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body. A North Carolina district or superior court judge or magistrate shall secure the weapon in a locked compartment when the weapon is not on his/her person;
11. Any person who is serving as a clerk of court or register of deeds and has a valid concealed handgun permit, provided that the person cannot carry a concealed weapon at any time while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in his/her body. The clerk of court or register of deeds must secure the weapon in a locked compartment when the weapon is not on his/her person. This allowance **does not** apply to assistants, deputies or other employees of the clerk or register of deeds;

12. Any individual with a valid concealed handgun permit (under either N.C. law or the law of issuance), provided the weapon is a handgun, is in a closed compartment or container within the person's locked vehicle, and the vehicle is in a parking area that is owned or leased by State government.
13. Any person employed by the Department of Public Safety who has a valid concealed handgun permit and has been designated in writing by the Secretary of the Department to carry a firearm.

G.S. § 14-269.

It is worth noting that while the law expressed in this publication is geared toward firearms, the limitations and cautions expressed for carrying concealed weapons apply to any other deadly weapon as well.

3.2 Law Enforcement Officers Safety Act of 2004 (Federal law)

Both in-state and out-of-state sworn law enforcement officers may carry concealed handguns in certain areas of North Carolina, if the officer meets all the criteria set forth under the federal law known as the Law Enforcement Officers Safety Act of 2004 (18 U.S.C. § 926B). A qualified officer is one who is an employee of a governmental agency; is authorized by law to enforce criminal laws with the statutory powers of arrest; is authorized to carry firearms by his/her agency; regularly qualifies with his/her firearm; is not under the influence of alcohol or drugs; and is not prohibited by federal law from receiving a firearm. The officer must carry valid photographic identification as an officer. While carrying in this State, the officer may not carry in either public or private areas where the possession of firearms is prohibited.

Also, pursuant to the Law Enforcement Officers Safety Act of 2004 (18 U.S.C. § 926C), certain qualified retired officers may be eligible to carry concealed handguns in this State. A qualified retired officer is one who separated in good standing from a public agency as a law enforcement officer; had statutory powers of arrest; had an aggregate of ten (10) years or more service (unless separated due to a service-connected disability); qualified within the previous 12 months with his/her handgun; is not under the influence of alcohol or drugs; and is not prohibited by federal law from receiving a firearm. While carrying in this State, the qualified retired officer may not carry in either public or private areas where the possession of firearms is prohibited.

A person meeting the definition of a qualified retired law enforcement officer may carry a concealed handgun in here, if he/she is carrying photographic credentials identifying him/herself as a qualified retired law enforcement officer, and the person has qualified with his/her handgun within the previous 12 months, either with the agency from which he/she retired, or as certified by the North Carolina Criminal Justice Education and Training Standards Commission (the Commission).

To gain such qualification from the Commission, the qualified retired officer must make application to the Commission by submitting a verification of firearms qualification, conducted by a firearms instructor who is certified by the Commission as a Law Enforcement Firearms Instructor. The qualified retired officer must also submit a copy of his/her photographic identification showing his/her separated status, and other information required by the Commission. A person making any intentional misrepresentation on this form is guilty of a Class 2 misdemeanor and may have his/her firearms qualification revoked. This status does not exempt the person from any other registration or training requirements necessary in the private protective services profession. Forms for this process may be obtained from the Criminal Justice Standards Division staff at (919) 661-5980. G.S. § 14-415.26.

3.3 Concealed Handgun Permit

Certain residents of this State may be eligible to obtain a permit which would allow them to carry a concealed handgun under certain conditions. G.S. § 14-415.11. No other weapons may be carried concealed pursuant to such permit.

North Carolina also allows out-of-state concealed handgun permittees to carry concealed handguns, pursuant to such permits, in this State. G.S. § 14-415.24(a). While carrying a handgun pursuant to such permit, qualified out-of-state permittees are held to the same standards as North Carolina permittees. Consequently, there are a number of areas where concealed handguns cannot be carried in this State, regardless of the individual having a permit to carry a concealed weapon.

3.3.1 Application

In order to acquire a North Carolina concealed handgun permit, an individual must apply to the sheriff's office in the county in which he/she resides. As part of the application process, the applicant must accomplish the following:

1. Complete an application, under oath, on a form provided by the sheriff's office(Attachment 4);
2. Pay a non-refundable fee of \$80.00;
3. Allow the sheriff's office to take two (2) full sets of fingerprints, which may cost up to \$10.00;
4. Provide an original certificate of completion of an approved handgun safety course; and
5. Provide a release authorizing disclosure to the sheriff of any record concerning the applicant's mental health or capacity. (Attachment 4)

G.S. § 14-415.13.

Any person or entity who is given an original or photocopied release form as described in G.S. § 14-415.13(a)(5), must promptly disclose to the sheriff any records concerning the mental health or capacity of the applicant who signed the form and authorized the release of the records. The sheriff must forward this request and release for records within 10 days of receiving the application materials. No person, company, mental health provider, or governmental entity may charge additional fees to the applicant for background checks. G.S. § 14-415.15(a).

NOTE: Permit fees for a N.C. retired sworn law enforcement officer can be reduced. The retired officer must provide a copy of the officer's letter of retirement from either the North Carolina Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System, and written documentation from the head of the agency where the person was previously employed, indicating that the person was neither involuntarily terminated nor under administrative or criminal investigation within six (6) months of retirement. Once presented, the fees are \$45.00 for an initial application and \$40.00 for a renewal application. G.S. § 14-415.19(a1)(1-2).

The sheriff has forty-five (45) days from the time mental health records are received to either issue or deny a permit. G.S. § 14-415.15(a). In order for an applicant to be approved, he/she must:

1. Be a citizen of the United States or have been lawfully admitted for permanent residence in the United States;
2. Have been a resident of the State of North Carolina for not less than thirty (30) days immediately preceding the filing of the application;
3. Be at least twenty-one (21) years of age;
4. Not suffer from any physical or mental infirmity that prevents the safe handling of a handgun; and
5. Have successfully completed an approved firearms training course (unless specifically exempted from the course by State law).

G.S. § 14-415.12(a)(1-5).

The sheriff must deny the permit if certain prohibitions exist. The application must be denied if the applicant:

1. Is ineligible to possess or receive a firearm under federal or State law;
2. Is under indictment or against whom a finding of probable cause exists for a felony, or has ever been adjudicated guilty in any court of a felony, unless the person's firearms rights have been restored under G.S. § 14-415.4, or the felony was for an antitrust, unfair trade, or restraint of trade violation;
3. Is a fugitive from justice;
4. Is an unlawful user of or addicted to marijuana, alcohol, or any depressant, stimulant or narcotic drug, or any other controlled substance;
5. Is currently, or has previously been adjudicated by a court, or administratively determined by a governmental agency whose decisions are subject to judicial review, to be lacking mental capacity or mentally ill. Receipt of previous consultative services or outpatient treatment alone shall not disqualify an applicant;
6. Has been discharged from the U.S. armed forces under conditions other than honorable;
7. Has been convicted of an impaired driving offense under G.S. § 20-138.1, 20-138.2 or 20-138.3 within three (3) years prior to the date of application submission;
8. Has had an entry of prayer for judgment continued for a criminal offense which would disqualify the applicant from obtaining a concealed handgun permit;
9. Is free on bond or personal recognizance pending trial, appeal, or sentencing for a crime which would disqualify him/her from obtaining a concealed handgun permit; or
10. Effective July 1, 2015 for all concealed handgun permit applications submitted on or after that date, an applicant who has been found guilty of or received a prayer for judgment continued or a suspended sentence for one of the following crimes listed in (a) through (t), **AND THREE YEARS HAS PASSED PRIOR TO SUBMITTING THE APPLICATION**, can (if otherwise qualified) receive a concealed handgun permit:

- a. G.S. § 14-33(a), Simple assault;
- b. G.S. § 14-226.1, Violation of court orders;
- c. G.S. § 14-258.1, Furnishing poison, controlled substances, deadly weapons, cartridges, ammunition or alcoholic beverages to inmates of charitable, mental or penal institutions, or local confinement facilities;
- d. G.S. § 14-269.2, Carrying weapons on campus or other educational property;
- e. G.S. § 14-269.3, Carrying weapons into assemblies and establishments where alcoholic beverages are sold and consumed;
- f. G.S. § 14-269.4, Carrying weapons on State property and courthouses;
- g. G.S. § 14-269.6, Possession and/or sale of spring-loaded projectile knives;
- h. G.S. § 14-277, Impersonation of a law enforcement or other public officer;
- i. G.S. § 14-277.1, Communicating threats;
- j. G.S. § 14-277.2, Carrying weapons at parades and other public gatherings;
- k. G.S. § 14-283, Exploding dynamite cartridges and/or bombs (however fireworks violations under G.S. § 14-414 are NOT a bar);
- l. G.S. § 14-288.2, Rioting and inciting to riot;
- m. G.S. § 14-288.4(a)(1), Fighting or conduct creating the threat of imminent fighting or other violence;
- n. G.S. § 14-288.6, Looting and trespassing during an emergency;
- o. G.S. § 14-288.9, Assault on emergency personnel;
- p. Former G.S. § 14-288.12, Violations of city State of Emergency Ordinances;
- q. Former G.S. § 14-288.13, Violations of county State of Emergency Ordinances;
- r. Former G.S. § 14-288.14, Violations of State of Emergency Ordinances;
- s. G.S. § 14-415.21(b), Violations of the standards for carrying a concealed weapon;
- t. G.S. § 14-415.26(d), Misrepresentation on certification of qualified retired law enforcement officers.

11. Effective July 1, 2015 for all concealed handgun permit applications submitted on or after that date, an applicant IS permanently disqualified from receiving a concealed handgun permit if the applicant is or has been found guilty of or received a prayer for judgment continued or suspended sentence for the following misdemeanor crimes:

- a. Misdemeanor crimes that involve violence and crimes under Article 8 of Chapter 14 (other than the misdemeanors listed in paragraph 10(a) through (t) above). Prohibiting crimes under Article 8 of Chapter 14 are:
 - i. Assault on handicapped persons (G.S. § 14-32.1(f)); Assaults on sports officials (G.S. § 14-33(b)(9));
 - ii. Assault on government employee (G.S. § 14-33(c)(4));
 - iii. Assault on school employee (G.S. § 14-33(c)(6));
 - iv. Assault on public transit operator (G.S. § 14-33(c)(7));
 - v. Assault on company police officer (G.S. § 14-33(c)(8));
 - vi. Assault by pointing a gun (G.S. § 14-34);
 - vii. Possession of Teflon coated bullets (G.S. § 14-34.3);
 - b. G.S. §14-33(c)(1), Assault inflicting serious injury or using a deadly weapon;
 - c. G.S. § 14-33(c)(2), Assault on a female;
 - d. G.S. § 14-33(c)(3), Assault on a child under the age of 12;
 - e. G.S. § 14-33(d), Assault inflicting serious injury or using a deadly weapon on a person in a personal relationship and in the presence of a minor;
 - f. G.S. § 14-277.3A, Stalking;
 - g. G.S. § 14-318.2, Child abuse;
 - h. G.S. § 14-134.3, Domestic criminal trespass;
 - i. G.S. § 50B-4.1, Domestic violence protective order violations;
 - j. Former G.S. § 14-277.3, Stalking;
 - k. Any person convicted of a “misdemeanor crime of domestic violence” as defined in federal law at 18 U.S.C. § 922(g)(8);
 - l. Any crimes involving an assault or a threat to assault a law enforcement officer, probation or parole officer, person employed at a State or local detention facility, firefighter, emergency medical technician, medical responder, or emergency department personnel.
- G.S. § 14-415.12(b)(1-11).

The Concealed Handgun Permit Application and Mental Health Records Release form is attached to this document as Attachment 4.

A complete list of all concealed handgun permit requirements and disqualifiers is attached to this document as Attachment 5.

Concealed handgun permit denial/revocation instructions and forms are attached to this document as Attachment 6.

3.3.2 Renewal

Once the applicant is issued the permit to carry a concealed weapon, he/she must renew the permit every five (5) years. G.S. § 14-415.11(b). In order to renew the permit, the holder must file an application for renewal with the sheriff's office in the county in which he/she resides at least thirty (30) days prior to the expiration of the original permit. Along with this application, the applicant must also submit to the sheriff a notarized affidavit stating that he/she remains qualified, the renewal fee of \$75.00 and a newly administered set of fingerprints. Prior to renewing a permit, a sheriff must update the applicant's criminal history and make another inquiry into the NICS database. The sheriff may require the permittee to take another firearms safety and training course prior to renewal. No fingerprints shall be required for a renewal permit if the applicant's fingerprints were submitted to the State Bureau of Investigation (SBI) after June 30, 2001 on the Automated Fingerprint Information System (AFIS), as prescribed by the SBI. G.S. § 14-415.16.

At least forty-five (45) days prior to the expiration date of a concealed carry permit, the sheriff will send a written notice to the permittee explaining that the permit is about to expire. If the holder of the permit applies to renew the permit before it expires, the permit will remain valid beyond the expiration date of the permit until the permittee either receives a renewal permit or is denied a renewal permit by the sheriff. If the permittee does not apply to renew the permit prior to its expiration date, but does apply to renew the permit within sixty (60) days after the permit expires, the sheriff may waive the requirement of taking another firearms safety course; however, the person may not carry a concealed handgun under this expired permit.

A concealed handgun permit holder who is or will be deployed for military service is allowed to apply with the sheriff for an extension of the concealed handgun permit up to an additional ninety (90) days after the permittee's scheduled deployment is to end. G.S. § 14-415.16A.

In emergencies, a sheriff may issue a temporary permit to an individual when the sheriff has reasonable belief that the individual's safety, the safety of his/her property, or the safety of the individual's family is in immediate danger. In order to obtain this emergency permit, the applicant must first establish with the sheriff that an emergency situation exists. The individual must also submit an application, two (2) sets of fingerprints, and the non-refundable fee of \$80.00.

The temporary permit is valid for a maximum of forty-five (45) days, is non-renewable, and may be revoked by the sheriff at any time without a hearing. G.S. § 14-415.15(b).

3.3.3 Safety Course Exemption

The law specifically exempts from the firearms safety and training course certain qualified individuals. These persons include:

1. An individual who retired from service as a law enforcement officer with a local, State, or company police agency in North Carolina, other than for reasons of mental disability, who has been retired as a sworn law enforcement officer two (2) years or less from the date of the permit application, and has a non-forfeitable right to benefits under the retirement plan to the local, State, or company police agency as a law enforcement officer, or has twenty (20) or more aggregate years of law enforcement service, and has retired from a company police agency that does not have a retirement plan;
2. A current law enforcement officer employed by a local, State, or company police agency in this State who:
 - a. Is authorized by the agency to carry a handgun in the course of duty;

- b. Is not the subject of a disciplinary action by the agency that prevents the carrying of a handgun; and
 - c. Meets the requirements established by the agency regarding handguns;
3. A person who is licensed or registered by the N.C. Private Protective Services Board as an armed security guard who also has a firearm registration permit issued by the Board;
 4. An individual who retired from service as a State probation or parole certified officer, or as a State correctional officer, other than for reasons of mental disability, who has been retired as a probation or parole certified officer or State correctional officer two (2) years or less from the date of the permit application.
 5. A qualified retired law enforcement officer who has met the standards of the North Carolina Criminal Justice Education and Training Standards Commission for law enforcement handgun qualification.

G.S. § 14-415.12A.

3.3.4 Restrictions

Any individual who has a concealed handgun permit must follow certain regulations concerning its use. Not only must the individual carry the permit along with proper identification whenever the handgun is being carried concealed, but he/she must also inform any law enforcement officer who approaches him/her that he/she is in possession of a permit and a concealed handgun. G.S. § 14-415.11(a). Failure to do so is an infraction.

Anybody who has been issued a valid concealed handgun permit and is found carrying a concealed handgun in any area where conspicuous notice has been posted prohibiting a person from carrying on that premises is also responsible for an infraction.

However, anybody who is carrying a concealed handgun while consuming alcohol, or has alcohol or controlled substances remaining in his/her system is guilty of a Class 1 misdemeanor.

Any individual who violates any other standards for the carrying of a concealed handgun with a permit is guilty of a Class 2 misdemeanor. Any person who has not been issued a valid permit but carries a concealed handgun unlawfully, is guilty of a Class 2 misdemeanor for the first offense, and any subsequent offenses are Class H felonies. G.S. §§ 14-415.21(a)(b); 14-269.

Although a person may have a permit to carry a concealed handgun, permittees are not authorized to carry the handgun anywhere they desire. The handgun may not be carried in the following:

1. Areas prohibited by G.S. § 14-277.2 (Picket lines or demonstrations);
2. Areas prohibited by G.S. § 14-269.4 (Certain State properties such as courthouses);
3. Areas prohibited by rules adopted under G.S. § 120-32.1 (Legislative buildings);
4. Areas prohibited by 18 USC § 922 or any other federal law;
5. Any law enforcement agency or correctional facility;

6. Any building housing only State or federal offices;
7. An office of the State or federal government that is not located in a building exclusively occupied by the State or federal government;
8. Any premises where notice that carrying a concealed handgun is prohibited by the posting of a conspicuous notice, or statement by the person in legal possession or control of the premises; or
9. School grounds under G.S. § 14-269.2, except permittees can secure their handguns in their vehicle on school grounds. (Note: Private schools reserve the right to prohibit firearms altogether.)

Permittees are specifically allowed to carry a concealed handgun in the following areas:

1. Premises where alcoholic beverages are sold and consumed unless the premises is posted to prohibit the possession or carrying of firearms. Of course, the permittee may not consume any alcohol while carrying in this area. G.S. § 14-269.3;
2. Premises where a fee is charged for admission unless the premises is posted to prohibit the possession or carrying of firearms. G.S. § 14-269.3;
3. Parades and funerals unless the area is posted to prohibit the possession or carrying of firearms. G.S. § 14-277.2; and
4. Grounds or waters of a park within the State Parks System as defined in G.S. § 113-44.9.

As provided in G.S. § 14-269.4(5), it is lawful for any person to carry a firearm openly, or to carry a concealed handgun with a valid concealed handgun permit, at any State-owned rest area, at any State-owned rest stop along the highways, and at any State-owned hunting and fishing reservation. G.S. § 14-415.11(c).

Any of the following persons who have a valid concealed handgun permit are not subject to the area restrictions set out in subparagraphs 1-9 above and may carry a concealed handgun in those areas unless otherwise prohibited by federal law. These persons are:

1. A district attorney;
2. An assistant district attorney;
3. An investigator employed by the office of a district attorney;
4. A North Carolina district or superior court judge;
5. A North Carolina magistrate;
6. A person who is elected and serving as a North Carolina clerk of court;
7. A person who is elected and serving as a North Carolina register of deeds;
8. A person employed by the Department of Public Safety who has been designated in writing by the Secretary of the Department and who has in the person's possession written proof of the designation; and

9. A North Carolina administrative law judge.

G.S. § 14-415.27.

G.S. § 14-415.23 provides that no political subdivisions, boards, or agencies of the State nor any county, city, municipality, municipal corporation, town, township, village, nor any department or agency thereof, may enact ordinances, rules, or regulations concerning legally carrying a concealed handgun.

A unit of local government may, however, adopt an ordinance to permit the posting of a prohibition against carrying a concealed handgun in local government buildings and their associated premises. A unit of local government may adopt an ordinance to prohibit, by posting, the carrying of a concealed handgun on municipal and county recreational facilities that are specifically identified by the unit of local government. If a unit of local government adopts such an ordinance with regard to recreational facilities, then the concealed handgun permittee may, nevertheless, secure the handgun in a locked vehicle within the trunk, glove box, or other enclosed compartment or area within or on the motor vehicle. The term “recreational facilities” includes only the following:

1. An athletic field, any associated facilities such as restrooms, during an organized athletic event if the field has been scheduled for use with the city or county office responsible for operation of the park or recreational area;
2. A swimming pool, including any appurtenant facilities used for dressing, storage of personal items, or other uses related to the swimming pool; and
3. A facility used for athletic events, including but not limited to, a gymnasium.

The term “recreational facilities” does not include any greenway, designated biking or walking path, an area that is customarily used as a walkway or bike path although not specifically designated for such use, or open areas or fields where athletic events may occur unless the area qualifies as an athletic field.

Our General Statutes provide that with certain exceptions, firearms regulation is preempted from regulation by local governments. A county or municipality may regulate or prohibit the sale of firearms at a location only if there is a lawful, general, similar regulation or prohibition of other commercial activities at that location. A county or municipality may also regulate the transport, carrying, or possession of firearms by employees of the local unit of government in the course of their employment with that local unit of government. Municipalities or counties retain their authority to prohibit the possession of firearms in publicly-owned buildings or grounds, except that nothing would prohibit a person from storing a firearm within a motor vehicle while the vehicle is on these grounds or areas. G.S. § 14-409.40.

Any individual who has been issued a valid permit must notify the issuing sheriff of any permanent change of address within thirty (30) days of the change. If the permit is lost or destroyed, he/she must notify the issuing sheriff of such loss. The permittee is then eligible to obtain a duplicate permit by submitting to the sheriff a notarized statement that the permit was lost or destroyed and by paying the required duplicate permit fee of \$15.00. G.S. § 14-415.11(d).

It is unlawful for the permittee to carry a concealed handgun while consuming alcohol, or at any time while the permittee has remaining in his/her body any alcohol or controlled substance previously consumed. However, a permittee does not violate this law if a controlled substance in his/her blood was lawfully obtained and taken in therapeutically appropriate amounts. G.S. § 14-415.11(c).

3.3.5 Revocation

The sheriff of the county where the permit was issued or the sheriff of the county where the individual resides may revoke a permit, subsequent to a hearing, for any of the following reasons:

1. Fraud, intentional and material misrepresentation in obtaining a permit;
2. Misuse of a permit, including lending or giving a permit or a duplicate permit to another person, materially altering a permit, or using a permit with the intent to unlawfully cause harm to a person or property (It is not misuse to give a duplicate of the permit to a vendor for record keeping purposes);
3. The doing of an act or existence of a condition which would have been grounds for the denial of the permit by the sheriff; or
4. Violation of any terms governing the carrying of concealed handguns.

Either the sheriff of the county where the permit was issued or the sheriff of the county where the person currently resides must revoke a permit for any individual who was adjudicated guilty of or receives a prayer for judgment continued for a crime that would have disqualified the person from initially receiving a permit. The sheriff must, without a prior hearing, provide written notice to the permittee, pursuant to G.S. § 1A-1, rule 4 (j), that the permit is revoked effective upon the service of that notice. This notice must give the permittee information on how to appeal the revocation. Upon receipt of this written notice, the permittee must then surrender the permit to the sheriff. Any law enforcement officer who serves that notice is authorized by law to take immediate possession of the permit from the permittee. If the notice is served on the permittee by means other than a law enforcement officer, the permittee has an affirmative obligation to surrender the permit to the sheriff no later than forty-eight (48) hours after service of the notice. A permittee can appeal the revocation by petitioning a district court judge in the district where the permittee resides. The determination by the court will be limited to whether the permittee was adjudicated guilty of or received a prayer for judgment continued for a crime that would have disqualified him/her from initially receiving the permit. The revocation of the permit is not stayed pending that appeal. G.S. § 14-415.18.

The sheriff of the county is required to maintain a list of all persons who are issued a concealed handgun permit. The list, however, and the information collected by the sheriff pursuant to the application, is confidential and is not a public record. This information is available upon request to all State and local law enforcement agencies. G.S. § 14-415.17 (c).

NOTE: When a permittee has pending criminal charges, a sheriff has no authority to temporarily suspend a permit pending the outcome of the charges. The sheriff may either initiate the process to revoke the permit or not. Only a judge may temporarily suspend a permit.

3.4 Transporting Weapons

Given the general prohibition of carrying concealed weapons, individuals must be ever vigilant to ensure their particular situation cannot be construed as concealing a weapon, either on or about them, without being properly authorized to do so with a valid North Carolina or recognized out-of-state concealed handgun permit. Therefore, the permittee's accessibility to the weapon is of prime importance. It is unlawful to transport a weapon (absent a proper permit) that is BOTH concealed and readily accessible to a person. It is for these reasons, that when transporting a weapon in a vehicle, even greater care must be exercised to ensure that the weapon is not concealed and within the ready access to an occupant of the vehicle. North Carolina law does not specifically address how to transport a weapon in an automobile. Therefore, the central question becomes: when is the weapon concealed and readily accessible to an occupant of an

automobile? Obviously, a weapon would be concealed and readily accessible, and therefore in violation of state law, if it were placed in such areas of a vehicle as under the seat of the automobile; in a bag in the back seat; or in some other manner that is covered or hidden within the easy reach of an occupant of the vehicle.

The prohibition on carrying concealed weapons applies not only to handguns and other weapons commonly thought of as being easily hidden, but also to “long guns” as well. Therefore, shotguns and rifles concealed behind the seat of pickup trucks, and elsewhere in other vehicles, could similarly violate North Carolina law.

As to those vehicles with no easily discernible trunk area (e.g., SUVs, vans, etc.), it becomes a factual determination of when the weapon is within ready and easy access to an occupant of the vehicle. If the weapon is concealed near, in close proximity to, or within the convenient control and access of an occupant, which would allow him/her to use the weapon quickly, then a fair probability exists that the occupant is in violation of the law. Therefore, care must be exercised by any occupant of any vehicle to ensure that weapons are securely locked away in as remote an area as possible, in relation to the passenger compartment of the vehicle. It is important to emphasize that these prohibitions apply to passengers, as well as drivers of any vehicle.

4. Restricted and Prohibited Weapons

4.1 Weapons of Mass Destruction

G.S. § 14-288.8 provides that it is unlawful for any person to manufacture, assemble, possess, store, transport, sell, offer to sell, purchase, offer to purchase, deliver, give to another, or acquire any weapon of mass death and destruction. A weapon of mass death and destruction includes:

1. Bombs of all sorts;
2. Grenades;
3. Rockets having a propellant charge of more than four (4) ounces;
4. A missile having an explosive or incendiary charge of more than one-quarter (1/4) ounce;
5. Mines;
6. Any type of weapon (other than a shotgun or a shotgun shell of a type particularly suitable for sporting purposes) which will expel a projectile using an explosive or other propellant, and which has a barrel with a bore of more than one-half (1/2) inch in diameter;
7. Any firearm capable of fully automatic fire;
8. Any shotgun with a barrel length less than eighteen (18) inches or an overall length of less than twenty-six (26) inches;
9. A rifle with a barrel length of less than sixteen (16) inches or an overall length of less than twenty-six (26) inches;
10. Any muffler or silencer for any firearm, whether or not such firearm is included within this definition; and

11. Any combination of parts either designed or intended for use in converting a device into any weapon described above, and from which a weapon of mass death and destruction may readily be assembled.

Thus, a device which could convert a semi-automatic firearm into one capable of full automatic fire would be in violation of this statute, whether or not one actually possesses such a weapon. The possession of the device itself is a crime. If any person possesses a weapon of mass death and destruction in violation of this statute, he/she is guilty of a Class F felony.

The only persons allowed to own or possess a weapon of mass death and destruction, as defined above, are the following:

1. Persons exempted from the provisions of carrying a concealed weapon in North Carolina, with respect to any activity lawfully engaged in while carrying out their duties;
2. Importers, manufacturers, dealers, and collectors of firearms, ammunition, or destructive devices validly licensed under the laws of the United States or the State of North Carolina, while lawfully engaged in activities authorized under their licenses;
3. Persons under contract with the United States, the State of North Carolina, or any agency of either government, with respect to any activities lawfully engaged in under their contracts;
4. Inventors, designers, ordinance consultants and researchers, chemists, physicists, and other persons lawfully engaged in pursuits designed to enlarge the knowledge of, or to facilitate the creation, development, or manufacture of weapons of mass death and destruction intended for use in a manner consistent with the laws of the United States and the State of North Carolina; or
5. Persons who lawfully possess or own a weapon in compliance with 26 U.S.C. Chapter 53, §§ 5801-5871. (U.S. Tax Code for registering these weapons) Nothing limits however the discretion of the sheriff in executing the paperwork required by the United States Bureau of Alcohol, Tobacco, and Firearms for such person to obtain the weapon.

G.S. § 14-288.8.

4.2 Machine Guns

Under G.S. § 14-409, it is unlawful for any person, firm, or corporation to manufacture, sell, give away, dispose of, use or possess machine guns, sub-machine guns, or other like weapons. A machine gun or sub-machine gun is one which shoots, or can be readily restored to shoot more than one round, without manual reloading, by a single function of the trigger. It also includes any frame or receiver of such a weapon, or parts used in converting a weapon into a machine gun or sub-machine gun. This prohibition does not apply to the following:

1. Banks, merchants, and recognized business establishments for use in their respective places of business. However, these persons must first apply to and receive from the sheriff of the county in which their business is located, a permit to possess the weapon for the purpose of defending their business;
2. Officers and soldiers of the United States Armed Forces, when in the discharge of their official duties;

3. Officers and soldiers of the Militia, when being called into actual service;
4. Officers of the State, or county, city or town, charged with the execution of laws of the State, when acting in the discharge of their official duties;
5. The manufacture, use, or possession of such weapons for scientific or experimental purposes when such manufacture, use, or possession is lawful under federal laws and the weapon is registered with a federal agency, and a permit to manufacture, use, or possess the weapon has been obtained by the sheriff of the county in which the weapon is located; or
6. A person who lawfully possesses or owns a weapon in compliance with 26 U.S.C. Chapter 53, §§ 5801-5871. (U.S. Tax Code for registering these weapons) Nothing limits however the discretion of the sheriff in executing the paperwork required by the United States Bureau of Alcohol, Tobacco, and Firearms for such person to obtain the weapon.

Any bona fide resident of the State who now owns a machine gun used in former wars may retain and keep that weapon at his/ her own property, as a relic or souvenir, without violating the provisions of this section, as long as the individual reports this weapon to the sheriff of the county in which he/she lives.

5. Felony Firearms Act

North Carolina's Felony Firearms Act, found in G.S. § 14-415.1, is a restriction on gun possession that applies to any person who has been convicted of any North Carolina felony or violation of criminal laws in other states, or the United States, which are substantially similar to any North Carolina felony and are punishable by imprisonment for a term exceeding one (1) year. These individuals cannot purchase, own, possess, or have in their custody, care, or control any firearm at any location, or any weapon of mass death and destruction. This prohibition continues indefinitely. This prohibition does not apply, however, to "antique firearms".

This restriction does not apply to a person who, pursuant to the law of the jurisdiction in which the conviction occurred, has been pardoned or has had his/her firearms rights restored if such restoration of rights could also be granted under State law. G.S. § 14-415.4 sets forth a process where certain qualified felons may apply to a district court for a restoration of firearmsrights.

6. Age Requirements for the Purchase and Possession of Weapons

North Carolina law does not address specific age requirements for the purchase of weapons. Rather, it looks to the federal standards for such restrictions. Under federal law, 18 U.S.C. § 922(b)(1), FFLs are prohibited from selling handguns to persons under the age of twenty-one (21). Further, all other purchasers of shotguns and rifles are required to be at least eighteen (18) years of age. Therefore, while a pistol purchase permit can be issued to an individual eighteen (18) years of age or older, such persons aged eighteen (18), nineteen (19), and twenty (20) could not use the permit to purchase a handgun from an FFL, but could use the permit to purchase or receive a handgun from an individual.

G.S. § 14-269.7 provides that it is a misdemeanor for any person under the age of eighteen (18) to willfully and intentionally possess or carry a handgun. A handgun is defined as a firearm that has a short stock and is designed to be fired by the use of a single hand, or any combination of parts from which such a firearm can be assembled. This prohibition does not apply to the following:

1. Officers and enlisted personnel of the armed forces of the United States when in discharge of their official duties, or acting under orders requiring them to carry handguns;
2. A minor who possesses a handgun for educational or recreational purposes while the minor is supervised by an adult who is present;
3. An emancipated minor who possesses such a handgun inside his/her residence; and
4. A minor who possesses a handgun while hunting or trapping outside the limits of an incorporated municipality if he/she has, on his/her person, written permission from a parent, guardian, or other person standing in for those people.

G.S. § 14-315, prohibits any person from selling, offering for sale, giving away, or in any way transferring to a person under the age of eighteen (18), any pistol cartridge, brass knuckles, Bowie Knife, dirk, shurikin, loaded cane, or slungshot. Any person who violates this law is guilty of a Class 1 misdemeanor and, in addition, shall forfeit the proceeds of any sale made in violation of this prohibition.

This statute provides that it is a Class H felony for a person to sell, offer for sale, give, or in any way transfer to a person less than eighteen (18) years of age, any handgun. Additionally, an individual guilty of this offense shall forfeit the proceeds of any sale made in violation of this section. This law does not apply under the following circumstances:

1. When the handgun is lent to a minor for temporary use if the minor's possession of the handgun is lawful under G.S. § 14-269.7 and G.S. § 14-316, and is not otherwise unlawful;
2. When the handgun is transferred to an adult custodian and the minor does not take possession of the handgun;
3. When the handgun is a gift by will or legacy and is distributed to a parent or guardian and the minor does not take possession of the handgun except that the parent or guardian may allow the minor temporary possession of the handgun in circumstances in which the minor's possession of the handgun is lawful.

It is a defense to a violation of this law if all of the following conditions are met:

1. The person shows that the minor produced an apparently valid permit to receive the weapon, if permit would be required for transfer to an adult.
2. The person reasonably believed that the minor was not a minor; and
3. The person either:
 - a. Shows that the minor produced a driver's license, a special identification card, a military identification card, or a passport, showing the minor's age to be at least the required age for purchase, and bearing a physical description of the person named on the card reasonably describing the minor; or
 - b. Produces evidence of other facts that reasonably indicate at the time of sale, that the minor was at least the required age.

Under G.S. § 14-316, a person may not knowingly permit a child under the age of twelve (12) to have access to or possession, custody, or use of any gun, pistol, or other dangerous firearm, whether loaded or unloaded, unless the person has the permission of the child's parent or guardian and the child is under the supervision of an adult. Air rifles, air pistols, and BB guns shall not be deemed "dangerous firearms" within the meaning of this statute except in: Caldwell, Durham, Forsyth, Gaston, Haywood, Mecklenburg, Stokes, Union and Vance Counties.

7. Firearms Dealers

Every dealer in pistols and other weapons must keep an accurate record of all sales. This record must include the name, place of residence, and date of sale of each person, firm, or corporation to whom such sale is made. The record is required to be open to the inspection of any State, county, or city police officer within the State of North Carolina. Records maintained by dealers are otherwise considered confidential and are not a public record.

Upon the retail commercial sale or transfer of any firearm, the seller or transferor shall deliver a written copy of G.S. § 14-315.1 to the purchaser or transferee. Additionally, any shop that sells firearms must post the following warning in block letters, not less than one (1) inch in height: "IT IS UNLAWFUL TO STORE OR LEAVE A FIREARM THAT CAN BE DISCHARGED IN A MANNER THAT A REASONABLE PERSON SHOULD KNOW IS ACCESSIBLE TO A MINOR."

ATTACHMENT 1

STATE OF NORTH CAROLINA

APPLICATION FOR PERMIT(S) TO PURCHASE A HANDGUN

NEW PERMIT

N. C. G. S. §14-402 et seq.

Name of Applicant (Last, First, Middle, Maiden) ▶ Attach listing of all previous addresses and all name changes including location and court file number (if Applicable)		Date of Birth		Social Security Number ▶ See Notification on page 2	
Street Address		City, County and State of Birth			
Time at Present Address Yrs: ___ Months: ___	Email Address (Optional)	Driver's License Number (State ID Number if no Driver's License)		State	
City	State	Zip Code		Mailing Address	
Military Status <input type="checkbox"/> Discharged <input type="checkbox"/> Active <input type="checkbox"/> Reserve <input type="checkbox"/> Retired <input type="checkbox"/> N/A		Race ▶ See below for code		Sex	
Telephone Number	County of Residence	Eyes	Hair	Height	Weight
		Other Physical Description			

▶ RACE CODES: **A**-Asian or Pacific Islander, **B**-Black, **I**-American Indian or Alaskan Native, **U**-Unknown, **W**-White

APPLICATION

I, the undersigned applicant, hereby make application for a North Carolina Permit(s) to Purchase a Handgun and state that the following information is correct to the best of my knowledge.

(Check Appropriate Boxes)

1. Are you lawfully in the United States? (1) Yes No
2. Are you a citizen of the United States? ▶ Non-US Citizens must complete the Supplemental Questions Document (2) Yes No *
* If No, provide your US Citizenship and Immigration Services Number here: _____
3. Are you 18 years of age or older? (3) Yes No
4. Are you ineligible to own, possess, or receive a firearm under the provisions of state or federal law? (4) Yes No
5. Are you under indictment or has a finding of probable cause been entered against you for a pending felony charge? (5) Yes No
6. Have you been adjudicated guilty in any court of a felony? (6) Yes * No
* If Yes: Have your firearm rights been restored pursuant to N.C.G.S. § 14-415.4, or have you received a pardon which allows you to possess firearms?
▶ If Yes, attach documentation.
7. Are you a fugitive from justice? (7) Yes No
8. Are you an unlawful user of or addicted to marijuana, or any depressant, stimulant, or narcotic drug, or any other controlled substance as defined in 21 U.S.C. § 802? (8) Yes No
9. Have you ever been adjudicated mentally incompetent or been committed to a mental institution? (9) Yes No
10. Have you been discharged from the U.S. Armed Forces under dishonorable conditions? (10) Yes No
11. Have you ever renounced your U.S. citizenship? (11) Yes No
12. Are you currently subject to a court order that restrains you from harassing, stalking, or threatening an intimate partner or child of an intimate partner, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child? (12) Yes No
13. Are you currently under any type of probation or parole? (13) Yes No

APPLICATION

Reason for the request for a Permit to Purchase a Handgun:

- 1. Protection of myself, home, business, property or family
- 2. Collecting
- 3. Target Shooting
- 4. Hunting
- 5. Number of permits requested _____

Applicant's Signature _____

Date Application Signed _____

CAUTION: Federal law and State law on the purchase or possession of handguns and firearms may differ. If you are prohibited by federal law from purchasing or possessing a handgun or a firearm, you may be prosecuted in federal court. A State permit is not a defense to a federal prosecution.

SHERIFF USE ONLY

The following items were submitted – check applicable boxes:

- 1. Permit to Purchase Application
- 2. Nonrefundable Permit Fee(s) Paid
(\$5.00 for each permit requested)
- 3. Copy of Government Issued Identification
- 4. Proof of Residency
- 5. Signed Release for Mental Health Orders
- 6. Date Issued Permit(s) _____
- 7. Date Denied Permit(s) _____
- 8. NICS Transaction Number (NTN) _____
- 9. Date Transactions Ran _____
- 10. Permit Number(s) _____

Signature of Sheriff: _____

Original – Sheriff / Copy – Applicant

► **SOCIAL SECURITY NUMBER:** The disclosure of your social security number as a part of this Permit to Purchase application is voluntary. The purpose of requesting the social security number is to assist in your identification and to help distinguish you from other persons with similar names. No Permit to Purchase will be denied for failure to **disclose** a social security number.

SUPPLEMENTAL QUESTIONS FOR NON-US CITIZENS

Federal law makes it unlawful for aliens who are illegally or unlawfully in the United States to receive or possess firearms. In addition, subject to certain exemptions, aliens who are in a Non-Immigrant status are prohibited from possessing or receiving firearms in the United States.

Immigrant Alien– Legally accorded the privilege of residing permanently in the U.S. to work without restrictions. Typically, these individuals receive an ICE-Issued Permanent Resident Card/Green Card. ICE provides a United States Citizenship and Immigration Services (USCIS) #, which was formerly Alien Registration (AR) #.

Non-Immigrant Alien – An individual having permanent residency from another country but admitted into the U.S. for a temporary period of time, i.e. student, worker. ICE provides an I-94 # that can be obtained by the applicant from www.cbp.gov. In addition to the I-94#, those Non-Immigrants who work in the U.S. may also have an AR/USCIS #. Either number can be provided. NOTE: Most Non-Immigrants will be admitted into the U.S. under a Visa. It is necessary to know if the Non-Immigrant is under a Visa to make a final determination.

In order to determine if Non-U.S. Citizens are prohibited from possessing firearms under Federal law, it is necessary to obtain answers to the following questions.

- 1) Name _____
- 2) What is your country of citizenship? _____
- 3) What is your place of birth? (Country) _____

SELECT APPROPRIATE IMMIGRANT CLASSIFICATION: (only choose one)

- 4) **Immigrant Alien?** YES NO

What is your ICE-issued AR/USCIS#? _____

If the answer to Question 4 is "**YES**", use "**F**" in the Citizenship (CTZ) field and enter the **AR** code and number in the Miscellaneous Number (MNU) field of the appropriate **QDOF/QNP** transaction.

- 5) **Non-Immigrant Alien?** YES NO

What is your ICE-issued I-94#? _____

If the answer to Question 5 is "**YES**", proceed to Question 5a.

- 5a) **Admitted under Non-Immigrant Visa?** YES NO

If the answer to Question 5a is "**YES**", proceed to Question 5b.

If the answer to Question 5a is "**NO**", use "**F**" in the Citizenship (CTZ) field, "**N**" in the Exception Documentation (EXC) field since an exception is not required and enter the **AR** code and number in the Miscellaneous Number (MNU) field of the appropriate **QDOF/QNP** transaction.

- 5b) Which of the following exceptions set forth in 18Z USC 922(y) do you meet? Please attach documentation to support your entitlement to the claimed exemption, if applicable.

- | | |
|---|---|
| <input type="checkbox"/> Valid Hunting License/Permit = Y | <input type="checkbox"/> Foreign Law Enforcement Officer = Y |
| <input type="checkbox"/> Official Representative of a Foreign Government = Y | <input type="checkbox"/> Waiver from Prohibition = Y |
| <input type="checkbox"/> Foreign Government Official/Distinguished Visitor = Y | <input type="checkbox"/> No Documentation Provided = N |

Validate the exception and then use "**F**" in the Citizenship (CTZ) field, "**Y**" in the Exception Documentation (EXC) field and enter the **AN** code & number in the Miscellaneous Number (MNU) field of the appropriate **QDOF/QNP** transaction. **NOTE:** If an exception is not provided, then use "**N**" in the Exception Documentation (EXC) field. This individual is prohibited. Do not initiate a transaction until they obtain an appropriate exception.

I certify that the above answers are true and correct.

Immigrant's Signature

Date

STATE OF NORTH CAROLINA

_____ County

**RELEASE OF COURT ORDERS CONCERNING
MENTAL HEALTH AND CAPACITY
FOR PISTOL PURCHASE PERMIT**

G.S. 14-404(e1)

Name And Address Of Applicant

Date Of Birth

Social Security No.

State Drivers License No. (State Identification No. if no drivers license)

State

I hereby authorize and request any and all Clerks of Superior Court of North Carolina to inform the Sheriff of the county named above whether or not the clerk's files or records contain any court orders concerning my mental health or capacity. If so, I authorize the clerk to reveal to the sheriff the court orders within any confidential court files or records that the sheriff may reasonably require in order to determine whether or not to issue a pistol purchase permit to me.

This Release may be treated as a motion in the cause for disclosure pursuant to G.S. 122C-54(d), which disclosure is necessary to enable the sheriff to determine my qualification to purchase or possess a handgun. I stipulate that a clerk may reveal to the sheriff any court orders pursuant to any specific or standing order entered in response to or anticipation of this motion.

I understand that further disclosure or redisclosure by the sheriff of any information disclosed to the sheriff pursuant to this Release is prohibited without my further written consent unless otherwise provided for by state or federal law. I understand that I may revoke this authorization at any time except to the extent that action has already been taken in reliance on this Release. Even without my express revocation, this Release will expire upon the satisfaction of the request or one year from the date below, whichever occurs first.

I authorize the sheriff to photocopy this Release after I sign it, and I authorize any clerk to whom a photocopy of this Release is presented to rely on the photocopy as being as effective as the original.

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME

Date

Date

Signature Of Person Authorized To Administer Oaths

Signature Of Applicant

SEAL

Title

Date Commission Expires

NOTE TO CLERK: This Release authorizes the disclosure of only court orders concerning the mental health or capacity of the applicant for a pistol purchase permit pursuant to G.S. 14-404. Unless requested via a separate motion under G.S. 122C-54(d) and specifically ordered by the court, the clerk may not release any records or information from an involuntary commitment proceeding other than an actual court order in response to this Release.

ATTACHMENT 2

Pistol Purchase Permit Requirements and Disqualifiers

1. The applicant must normally be a resident of the North Carolina county where the application for a pistol purchase permit (PPP) is submitted. The only exception is that an applicant can be a resident of another North Carolina county and receive a PPP if the handgun is wanted for collecting purposes. The Sheriff is the person responsible for determining if the “collecting” purpose is supported by the facts. G.S. § 14- 404(a).

A person’s “residence” for purposes of a PPP is not defined in our statutes. Consequently, the sheriff must develop reasonable guidelines in order to make that determination. As for the length of time necessary to become a resident of the county, sheriffs may consider adopting the same time standards utilized by their county tax departments.

On the issue of how to prove residency, referring to other statutes may be beneficial. For example, G.S. § 20-7(b4) cites the following items as examples of how to show residency for the Division of Motor Vehicles:

- a. Pay stub with the payee's address;
 - b. Utility bills showing the applicant's address;
 - c. A contract for an apartment or house;
 - d. A receipt for personal property taxes paid;
 - e. A receipt for real property taxes paid; and/or
 - f. A monthly statement from a bank.
2. The applicant for a PPP must have “good moral character.” G.S. § 14-404(a)(2) requires the sheriff to determine an applicant’s good moral character when the person is applying for a PPP. Effective December 1, 2015 for all PPPs issued on or after that date, the sheriff is only able to consider an applicant's conduct and criminal history for the five-year period immediately preceding the date of the application for purposes of determining an applicant’s good moral character to receive a permit. This five-year period only applies to a sheriff’s evaluation of an applicant’s good moral character. If a crime or condition occurs outside this five-year period, the sheriff may consider it if the crime or condition is independently a disqualifier for a pistol purchase permit (for example, a felony conviction or involuntary commitment).

The term “good moral character” is not defined in our statutes, nor is there a case specifically on point as to what constitutes good moral character for purposes of a PPP. However, there are a number of appellate court cases in North Carolina that discuss an individual's good moral character for purposes of receiving a permit or license. The Supreme Court of North Carolina has said “that good moral character is honesty, fairness, and respect for the rights of others and for the laws of the State and nation.” *In re Willis*, 288 N.C. 1, 10 (1975).

A lack of good moral character can be shown when surrounding facts or circumstances, when viewed as a whole, reveal “a pattern of conduct that permeates the applicant's character and could seriously undermine public confidence...” *In re Legg*, 325 N.C. 658, 674 (1989). However,

a person's good moral character can also be focused or defined by one or more instances if appropriately egregious. *In re Rogers*, 297 N.C. 48 (1979).

As applied to a PPP, sheriffs should look at a pattern of conduct or a significant event occurring in the preceding five years which is representative of the person's current character and has a relationship to the individual's inability to possess firearms in a safe and responsible manner. For example, an individual with multiple charges involving the use of alcohol and the unlawful discharge of or carrying of a firearm may fit these criteria.

3. An applicant for a pistol purchase permit must indicate that the applicant wants the handgun for (1) the protection of the home, business, person, family or property, (2) target shooting, (3) collecting, or (4) hunting. G.S. § 14-404(a)(3).
4. A person is ineligible to receive a PPP if the person is under an indictment or information for, or has been convicted in any state, or in any federal court, of a felony (other than an offense pertaining to antitrust violations, unfair trade practices, or restraints of trade). However, a person who has been convicted of a felony and who is later pardoned may obtain a PPP if the purchase or receipt of a pistol does not violate a condition of the pardon. G.S. § 14-404(c)(1).

If the applicant for a PPP has received an out-of-state pardon, it will require researching that state's law to determine if that pardon allows the individual to possess firearms. In such a case you should contact that state's Attorney General's Office. A recent North Carolina case held that any North Carolina pardon (either a pardon of innocence or a pardon of forgiveness) is sufficient to allow convicted felons to possess firearms. *Booth v. State of North Carolina*, 227 N.C. App. 484, 742 S.E.2d 637 (2013).

A convicted felon may also be able to receive a pistol purchase permit if his or her firearms rights have been restored pursuant to G.S. § 14-415.4. This statute sets out a process where a convicted felon can have his or her firearms rights restored independent of receiving a pardon. In this restoration process, the felon must have been convicted of a nonviolent felony, must have gone 20 years after his or her release from imprisonment or probation without a subsequent conviction and then must apply to a district court judge for a restoration of firearms rights.

5. A person would be ineligible to receive a pistol purchase permit if the person has been convicted in any court for a "crime punishable by imprisonment for a term exceeding one year." G.S. § 14-404(a)(1); 18 U.S.C. § 922(g)(1).

The term "crime punishable by imprisonment for a term exceeding one year" as defined by federal law at 18 U.S.C. § 921(20) does not include any federal or state crimes pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar crimes relating to the regulation of business practices.

The term also does not include any state offense classified as a misdemeanor and punishable by a term of imprisonment of two years or less. Any misdemeanors on an individual's criminal history record must therefore be evaluated to determine what the law was in the state of conviction at the time of the conviction, and what was the maximum jail time the individual could have received for the crime.

The amount of time an individual actually served in confinement is not the relevant time to look at. Rather, it is the maximum time the person could have received.

Any conviction that has been expunged, set aside, or pardoned would not be considered a conviction under federal law unless the pardon, expungement, or restoration of rights expressly provides that the person may not possess firearms.

For out of state misdemeanor convictions, you should consult with that state's Attorney General's Office to determine maximum jail times for a particular crime.

6. A person would be ineligible for a PPP if the person is a fugitive from justice. G.S. § 14-404(c)(2); 18 U.S.C. § 922(g)(2).

Pursuant to 27 C.F.R. § 478.11, a person is a fugitive from justice if the person has fled from any state to avoid current prosecution for a felony or misdemeanor; or who leaves the state to avoid giving testimony in any criminal proceeding.

7. A person would be ineligible to receive a pistol purchase permit if the person is an unlawful user of or addicted to marijuana or any depressant, stimulant, or narcotic drug (as defined in 21 U.S.C. § 802). G.S. § 14-404(c)(3); 18 U.S.C. § 922(g)(3).

Please note that alcohol is not included in this list.

North Carolina law does not define when a PPP applicant is considered an unlawful user of or addicted to drugs. Guidance may be found however in federal law.

An unlawful user of, or a person addicted to, a controlled substance is defined as, "a person who uses a controlled substance and has lost the power of self-control with reference to the use of a controlled substance..." It includes any person who is a current user of a controlled substance in a manner other than prescribed by a licensed physician. The unlawful use must have occurred recently enough to indicate that the individual is actively engaged in such conduct. 27 C.F.R. § 478.11.

This federal regulation goes on to give examples of conduct that may support an inference of current unlawful use of a controlled substance. The regulation states that a conviction for the use or possession of controlled substances within the past year may be sufficient to show current unlawful use. Additionally, multiple arrests for the use or possession of controlled substances in the past five years with the most recent arrest occurring in the last year may be sufficient to indicate current unlawful use. Also, a positive drug test within the last year may be sufficient to satisfy this prohibitor. 27 C.F.R. § 478.11.

Therefore, a conviction for misdemeanor possession of marijuana may be sufficient to show current unlawful use if the conviction occurred within the prior year. Similarly, if an applicant for either a pistol purchase or concealed handgun permit has had multiple charges for drug use or possession within the previous five years and the last charge occurred in the previous year, he or she may be prohibited from obtaining a permit. Please note that these are only examples. Sheriffs should evaluate an applicant's entire background for other indicators of current unlawful controlled substance use.

8. A person would be ineligible to receive a PPP if the individual has been adjudicated as a mental defective or has been committed to a mental institution. G.S. § 14-404(c)(4); 18 U.S.C. § 922(g)(4).

The term “adjudicated as a mental defective” is a determination by a court, board, commission or other lawful authority that a person, as a result of a marked subnormal intelligence, mental illness, incompetency, condition, or disease is a danger to himself or others; or lacks the mental capacity to contract or manage his own affairs; a person who is found to be insane by a court in a criminal case; or a person who was found incompetent to stand trial or found not guilty by reason of lack of mental responsibility pursuant to the uniform code of military justice. 27 C.F.R. § 478.11.

The phrase “committed to a mental institution” requires a formal involuntary commitment of a person to a mental institution by lawful authority for reasons such as mental defectiveness, mental illness, drug abuse, or alcohol abuse. 27 C.F.R. § 478.11.

In North Carolina, the mere fact that an individual has been taken into custody by law enforcement under an involuntary commitment order and treated at a 24-hour facility is not sufficient to invoke this prohibition. Rather, there must be a determination by a district court judge that the individual is mentally ill and a danger to himself or others. The judge must also have ordered the person to undergo either inpatient treatment or outpatient treatment. A voluntary commitment is not an automatic bar to possessing firearms.

9. An individual would be ineligible to receive a PPP if the person is an alien illegally or unlawfully in the United States. G.S. § 14-404(c)(5); 18 U.S.C. § 922(g)(5).

If an individual is not a citizen (born or naturalized) of the United States, complete the Supplemental Questionnaire attached to the pistol purchase permit application. Then perform an IAQ query.

A permanent resident alien is legally accorded the privilege of residing permanently in the United States. These persons are issued a permanent resident card, otherwise referred to as a “green card” as proof of their legal status in the United States. Generally, these persons may possess a firearm.

Generally, a non-immigrant alien with a visa is prohibited from possessing or receiving firearms in the United States. Exceptions to this prohibition include:

- a. An alien admitted to the United States for lawful hunting or sporting purposes;
- b. An alien in possession of a hunting license or permit lawfully issued in the United States;
- c. A foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business;
- d. An alien who has received a waiver from the prohibition from the Attorney General of the United States;
- e. An official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State;
- f. An official representative of a foreign government who is accredited to the United States government or the government's mission to an international organization having its headquarters in the United States; or

- g. An official representative of a foreign government who is in route to or from another country in which that alien is accredited.

A non-immigrant alien who is lawfully admitted to the United States without a visa (e.g., visa waiver program), may acquire or possess a firearm in the United States provided that he or she is not prohibited from shipping, transporting, receiving, or possessing firearms or ammunition in the United States. The visa waiver program allows nationals from participating countries to travel to the United States for tourism or business purposes. These persons may only stay in the United States for 90 days or less.

It is unlawful for any alien or person unlawfully in the United States who is not in one of the above referenced categories to receive or possess firearms.

- 10. An individual who has been discharged from the Armed Forces of the United States under dishonorable conditions is ineligible to receive a PPP. G.S. § 14-404(c)(6); 18 U.S.C. § 922(g)(6).

A military member who has served on active military duty in excess of six months will receive a DD form 214 which documents his or her time on active military service. This form will also list the characterization of that person's service. The military member can receive any one of the following types of discharges:

- a. Entry level separation (Uncharacterized);
- b. Honorable;
- c. General (under honorable conditions);
- d. Under other than honorable conditions (UOTHC);
- e. Bad conduct discharge;
- f. Dishonorable discharge; or
- g. Dismissal.

Of these characterizations of service, only a dishonorable discharge or a dismissal will prevent a former military member from receiving a pistol purchase permit.

- 11. A person who, having been a citizen in the United States, has renounced his or her citizenship would be ineligible to receive a pistol purchase permit. G.S. § 14-404(c)(7); 18 U.S.C. § 922(g)(7).
- 12. A person would be ineligible to receive a pistol purchase permit if that person is currently subject to a court order that:
 - a. Was issued after a hearing of which the person received actual notice, and at which the person had an opportunity to participate;

- b. Restrains the person from harassing, stalking, or threatening an intimate partner of the person or child of the intimate partner of the person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
- c. Includes a finding that the person represents a credible threat to the physical safety of the intimate partner or child; or by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against an intimate partner or child that would reasonably be expected to cause bodily injury.

G.S. § 14-404(c)(8).

13. Pursuant to 18 U.S.C. § 922 (g)(9), anyone convicted of a misdemeanor crime of domestic violence is prohibited from the possession of firearms. 18 U.S.C. § 921 (33), defines a misdemeanor crime of domestic violence as:

A misdemeanor under federal or state law all which has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by person with whom the victim shares a child in common, by a person who is cohabitating with, or has cohabitating with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent or guardian of the victim.

In order to be convicted within the meaning of this federal law a person must be either represented by counsel at the time of the disposition of the charges or waived their right to counsel and if the person was entitled to a jury trial the person waived his or her right to such trial.

A person would also not be considered convicted under this federal law if the conviction is expunged, set aside, or is for an offense for which the person has been pardoned or has had his or her civil rights restored.

NOTE: Under *U.S. v. Vinson*, 794 F. 3d 418 (2015) and *Underwood v. Hudson*, 781 S.E. 2d 295 (2015), the Fourth Circuit Court of Appeals and the N.C. Court of Appeals, respectively, held that the various N.C. assault crimes did not qualify as a “misdemeanor crime of domestic violence”.

Also, under G.S. § 15A-1343(b)(5), as a regular condition of probation, a defendant cannot possess a firearm, explosive device or other deadly weapon listed in G.S. § 14-269 without the written permission of the court. Therefore, if you encounter an applicant for a PPP that is currently on probation for a misdemeanor you should inquire with the clerk of court or (if necessary) the presiding judge to determine if the applicant has been given permission to possess firearms while on probation.

ATTACHMENT 3

Pistol Purchase Permit Denial Form

Sheriffs must deny a pistol purchase permit if an event or condition exists which indicates the applicant is disqualified from receiving a permit.

When you receive information that an applicant is ineligible to receive a pistol purchase permit, you must give written notice to the applicant that their application for the permit is denied.

The notice of denial should be served by a law enforcement official or delivered directly to the applicant.

The following is a draft template that sheriffs may use for providing notice of denial to an applicant.

NOTICE OF DENIAL

TO: [Name and address of Applicant]

RE: Notice of Denial of Pistol Purchase Permit(s)

You are hereby notified that, pursuant to G.S. 14-404(b), that your pistol purchase permit(s) application(s) is/are hereby denied.

Probable cause exists to believe your pistol purchase permit application(s) should be denied based on facts and circumstances indicating that on the date(s) set forth below you:

[Describe the facts and/or events with dates that form the basis of the denial]

This/these events/condition(s) prohibit your eligibility for a pistol purchase permit pursuant to G.S. [insert statute number].

Appeal: If you disagree with this denial, you may appeal the decision by petitioning the superior court. You should contact the clerk of superior court's office for instructions on this process.

This the _____ day of _____ 20_____.

_____ Sheriff

_____ County

Pistol Purchase Permit Revocation Form

Sheriffs must revoke a pistol purchase permit if an event or condition occurs that causes the permittee to become disqualified from having the permit.

When you receive information that renders a permittee ineligible to have the pistol purchase permit, you must give written notice to the permittee that their permit is revoked effective on the date of the notice.

The notice of revocation can be delivered by a law enforcement officer or by U.S. Mail, so long as it uses registered or certified mail or signature conformation.

A law enforcement officer is authorized to take possession of the permit if they personally serve the notice. If notice is delivered by a method other than personal service by an officer, the permittee must surrender the permit to the sheriff no later than 48 hours after receiving notice. Failure to surrender the permit within 48 hours is a Class 2 misdemeanor.

The following is a draft template that sheriffs may use for providing notice of revocation to a permittee.

NOTICE OF REVOCATION

TO: [Name and address of Permittee]

RE: Notice of Revocation of Pistol Purchase Permit(s)

You are hereby notified that, pursuant to G.S. 14-404(a) and (h), pistol purchase permit(s) [set out pistol purchase permit numbers] is/are hereby revoked effective upon service of this notice. Probable cause exists to believe the pistol purchase permit(s) set forth above should be revoked based on facts and circumstances indicating that on the date(s) set forth below you:

[Describe events with dates that form the basis of the revocation]

This/these event/condition(s) prohibits your eligibility for a pistol purchase permit pursuant to G.S. [insert statute number].

Pursuant to G.S. 14-404(h), you must immediately surrender any of the above listed permit(s) in your possession to the law enforcement officer serving this notice. If you are receiving this notice by mail delivery, you must surrender the permit(s) to the [insert county name] County Sheriff's Office within 48 hours of receipt. The Sheriff's Office is located at [insert Sheriff's Office address].

Notice: Willful failure to surrender all permits in your possession is a Class 2 misdemeanor. Attempted use of a permit that has been revoked may subject you to additional State and federal criminal penalties.

Appeal: If you disagree with this revocation, you may appeal the decision by petitioning a district court judge in the district where you reside. You should contact the clerk of superior court's office for instructions on this process.

This the _____ day of _____ 20_____.

_____ Sheriff

_____ County

ATTACHMENT 4

STATE OF NORTH CAROLINA

APPLICATION FOR CONCEALED HANDGUN PERMIT

- NEW PERMIT RENEWAL PERMIT
 DUPLICATE EMERGENCY TEMPORARY PERMIT

G. S. 14-415.10 et seq.

Name of Applicant (Last, First, Middle, Maiden) ▶ Attach listing of all previous addresses and all name changes including location and court file number (If Applicable)			Date of Birth		Social Security Number ▶ See Notification on page 3	
Street Address		City		State	Zip Code	State
Mailing Address			Driver's License Number (State ID Number if no driver's license)		Race ▶ See below for code	Sex
Telephone Number			County of Residence		Military Status <input type="checkbox"/> Active <input type="checkbox"/> Reserve <input type="checkbox"/> Discharged <input type="checkbox"/> Retired <input type="checkbox"/> N/A	Hair
Eyes		Height		Weight		Other Physical Description

▶ RACE CODES: A-Asian or Pacific Islander, B-Black, I-American Indian or Alaskan Native, U-Unknown, W-White

APPLICATION

I, the undersigned applicant, being duly sworn, hereby make application for a North Carolina Concealed Handgun Permit and state that the following information is correct to the best of my knowledge.

(Check Appropriate Boxes)

1. Are you a citizen of the United States? (1) Yes No
 * If No: Have you been lawfully admitted for permanent residence? Yes No
 ▶ If Yes, attach documentation
2. Are you 21 years of age or older? (2) Yes No
3. Have you been a resident of North Carolina for 30 days or longer immediately preceding the date of this application? (3) Yes No
4. Do you suffer from a physical or mental infirmity that prevents the safe handling of a handgun? (4) Yes No
5. Have you successfully completed an approved firearms safety and training course which involved the actual firing of handguns and instruction in the laws of North Carolina governing the carrying of a concealed handgun and the use of deadly force? ▶ If Yes, attach documentation (5) Yes No
 * If No: Do you meet any of the exceptions in N.C.G.S. § 14-415.12A? Yes No
 ▶ If Yes, attach documentation
6. Are you ineligible to own, possess, or receive a firearm under the provisions of State or federal law? (6) Yes No
7. Are you under indictment or has a finding of probable cause been entered against you for a pending felony charge? (7) Yes No
8. Have you been adjudicated guilty in any court of a felony? (8) Yes* No
 * If Yes: Have your firearm rights been restored pursuant to N.C.G.S. § 14-415.4? Yes No
 ▶ If Yes, attach documentation
9. Are you a fugitive from justice? (9) Yes No
10. Are you an unlawful user of (or addicted to) marijuana, alcohol, or any depressant, stimulant, or narcotic drug, or any other controlled substance as defined in 21 U.S.C. § 802? (10) Yes No
11. Are you currently or have you been previously adjudicated or administratively determined to be lacking mental capacity or mentally ill? (11) Yes No
12. Have you been discharged from the U.S. Armed Forces under conditions other than honorable? (12) Yes No
13. Have you been adjudicated guilty of, or received a prayer for judgment continued for, or received a suspended sentence for, one or more crimes of violence constituting a misdemeanor, including but not limited to, a violation of the disqualifying criminal offenses listed on page 3 of this form? ▶ See "List of Disqualifying Criminal Offenses" on page 3 (13) Yes No
14. Have you had an entry of prayer for judgment continued for a criminal offense which would disqualify you from obtaining a handgun permit? (14) Yes No
15. Are you free on bond or personal recognizance pending trial, appeal, or sentencing for a crime which would disqualify you from obtaining a concealed handgun permit? (15) Yes No
16. Have you been convicted of an impaired driving offense under N.C. G.S. § 20-138.1, 20-138.2, or 20-138.3 within three years prior to the date of this application? (16) Yes No

I hereby apply for a Temporary Emergency Permit for a nonrenewable period of up to 45 days based upon the information set forth below. I reasonably believe that an emergency situation exists which may constitute a risk of safety to me, my family, or my property.

State Grounds for Temporary Emergency Permit (Use attachment if necessary)

(To be completed for RENEWALS only) – I currently hold a valid Concealed Handgun Permit issued by the _____ County Sheriff's Office. I hereby affirm that I remain qualified to receive and possess this Concealed Handgun Permit pursuant to the criteria set forth in Article 54B of Chapter 14 of the NC General Statutes and the criteria outlined in this application.

SWORN TO AND SUBSCRIBED TO BEFORE ME

Date

Date

Signature of Person Authorized to Administer Oaths

Signature of Applicant

Title

Date Commission Expires

SEAL

CAUTION

Federal law and State law on the possession of handguns and firearms may differ. If you are prohibited by federal law from possessing a handgun or a firearm, you may be prosecuted in federal court. A State permit is not a defense to a federal prosecution.

SHERIFF USE ONLY

Check List — check applicable boxes:

- | | |
|---|---|
| 1. Nonrefundable Permit Fee Paid <input type="checkbox"/> | 8. Date Issued Temporary Permit _____ |
| 2. One Full Set of Fingerprints Administered by the Sheriff's Office <input type="checkbox"/> | 9. Date Denied Temporary Permit _____ |
| 3. Original Certificate of Completion
of Approved Firearms Safety & Training Course <input type="checkbox"/> | 10. Date Issued Permit _____
Permit Number _____ |
| 4. Renewal—Waiver of Application Firearm Safety & Training Course ... <input type="checkbox"/> | 11. Date Denied Permit _____ |
| 5. Attachment(s) (Specify) _____ <input type="checkbox"/> | 12. Date Submitted to SBI _____ |
| 6. Temporary Documentation <input type="checkbox"/> | 13. NICS Transaction Number (NTN)
_____ |
| 7. Other (Specify) _____ <input type="checkbox"/> | |

Signature of Sheriff: _____

Original – Sheriff / Copy – Applicant

LIST OF DISQUALIFYING CRIMINAL OFFENSES

► **NOTE:** *Effective July 1, 2015 for all CHP applications – an applicant who has been found guilty of or received a prayer for judgment continued or a suspended sentence for one of the offenses listed in 1-20, AND THREE YEARS HAS PASSED PRIOR TO SUBMITTING THE APPLICATION, can receive a Concealed Handgun Permit.*

1. Simple assault N.C.G.S. § 14-33(a)
2. Violation of court orders N.C.G.S. § 14-226.1
3. Furnishing poison, controlled substances, deadly weapons, cartridges, ammunition, or alcoholic beverages to inmates of charitable, mental or penal institutions, or local confinement facilities N.C.G.S. § 14-258.1
4. Carrying weapons on campus or other educational property N.C.G.S. § 14-269.2
5. Carrying weapons into assemblies and establishments where alcoholic beverages are sold and/or consumed N.C.G.S. § 14-269.3
6. Carry weapons on State property and courthouses N.C.G.S. § 14-269.4
7. Possession and/or sale of spring-loaded projectile knives N.C.G.S. § 14-269.6
8. Impersonation of a law enforcement officer or other public officer N.C.G.S. § 14-277
9. Communicating threats N.C.G.S. § 14-277.1
10. Carry weapons at parades and other public gatherings N.C.G.S. § 14-277.2
11. Exploding dynamite cartridges and/or bombs (except fireworks violations under N.C.G.S. § 14-414) N.C.G.S. § 14-283
12. Rioting and inciting a riot N.C.G.S. § 14-288.2
13. Fighting or conduct creating the threat of imminent fighting or other violence N.C.G.S. § 14-288.4(a)(1)
14. Looting and trespassing during an emergency N.C.G.S. § 14-288.6
15. Assault on emergency personnel N.C.G.S. § 14-288.9
16. Violations of City state of emergency ordinances N.C.G.S. § 14-288.12
17. Violations of County state of emergency ordinances N.C.G.S. § 14-288.13
18. Violations of State of emergency ordinances N.C.G.S. § 14-288.14
19. Violations of the standards for carrying a concealed weapon N.C.G.S. § 14-415.21(b)
20. Misrepresentation on certification of qualified retired law enforcement officers N.C.G.S. § 14-415.26(d)

► **NOTE:** *Offenses listed in 21-32 are permanent disqualifiers for a Concealed Handgun Permit.*

21. Assault inflicting serious injury or using deadly force N.C.G.S. § 14-33(c)(1)
22. Assault on a female N.C.G.S. § 14-33(c)(2)
23. Assault on a child under the age of 12 N.C.G.S. § 14-33(c)(3)
24. Assault inflicting serious injury or using a deadly weapon on a person in a personal relationship and in the presence of a minor N.C.G.S. § 14-33(d)
25. Stalking N.C.G.S. § 14-277.3A
26. Child abuse N.C.G.S. § 14-318.2
27. Domestic criminal trespass N.C.G.S. § 14-134.3
28. Domestic violence protective order violations N.C.G.S. § 50B-4.1
29. Stalking Former N.C.G.S. § 14-277.3
30. Any person convicted of a "misdemeanor crime of domestic violence" as defined in federal law at 18 USC 922(g)(9).
31. Any crimes involving assault or a threat to assault a law enforcement officer, probation or parole officer, person employed at a State or local detention facility, firefighter, emergency medical technician, medical responder, or emergency department personnel.
32. Misdemeanor crimes that involve violence (other than the misdemeanors listed in items 1-20).
33. Misdemeanor crimes under Article 8 of Chapter 14 (other than the misdemeanors listed in items 1-20).

► **SOCIAL SECURITY NUMBER:** The disclosure of your social security number as a part of this Concealed Handgun Permit application is voluntary. The purpose of requesting the social security number is to assist in your identification and to help distinguish you from other persons with similar names. No Concealed Handgun Permit will be denied for failure to **disclose** a social security number.

STATE OF NORTH CAROLINA

_____ County

**RELEASE OF PHYSICAL AND MENTAL
HEALTH, SUBSTANCE ABUSE AND
CONFIDENTIAL COURT RECORDS FOR
CONCEALED HANDGUN PERMIT**

G.S. 14-415.13(a)(5)

Name And Address Of Applicant

Date Of Birth

Social Security No.

State Drivers License No. (State Identification No. if no Drivers License)

State

I hereby authorize and require any and all doctors, hospitals or other providers who have ever provided physical or mental health or substance abuse treatment or care to me, including without limitation the providers named below, to release to the sheriff of the above named county any and all records concerning my physical capacity, mental health, mental capacity or substance abuse that the sheriff may reasonably request in connection with my application for a concealed handgun permit. The purpose of the release is to enable the sheriff to determine my qualification and competence to handle a handgun. I understand that alcohol and substance abuse information is protected by federal regulations and that other confidential records such as psychiatric information may be protected by North Carolina statute. Accordingly, I specifically authorize the release of any and all alcohol, substance abuse and psychiatric information that may be documented in my records.

I understand that further disclosure or redisclosure by the sheriff of any information disclosed to the sheriff pursuant to this Release is prohibited without my further written consent unless otherwise provided for by state or federal law. I understand that I may revoke this authorization at any time except to the extent that action has already been taken in reliance on this Release. Even without my express revocation, this Release will expire upon the satisfaction of the request or one year from the date below, whichever occurs first.

Name Of Provider	Address Of Provider

I also request and authorize any and all clerks of superior court of North Carolina to inform the sheriff of this County whether or not the clerk's records contain the record of any involuntary commitment proceeding under Article 5 of Chapter 122C of the General Statutes in which I have been named as a respondent and, if so, to reveal to the sheriff any confidential information in the court files or records of each such proceeding that the sheriff may reasonably require in order to determine whether or not to issue a concealed handgun permit to me. This Release may be treated as a motion in the cause within the meaning of G.S. 122C-54(d) and a clerk may reveal information to the sheriff pursuant to any specific or standing order entered in response to or anticipation of this motion.

I authorize the sheriff to photocopy this Release after I sign it, and I authorize any provider to whom a photocopy of this Release is presented to rely on the photocopy as being as effective as the original.

NOTE: Pursuant to G.S. 14-415.15(a), no person, company, mental health provider, or governmental entity may charge additional fees to the applicant for a concealed handgun permit for a background check under that subsection.

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME		Date
Date	Signature Of Person Authorized To Administer Oaths	Signature Of Applicant
Title		SEAL
Date Commission Expires		

ATTACHMENT 5

Concealed Handgun Permit Requirements and Disqualifiers

1. The applicant for a concealed handgun permit (CHP) must be a citizen of the United States or be a permanent resident alien (Green Card holder under 18 U.S.C. § 1101(a)(20)). The applicant must also be a resident of the North Carolina county where the application for a CHP is submitted. An individual would be ineligible to receive a CHP if the person is an alien illegally or unlawfully in the United States. G.S. § 14-415.12(a)(1); 18 U.S.C. § 922(g)(5).

If an individual is not a citizen (born or naturalized) of the United States, perform an IAQ query. A permanent resident alien is given the privilege of legally residing permanently in the United States. These people are issued a permanent resident card, otherwise referred to as a “green card” as proof of their legal status in the United States.

A person’s “residence” for purposes of a CHP is not defined in our statutes. Consequently, the sheriff must develop reasonable guidelines in order to make that determination. As for the length of time necessary to become a resident of the county, sheriffs may consider adopting the same time standards utilized by their county tax departments.

On the issue of how to prove residency, referring to other statutes may be beneficial. For example, G.S. § 20-7(b4) cites the following items as examples of how to show residency for the Division of Motor Vehicles:

- a. Pay stub with the payee's address;
 - b. Utility bills showing the applicant's address;
 - c. A contract for an apartment or house;
 - d. A receipt for personal property taxes paid;
 - e. A receipt for real property taxes paid; and/or
 - f. A monthly statement from a bank.
2. The applicant must be 21 years old. G.S. § 14-415.12(a)(2).
 3. The applicant cannot suffer from a physical or mental infirmity that prevents the safe handling of a handgun. There is no definition of this phrase provided in our statutes nor is there any case law interpreting it. Consequently, sheriffs must evaluate an individual’s mental or medical records to determine if a particular diagnosis or symptoms would reasonably affect their ability to safely handle a handgun. For example, an individual may have been seen by a psychologist for exhibiting symptoms of being paranoid, afraid and distrustful of others. If extreme enough, these criteria may convince a sheriff that the individual is not able to safely carry a concealed firearm. In such a circumstance, this provision of law will justify the denial of the CHP. G.S. § 14-415.12(a)(3).
 4. The applicant must have successfully completed a firearms safety class as approved by the North Carolina Criminal Justice Education and Training Standards Commission (CJ Commission). An acceptable training certificate will always have a seal from the CJ Commission on it. G.S. § 14-415.12(a)(4).

North Carolina exempts the following persons from having to take the firearms safety and training course:

- a. A North Carolina law enforcement officer from a local, State, or company police agency who has been retired for less than two years. (The retired officer must have either non-forfeitable rights under their respective retirement plan or have 20 years or more aggregate years of service);
- b. A current North Carolina law enforcement officer who is authorized to carry a handgun in the course of his or her duties;
- c. A person licensed or registered by the North Carolina Private Protective Services Board as an armed security guard and who has a firearms registration permit issued by the Board;
- d. An individual retired as a North Carolina probation or parole officer or as a North Carolina State correctional officer so long as the officer has been retired for less than two years; and
- e. A person qualified to carry a concealed firearm by the N.C. Criminal Justice Education and Training Standards Commission under the Law Enforcement Officer's Safety Act.

There is no exception in North Carolina for active duty or retired out-of-state officers, military members, or federal law enforcement officers. These people will have to take the approved safety class to get a North Carolina CHP. G.S. § 14-415.12A.

5. A concealed handgun permit cannot be issued to an applicant who is ineligible to receive a firearm under State or federal law. G.S. § 14-415.12(b)(1).

Under 18 U.S.C. § 922(g)(8), a person cannot possess firearms if they are currently subject to a court order that:

- a. Was issued after a hearing where the subject of the order had a chance to appear at the hearing and participate in it;
- b. Restrains the person from harassing, stalking, or threatening an intimate partner of the person or child of the intimate partner or person, or engaged in any other conduct that would place an intimate partner in fear of injury to the partner or child; and
- c. Includes a finding the person is a credible threat to the safety of the partner or child or explicitly prohibits the use, attempted use, or threatened use of force against the partner or child.

Additionally, under G.S. § 15A-1343(b)(5), as a regular condition of probation, a defendant cannot possess a firearm, explosive device or other deadly weapon listed in G.S. § 14-269 without the written permission of the court. Therefore if you encounter an applicant for a CHP that is currently on probation for a misdemeanor you should inquire with the clerk of court or (if necessary) the presiding judge to determine if the applicant has been given permission to possess firearms while on probation.

6. A concealed handgun permit cannot be issued to an applicant who is under indictment or against whom a finding of probable exists for a felony. G.S. § 14-415.12(b)(2).
7. A person is ineligible to receive a CHP if the person has been convicted in any state, or in any federal court, of a felony (other than an offense pertaining to antitrust violations, unfair trade practices, or restraints of trade).

However, a person who has been convicted of a felony and who has had his or her firearms rights restored pursuant to G.S. § 14-415.4 could get a CHP. This statute sets out a process where a convicted felon can have his or her firearms rights restored independent of receiving a pardon. In this restoration process, the felon must have been convicted of a nonviolent felony, must have gone 20 years after his or her release from imprisonment or probation without a subsequent conviction and then must apply to a district court judge for a restoration of firearms rights. G.S. § 14-415.12(b)(3).

8. A person would be ineligible to receive a CHP if the person has been convicted in any court for a “crime punishable by imprisonment for a term exceeding one year.” G.S. § 14-415.12(b)(1); 18 U.S.C. § 922(g)(1).

The term “crime punishable by imprisonment for a term exceeding one year” as defined by federal law at 18 U.S.C. § 921(20) does not include any federal or state crimes pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar crimes relating to the regulation of business practices.

The term also does not include any state offense classified as a misdemeanor and punishable by a term of imprisonment of two years or less. Any misdemeanors on an individual's criminal history record must therefore be evaluated to determine what the law was in the state of conviction at the time of the conviction, and what was the maximum jail time the individual could have received for the crime.

The amount of time an individual actually served in confinement is not the relevant time to look at. Rather, it is the maximum time the person could have received.

Any conviction that has been expunged, set aside, or pardoned would not be considered a conviction under federal law unless the pardon, expungement, or restoration of rights expressly provides that the person may not possess firearms.

For out-of-state misdemeanor convictions, you should consult with that state’s Attorney General’s Office to determine maximum jail times for a particular crime.

9. A person would be ineligible for a CHP if the person is a fugitive from justice. G.S. § 14-415.12(b)(4); 18 U.S.C. § 922(g)(2).

Pursuant to 27 C.F.R. § 478.11, a person is a fugitive from justice if the person has fled from any state to avoid current prosecution for a felony or misdemeanor; or who leaves the state to avoid giving testimony in any criminal proceeding.

10. A person would be ineligible to receive a CHP if the person is an unlawful user of or addicted to marijuana, alcohol, or any depressant, stimulant, or narcotic drug (as defined in 21 U.S.C. § 802). G.S. § 14-415.12(b)(5); 18 U.S.C. § 922(g)(3).

Please note that alcohol is included in this list.

North Carolina law does not define when a CHP applicant is considered an unlawful user of or addicted to drugs. Guidance may be found however in federal law.

An unlawful user of, or a person addicted to, a controlled substance is defined as, “a person who uses a controlled substance and has lost the power of self-control with reference to the use of a controlled substance...” It includes any person who is a current user of a controlled substance in a manner other than prescribed by a licensed physician. The unlawful use must have occurred recently enough to indicate that the individual is actively engaged in such conduct. 27 C.F.R. § 478.11.

This federal regulation goes on to give examples of conduct that may support an inference of current unlawful use of a controlled substance. The regulation states that a conviction for the use or possession of controlled substances within the past year may be sufficient to show current unlawful use. Additionally, multiple arrests for the use or possession of controlled substances in the past five years with the most recent arrest occurring in the last year may be sufficient to indicate current unlawful use. Also, a positive drug test within the last year may be sufficient to satisfy this prohibitor. 27 C.F.R. § 478.11.

Therefore, a conviction for misdemeanor possession of marijuana may be sufficient to show current unlawful use if the conviction occurred within the prior year. Similarly, if an applicant for either a pistol purchase or concealed handgun permit has had multiple charges for drug use or possession within the previous five years and the last charge occurred in the previous year, he or she may be prohibited from obtaining a permit. Please note that these are only examples. Sheriffs should evaluate an applicant's entire background for other indicators of current unlawful controlled substance use.

11. A person would be ineligible to receive a CHP if the individual “is currently, or has previously been adjudicated by a court, or administratively determined by a governmental agency whose decisions are subject to judicial review, to be lacking mental capacity or mentally ill. Receipt of previous consultative services or outpatient treatment alone shall not disqualify an applicant.” G.S. § 14-415.12(b)(6).

This provision is directed to those applicants who have previously received a diagnosis for a mental infirmity and have been found by some governmental agency to be mentally ill. For example, if an individual has been discharged from employment by a unit of local or State government for reasons of mental illness, this may provide sufficient grounds to deny an application.

The last sentence in this statute concerning outpatient treatment is important to note. Merely because an individual has previously sought consultative services or outpatient treatment would not by itself disqualify an applicant. It is not uncommon for an applicant to have sought psychological counseling in the past and this would not necessarily bar him or her from receiving a concealed handgun permit. For example, individuals who have suffered a loss in the family or an emotional breakup with a loved one may have sought psychological services to help them overcome this traumatic event in their lives. This type of isolated counseling event would not be a bar to a concealed handgun permit.

12. A person would be ineligible to receive a CHP if the individual has been adjudicated as a mental defective or has been committed to a mental institution. G.S. § 14-415.12(b)(1); 18 U.S.C. § 922(g)(4).

The term “adjudicated as a mental defective” is a determination by a court, board, commission or other lawful authority that a person, as a result of a marked subnormal intelligence, mental illness, incompetency, condition, or disease is a danger to himself or others; or lacks the mental capacity to contract or manage his own affairs; a person who is found to be insane by a court in a criminal case; or a person who was found incompetent to stand trial or found not guilty by reason of lack of mental responsibility pursuant to the uniform code of military justice. 27 C.F.R. § 478.11.

The phrase “committed to a mental institution” requires a formal involuntary commitment of a person to a mental institution by lawful authority for reasons such as mental defectiveness, mental illness, drug abuse, or alcohol abuse. 27 C.F.R. § 478.11.

In North Carolina, the mere fact that an individual has been taken into custody by law enforcement under an involuntary commitment order and treated at a 24-hour facility is not sufficient to invoke this prohibition. Rather, there must be a determination by a district court judge that the individual is mentally ill and a danger to himself or others. The judge must also have ordered the person to undergo either inpatient treatment or outpatient treatment. A voluntary commitment is not an automatic bar to possessing firearms. However, the person’s underlying diagnosis may be considered when deciding on the person’s eligibility for a concealed handgun permit (See item 3 above).

13. An individual who has been discharged from the Armed Forces of the United States under conditions other than honorable is ineligible to receive a CHP. G.S. § 14- 415.12(b)(7).

A military member who has served on active military duty in excess of six months will receive a DD form 214 which documents his or her time on active military service. This form will also list the characterization of that person's service. The military member can receive any one of the following types of discharges:

- a. Entry level separation (Uncharacterized);
- b. Honorable;
- c. General (under honorable conditions);
- d. Under other than honorable conditions (UOTHC);
- e. Bad conduct discharge;
- f. Dishonorable discharge; or
- g. Dismissal.

Of these characterizations of service, an under other than honorable conditions discharge (UOTHC); bad conduct discharge (BCD); dishonorable discharge (DD); or a dismissal will prevent a former military member from receiving a concealed handgun permit.

14. A person who, having been a citizen in the United States, has renounced his or her citizenship would be ineligible to receive a CHP. G.S. § 14-415.12(b)(1); 18 U.S.C. § 922(g)(7).

15. A person would be ineligible for a CHP if the person has been convicted of an impaired driving offense under G.S. § 20-138.1, 20-138.2 or 20-138.3 within three (3) years prior to the date of application submission. G.S. § 14-415.12(b)(11).
16. A person would be ineligible for a CHP if the person has had an entry of prayer for judgment continued for a criminal offense which would disqualify the applicant from obtaining a concealed handgun permit. G.S. § 14-415.12(b)(9).
17. A person would be ineligible for a CHP if the person is free on bond or personal recognizance pending trial, appeal, or sentencing for a crime which would disqualify him/her from obtaining a concealed handgun permit. G.S. § 14-415.12(b)(10).
18. An applicant who has been found guilty of or received a prayer for judgment continued or a suspended sentence for one of the following crimes listed in (a) through (t), AND THREE YEARS HAS PASSED PRIOR TO SUBMITTING THE APPLICATION, can (if otherwise qualified) receive a concealed handgun permit:
 - a. G.S. § 14-33(a), Simple assault;
 - b. G.S. § 14-226.1, Violation of court orders;
 - c. G.S. § 14-258.1, Furnishing poison, controlled substances, deadly weapons, cartridges, ammunition or alcoholic beverages to inmates of charitable, mental or penal institutions, or local confinement facilities;
 - d. G.S. § 14-269.2, Carrying weapons on campus or other educational property;
 - e. G.S. § 14-269.3, Carrying weapons into assemblies and establishments where alcoholic beverages are sold and consumed;
 - f. G.S. § 14-269.4, Carrying weapons on State property and courthouses;
 - g. G.S. § 14-269.6, Possession and/or sale of spring-loaded projectile knives;
 - h. G.S. § 14-277, Impersonation of a law enforcement or other public officer;
 - i. G.S. § 14-277.1, Communicating threats;
 - j. G.S. § 14-277.2, Carrying weapons at parades and other public gatherings;
 - k. G.S. § 14-283, Exploding dynamite cartridges and/or bombs (however violations for fireworks violations under G.S. § 14-414 are NOT a bar);
 - l. G.S. § 14-288.2, Rioting and inciting to riot;
 - m. G.S. § 14-288.4(a)(1), Fighting or conduct creating the threat of imminent fighting or other violence;
 - n. G.S. § 14-288.6, Looting and trespassing during an emergency;

- o. G.S. § 14-288.9, Assault on emergency personnel;
 - p. Former G.S. § 14-288.12, Violations of city State of Emergency Ordinances;
 - q. Former G.S. § 14-288.13, Violations of county State of Emergency Ordinances;
 - r. Former G.S. § 14-288.14, Violations of State of Emergency Ordinances;
 - s. G.S. § 14-415.21(b), Violations of the standards for carrying a concealed weapon;
 - t. G.S. § 14-415.26(d), Misrepresentation on certification of qualified retired law enforcement officers. G.S. § 14-415.12(b)(8).
19. An applicant IS permanently disqualified from receiving a concealed handgun permit if the applicant is or has been found guilty of or received a prayer for judgment continued or suspended sentence for the following misdemeanor crimes:
- a. Misdemeanor crimes that involve violence;
 - b. Crimes under Article 8 of Chapter 14 (other than the misdemeanors listed in paragraph 18(a) through (t) above). Prohibiting crimes under Article 8 of Chapter 14 are: Assault on handicapped persons (G.S. § 14-32.1(f)); Assaults on sports officials (G.S. § 14-33(b)(9)); Assault on government employee (G.S. § 14-33(c)(4)); Assault on school employee (G.S. § 14-33(c)(6)); Assault on public transit operator (G.S. § 14-33(c)(7)); Assault on company police officer (G.S. § 14-33(c)(8)); Assault by pointing a gun (G.S. § 14-34); Possession of Teflon coated bullets (G.S. § 14-34.3);
 - c. G.S. § 14-33(c)(1), Assault inflicting serious injury or using a deadly weapon;
 - d. G.S. § 14-33(c)(2), Assault on a female;
 - e. G.S. § 14-33(c)(3), Assault a child under the age of 12;
 - f. G.S. § 14-33(d), Assault inflicting serious injury or using a deadly weapon on a person in a personal relationship and in the presence of a minor;
 - g. G.S. § 14-277.3A, Stalking;
 - h. G.S. § 14-318.2, Child abuse;
 - i. G.S. § 14-134.3, Domestic criminal trespass;
 - j. G.S. § 50B-4.1, Domestic violence protective order violations;
 - k. Former G.S. § 14-277.3, Stalking;
 - l. Any person convicted of a “misdemeanor crime of domestic violence” as defined in federal law at 18 U.S.C. § 922(g)(8). 18 U.S.C. § 921 (33), defines a misdemeanor crime of domestic violence as:

A misdemeanor under federal or state law all which has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by person with whom the victim shares a child in common, by a person who is cohabitating with, or has cohabitating with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent or guardian of the victim.

In order to be convicted within the meaning of this federal law a person must be either represented by counsel at the time of the disposition of the charges or waived their right to counsel and if the person was entitled to a jury trial the person waived his or her right to such trial.

A person would also not be considered convicted under this federal law if the conviction is expunged, set aside, or is for an offense for which the person has been pardoned or has had his or her civil rights restored.

NOTE: Under *U.S. v. Vinson*, 794 F. 3d 418 (2015) and *Underwood v. Hudson*, 781 S.E. 2d 295 (2015), the Fourth Circuit Court of Appeals and the N.C. Court of Appeals, respectively, held that the various N.C. assault crimes did not qualify as a “misdemeanor crime of domestic violence”.

- m. Any crimes involving an assault or a threat to assault a law enforcement officer, probation or parole officer, person employed at a State or local detention facility, firefighter, emergency medical technician, medical responder, or emergency department personnel. G.S. § 14-415.12(b)(8), (8a), (8b), and (8c).

ATTACHMENT 6

Denial and Revocation of Concealed Handgun Permits

The attached forms are designed to allow the sheriff to fill-in-the-blank when processing a concealed handgun permit denial or revocation.

Instructions for the completion of each of these forms is as follows:

CHP FORM 1

CHP FORM 1 is to be used if an original or renewal application for a concealed handgun permit is subject to denial. This form is completed by writing in a free text format the description of the disqualifying condition.

For example, “It is found that facts and circumstances exist to show that you suffer from a mental infirmity that prevents the safe handling of a handgun as shown by a diagnosis from a mental health facility diagnosing you as being a paranoid schizophrenic” or, “It is found that facts and circumstances exist to show that you have been found guilty of a felony.”

After describing the conditions, you then fill in the block for the appropriate North Carolina General Statute subparagraph number. Each of the disqualifying conditions are set out in G.S. § 14-415.12. A copy of this statute is attached to CHP FORM 1 and should be referenced when completing this block.

For example, following along with our two examples above, a mental infirmity would be found in subparagraph (a)(3) and this subparagraph would be placed in the appropriate block. For the convicted felon, the appropriate subparagraph would be (b)(3).

CHP FORM 2

CHP FORM 2 is to be used when probable cause exists to revoke a concealed handgun permit and a hearing must be held before the revocation becomes effective.

Pursuant to G.S. § 14-415.18(a), a concealed handgun permit can be revoked either by the sheriff of the county where the permit was issued or the sheriff of the county where the person resides, subsequent to a hearing, for one of the following reasons:

1. Fraud or intentional misrepresentation in the obtaining of a permit;
2. Misuse of a permit, including lending or giving a permit or a duplicate permit to another person, materially altering a permit, or using a permit with the intent to unlawfully cause harm to a person or property;
3. The doing of an act or existence of a condition which would have been grounds for a denial of a permit by the sheriff; or
4. The violation of any of the terms of this article.

The CHP FORM 2 is completed by writing in the free text space the disqualifying condition.

For example, if you discover that a concealed handgun permittee gave false information on his or her application for the permit you would describe in this block the contents of the falsification. If you discover that a concealed handgun permittee has pending charges for a disqualifying crime (e.g., pending charges for a driving while impaired charge pursuant to G.S. § 20-138.1) you would describe this pending charge in the free text block.

Before a revocation under any of the four above described grounds is effective however, a hearing must be held by the sheriff. CHP FORM 2 therefore contains a fill-in-the-blank notice to a permittee that they can request a hearing and have an opportunity to provide input at this hearing.

CHP FORM 3

CHP FORM 3 is used after the hearing has been held as set forth in CHP FORM 2.

To complete this particular form, you would describe in free text the circumstances or conditions for which you are revoking the permit.

This form would also be completed and sent to the permittee if the decision is made to not revoke the permit.

For example, if you concluded a concealed handgun permittee did in fact provide false information on his or her permit application, you would describe in this form the facts of what the permittee did as found in the hearing. You would then complete the appropriate subparagraph number under G.S. § 14-415.18 for the appropriate disqualifying condition.

The four conditions referenced in the description of CHP FORM 2 above and their appropriate subparagraph number are as follows:

1. G.S. § 14-415.18(a)(1): Fraud or intentional misrepresentation in the obtaining of a permit.
2. G.S. § 14-415.18(a)(2): Misuse of a permit, including lending or giving a permit or a duplicate permit to another person, materially altering a permit, or using a permit with the intent to unlawfully cause harm to a person or property.
3. G.S. § 14-415.18(a)(3): The doing of an act or the existence of a condition which would have been grounds for the denial of the permit by the sheriff.
4. G.S. § 14-415.18(a)(4): The violation of any of the terms of this article.

CHP FORM 4

CHP FORM 4 is used only in the circumstance where a permittee has been adjudicated guilty of or received a prayer for judgment continued for a crime which would have disqualified them from initially receiving a permit.

This notice of revocation action is mandatory and effective immediately upon service of the notice to the permittee and does not require a hearing prior to the revocation.

This revocation may be taken by either the sheriff of the county where the permit was issued or the sheriff of the county where the person resides.

This form is completed by filling in the free text area describing the disqualifying crime that formed the basis of the revocation and the date on which the permittee was either found guilty of or received a prayer for judgment continued for the disqualifying crime.

The list of disqualifying crimes is attached to CHP FORM 4.

This form also contains a “service” block wherein the serving officer from the sheriff’s office would indicate if the notice was served on the permittee in person or by placing the notice in the United States mail, return receipt requested.

[Space Reserved for Sheriff's Office Letterhead]

NOTICE OF DENIAL OF APPLICATION FOR
ISSUANCE/RENEWAL OF A CONCEALED
HANDGUN PERMIT

TO: [Name and address of Permittee]

RE: Notice of Denial of Application for Issuance/Renewal of a Concealed
Handgun Permit

Dear _____:

This letter is to advise you that your application for issuance/renewal of a
concealed handgun permit is denied.

It is found that facts and circumstances exist to show:

[Describe disqualifying conditions]

, which constitutes a violation of N.C. Gen. Stat. § 14-415.12_____ [insert
subparagraph # here], for the possession of a concealed handgun permit.
Therefore, your application for a permit to carry a concealed handgun is denied.

You may appeal this denial by petitioning a district court judge of the
district in which you reside.

This the _____ day of _____, 20_____.

Sheriff

County

§ 14-415.12. Criteria to qualify for the issuance of a permit.

(a) The sheriff shall issue a permit to an applicant if the applicant qualifies under the following criteria:

- (1) The applicant is a citizen of the United States or has been lawfully admitted for permanent residence as defined in 8 U.S.C. § 1101(a)(20), and has been a resident of the State 30 days or longer immediately preceding the filing of the application.
- (2) The applicant is 21 years of age or older.
- (3) The applicant does not suffer from a physical or mental infirmity that prevents the safe handling of a handgun.
- (4) The applicant has successfully completed an approved firearms safety and training course which involves the actual firing of handguns and instruction in the laws of this State governing the carrying of a concealed handgun and the use of deadly force. The North Carolina Criminal Justice Education and Training Standards Commission shall prepare and publish general guidelines for courses and qualifications of instructors which would satisfy the requirements of this subdivision. An approved course shall be any course which satisfies the requirements of this subdivision and is certified or sponsored by:
 - a. The North Carolina Criminal Justice Education and Training Standards Commission,
 - b. The National Rifle Association, or
 - c. A law enforcement agency, college, private or public institution or organization, or firearms training school, taught by instructors certified by the North Carolina Criminal Justice Education and Training Standards Commission or the National Rifle Association.

Every instructor of an approved course shall file a copy of the firearms course description, outline, and proof of certification annually, or upon modification of the course if more frequently, with the North Carolina Criminal Justice Education and Training Standards Commission.

- (5) The applicant is not disqualified under subsection (b) of this section.

(b) The sheriff shall deny a permit to an applicant who:

- (1) Is ineligible to own, possess, or receive a firearm under the provisions of State or federal law.
- (2) Is under indictment or against whom a finding of probable cause exists for a felony.
- (3) Has been adjudicated guilty in any court of a felony, unless: (i) the felony is an offense that pertains to antitrust violations, unfair trade practices, or restraints of trade, or (ii) the person's firearms rights have been restored pursuant to G.S. 14-415.4.
- (4) Is a fugitive from justice.
- (5) Is an unlawful user of, or addicted to marijuana, alcohol, or any depressant, stimulant, or narcotic drug, or any other controlled substance as defined in 21 U.S.C. § 802.
- (6) Is currently, or has been previously adjudicated by a court or administratively determined by a governmental agency whose decisions are subject to judicial review to be, lacking mental capacity or mentally ill. Receipt of previous consultative services or outpatient treatment alone shall

not disqualify an applicant under this subdivision.

- (7) Is or has been discharged from the Armed Forces of the United States under conditions other than honorable.
- (8) Except as provided in subdivision (8a), (8b), or (8c) of this section, is or has been adjudicated guilty of or received a prayer for judgment continued or suspended sentence for one or more crimes of violence constituting a misdemeanor, including but not limited to, a violation of a misdemeanor under Article 8 of Chapter 14 of the General Statutes except for a violation of G.S. 14-33(a), or a violation of a misdemeanor under G.S. 14-226.1, 4-258.1, 14-269.2, 14-269.3, 14-269.4, 14-269.6, 14-277, 14-277.1, 14-277.2, 14-283 except for a violation involving fireworks exempted under G.S. 14-414, 14-288.2, 14-288.4(a)(1), 14-288.6, 14-288.9, former 14-288.12, former 14-288.13, former 14-288.14, 14-415.21(b), or 14-415.26(d) within three years prior to the date on which the application is submitted.
- (8a) Is or has been adjudicated guilty of or received a prayer for judgment continued or suspended sentence for one or more crimes of violence constituting a misdemeanor under G.S. 14-33(c)(1), 14-33(c)(2), 14-33(c)(3), 14-33(d), 14-277.3A, 14-318.2, 14-134.3, 50B-4.1, or former G.S. 14-277.3.
- (8b) Is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(g) as a result of a conviction of a misdemeanor crime of domestic violence.
- (8c) Has been adjudicated guilty of or received a prayer for judgment continued or suspended sentence for one or more crimes involving an assault or a threat to assault a law enforcement officer, probation or parole officer, person employed at a State or local detention facility, firefighter, emergency medical technician, medical responder, or emergency department personnel.
- (9) Has had entry of a prayer for judgment continued for a criminal offense which would disqualify the person from obtaining a concealed handgun permit.
- (10) Is free on bond or personal recognizance pending trial, appeal, or sentencing for a crime which would disqualify him from obtaining a concealed handgun permit.
- (11) Has been convicted of an impaired driving offense under G.S. 20-138.1, 20-138.2, or 20-138.3 within three years prior to the date on which the application is submitted.

(c) An applicant shall not be ineligible to receive a concealed carry permit under subdivision (6) of subsection (b) of this section because of an adjudication of mental incapacity or illness or an involuntary commitment to mental health services if the individual's rights have been restored under G.S. 14-409.42. (1995, c. 398, s. 1; c. 509, s. 135.3(d); 1997-441, s. 4; 2007-427, s. 5; 2008-210, s. 3(b); 2009-58, s. 1; 2010-108, s. 5; 2011-2, s. 1; 2011-183, s. 16; 2012-12, s. 2(bb); 2013-369, s. 11; 2015-195, ss. 7, 11(l), 17.)

CHP Form 2

[Space Reserved for Sheriff's Office Letterhead]

NOTICE OF PROBABLE CAUSE TO REVOKE A
CONCEALED HANDGUN PERMIT AND HEARING

TO: [Name and address of Permittee]

**RE: Notice of Probable Cause to Revoke a Concealed Handgun Permit and
Hearing**

Dear _____:

Probable cause exists to believe you are ineligible to retain your permit to carry a concealed handgun. Specifically, facts and circumstances exist to show:

[Describe disqualifying conditions]

, which constitutes a violation of N.C. Gen. Stat. § 14-415.18(a).

This allegation, if substantiated, could result in your permit to carry a concealed handgun being revoked.

You have the following rights:

1. You may elect to respond to this notice in writing by submitting a statement to _____ of the _____ County Sheriff's Office.

a. Your written response will become a part of the record of this incident.

2. In the alternative, you may elect to have a hearing on this matter before _____ of the _____ County Sheriff's Office.

a. If requested by you in writing within 48 hours of receipt of this notice, this hearing will be held on the _____ day of _____, 20____, at the _____ County Sheriff's Office.

b. You may appear at the hearing.

c. You may make a statement on your own behalf.

d. The decision of the sheriff will be based solely on the evidence presented in the report of violation and at your hearing. The final decision will be made in writing and a copy will be provided to you.

e. All reports and related documents connected with this matter will be included in your file.

f. You may appeal the findings to a district court judge of the district where you reside.

This the _____ day of _____, 20_____.

Sheriff

County

§ 14-415.18. Revocation or suspension of permit.

(a) The sheriff of the county where the permit was issued or the sheriff of the county where the person resides may revoke a permit subsequent to a hearing for any of the following reasons:

- (1) Fraud or intentional and material misrepresentation in the obtaining of a permit.
- (2) Misuse of a permit, including lending or giving a permit or a duplicate permit to another person, materially altering a permit, or using a permit with the intent to unlawfully cause harm to a person or property. It shall not be considered misuse of a permit to provide a duplicate of the permit to a vender for record-keeping purposes.
- (3) The doing of an act or existence of a condition which would have been grounds for the denial of the permit by the sheriff.
- (4) The violation of any of the terms of this Article.
- (5) Repealed by Session Laws 2013-369, s. 20, effective October 1, 2013.

A permittee may appeal the revocation, or nonrenewal of a permit by petitioning a district court judge of the district in which the applicant resides. The determination by the court, on appeal, shall be upon the facts, the law, and the reasonableness of the sheriff's refusal.

(a1) The sheriff of the county where the permit was issued or the sheriff of the county where the person resides shall revoke a permit of any permittee who is adjudicated guilty of or receives a prayer for judgment continued for a crime which would have disqualified the permittee from initially receiving a permit. Upon determining that a permit should be revoked pursuant to this subsection, the sheriff shall provide written notice to the permittee, pursuant to the provisions of G.S. 1A-1, Rule 4(j), that the permit is revoked upon the service of the notice. The notice shall provide the permittee with information on the process to appeal the revocation.

Upon receipt of the written notice of revocation, the permittee shall surrender the permit to the sheriff. Any law enforcement officer serving the notice is authorized to take immediate possession of the permit from the permittee. If the notice is served by means other than by a law enforcement officer, the permittee shall surrender the permit to the sheriff no later than 48 hours after service of the notice.

A permittee may appeal the revocation of a permit pursuant to this subsection by petitioning a district court judge of the district in which the permittee resides. The determination by the court, on appeal, shall be limited to whether the permittee was adjudicated guilty of or received a prayer for judgment continued for a crime which would have disqualified the permittee from initially receiving a permit. Revocation of the permit is not stayed pending appeal.

(b) The court may suspend a permit as part of and for the duration of any orders permitted under Chapter 50B of the General Statutes. (1995, c. 398, s. 1; 2011-268, s. 20; 2013-369, s. 20.)

CHP Form 3

[Space Reserved for Sheriff's Office Letterhead]

NOTICE OF FINDINGS OF CONCEALED HANDGUN
PERMIT REVOCATION HEARING

TO: [Name and address of Permittee]

RE: Notice of Revocation of Concealed Handgun Permit

Dear _____:

This letter is to advise you of the findings of the hearing that was held on _____ (Date), regarding your permit to carry a concealed handgun. This matter was heard by _____ in _____ County.

It is found that your actions:

[Describe findings of the hearing]

(do/do not) constitute a violation of N.C. Gen. Stat. § 14-415.18 _____ [insert subparagraph # here] for the possession of a concealed handgun permit. Your permit to carry a concealed handgun (is/is not) revoked.

If revoked, you may appeal this revocation by petitioning a district court judge of the district in which you reside.

This the _____ day of _____, 20____.

Sheriff

_____ County

§ 14-415.18. Revocation or suspension of permit.

(a) The sheriff of the county where the permit was issued or the sheriff of the county where the person resides may revoke a permit subsequent to a hearing for any of the following reasons:

- (1) Fraud or intentional and material misrepresentation in the obtaining of a permit.
- (2) Misuse of a permit, including lending or giving a permit or a duplicate permit to another person, materially altering a permit, or using a permit with the intent to unlawfully cause harm to a person or property. It shall not be considered misuse of a permit to provide a duplicate of the permit to a vender for record-keeping purposes.
- (3) The doing of an act or existence of a condition which would have been grounds for the denial of the permit by the sheriff.
- (4) The violation of any of the terms of this Article.
- (5) Repealed by Session Laws 2013-369, s. 20, effective October 1, 2013.

A permittee may appeal the revocation, or nonrenewal of a permit by petitioning a district court judge of the district in which the applicant resides. The determination by the court, on appeal, shall be upon the facts, the law, and the reasonableness of the sheriff's refusal.

(a1) The sheriff of the county where the permit was issued or the sheriff of the county where the person resides shall revoke a permit of any permittee who is adjudicated guilty of or receives a prayer for judgment continued for a crime which would have disqualified the permittee from initially receiving a permit. Upon determining that a permit should be revoked pursuant to this subsection, the sheriff shall provide written notice to the permittee, pursuant to the provisions of G.S. 1A-1, Rule 4(j), that the permit is revoked upon the service of the notice. The notice shall provide the permittee with information on the process to appeal the revocation.

Upon receipt of the written notice of revocation, the permittee shall surrender the permit to the sheriff. Any law enforcement officer serving the notice is authorized to take immediate possession of the permit from the permittee. If the notice is served by means other than by a law enforcement officer, the permittee shall surrender the permit to the sheriff no later than 48 hours after service of the notice.

A permittee may appeal the revocation of a permit pursuant to this subsection by petitioning a district court judge of the district in which the permittee resides. The determination by the court, on appeal, shall be limited to whether the permittee was adjudicated guilty of or received a prayer for judgment continued for a crime which would have disqualified the permittee from initially receiving a permit. Revocation of the permit is not stayed pending appeal.

(b) The court may suspend a permit as part of and for the duration of any orders permitted under Chapter 50B of the General Statutes. (1995, c. 398, s. 1; 2011-268, s. 20; 2013-369, s. 20.)

CHP Form 4

[Space Reserved for Sheriff's Office Letterhead]

NOTICE OF REVOCATION

TO: [Name and address of Permittee]

RE: Notice of Revocation of Concealed Handgun Permit

Dear _____:

You are hereby notified that, pursuant to N.C. Gen. Stat. § 14-415.18(a1), your concealed handgun permit is hereby revoked effective upon service of this notice.

Your concealed handgun permit must be revoked based on facts and circumstances indicating that on the date(s) set forth below you were found guilty of or received a prayer for judgment continued for the following disqualifying offense(s):

[List the crime(s) forming the basis of the revocation and the date the permittee was either found guilty of or received a prayer for judgment continued for the offense(s)]

This/these judgment(s) prohibit(s) your possession of a concealed handgun permit pursuant to N.C. Gen. Stat. § 14-415.18(a1).

Pursuant to N.C. Gen. Stat. § 14-415.18(a1), you must surrender your permit to the law enforcement officer serving this notice. If you are receiving this notice by mail delivery, you must surrender the permit to the [insert county name] County Sheriff's Office within 48 hours of receipt. The Sheriff's Office is located at [insert Sheriff's Office address].

Notice: Willful failure to surrender your permit is a Class 2 misdemeanor. Attempted use of a permit that has been revoked may subject you to additional State and federal criminal penalties.

Appeal: If you disagree with this revocation, you may appeal the decision by petitioning a district court judge in the district where you reside.

This the _____ day of _____, 20____.

Sheriff
_____ County

SERVICE

I certify that I did, on the date and time below:

_____ Personally deliver to the permittee named herein a copy of this Notice of Revocation of Concealed Handgun Permit.

_____ Place a copy of this Notice of Revocation of Concealed Handgun Permit addressed to the permittee named herein, in the United States mail, return receipt requested.

This the _____ day of _____ 20____, at ____ (time) ____.

Serving Officer

Disqualifying Criminal Offenses Pursuant to G.S. § 14-415.12(B)(8)

1. Effective July 1, 2015 for all concealed handgun permit applications submitted on or after that date, an applicant who has been found guilty of or received a prayer for judgment continued or a suspended sentence for one of the following crimes listed in (a) through (u), **AND THREE YEARS HAS PASSED PRIOR TO SUBMITTING THE APPLICATION**, can receive a concealed handgun permit.
 - (a) G.S. § 14-33(a), simple assault;
 - (b) G.S. § 14-226.1, Violation of court orders;
 - (c) G.S. § 14-258.1, Furnishing poison, controlled substances, deadly weapons, cartridges, ammunition or alcoholic beverages to inmates of charitable, mental or penal institutions, or local confinement facilities;
 - (d) G.S. § 14-269.2, Carrying weapons on campus or other educational property;
 - (e) G.S. § 14-269.3, Carrying weapons into assemblies and establishments where alcoholic beverages are sold and consumed;
 - (f) G.S. § 14-269.4, Carry weapons on state property and courthouses;
 - (g) G.S. § 14-269.6, Possession and/or sale of spring-loaded projectile knives;
 - (h) G.S. § 14-277, Impersonation of a law enforcement or other public officer;
 - (i) G.S. § 14-277.1, Communicating threats;
 - (j) G.S. § 14-277.2, Carry weapons at parades and other public gatherings;
 - (k) G.S. § 14-283, Exploding dynamite cartridges and/or bombs (however violations for fireworks violations under G.S. § 14-414 are NOT a bar);
 - (l) G.S. § 14-288.2, Rioting and inciting to riot;
 - (m) G.S. § 14-288.4(a)(1), Fighting or conduct creating the threat of imminent fighting or other violence;
 - (n) G.S. § 14-288.6, Looting and trespassing during an emergency;
 - (o) G.S. § 14-288.9, Assault on emergency personnel;
 - (p) Former G.S. § 14-288.12, Violations of city State of Emergency Ordinances;
 - (q) Former G.S. § 14-288.13, Violations of county State of Emergency Ordinances;
 - (r) Former G.S. § 14-288.14, Violations of State of Emergency Ordinances;
 - (s) G.S. § 14-415.21(b), Violations of the standards for carrying a concealed weapon;

(t) G.S. § 14-415.26(d), Misrepresentation on certification of qualified retired law enforcement officers;

(u) G.S. §§ 20-138.1, 20-138.2, or 20-138.3, Impaired driving.

2. Effective July 1, 2015 for all concealed handgun permit applications submitted on or after that date, an applicant IS permanently disqualified from receiving a concealed handgun permit if the applicant is or has been found guilty of or received a prayer for judgment continued or suspended sentence for the following misdemeanor crimes.

(a) Misdemeanor crimes that involve violence (other than the misdemeanors listed in paragraph 1.(a) through (t) above);

(b) G.S. § 14-33(c)(1), Assault inflicting serious injury or using a deadly weapon;

(c) G.S. § 14-33(c)(2), Assault on a female;

(d) G.S. § 14-33(c)(3), Assault a child under the age of 12;

(e) G.S. § 14-33(d), Assault inflicting serious injury or using a deadly weapon on a person in a personal relationship and in the presence of a minor;

(f) G.S. § 14-277.3A, Stalking;

(g) G.S. § 14-318.2, Child abuse;

(h) G.S. § 14-134.3, Domestic criminal trespass;

(i) G.S. § 50B-4.1, Domestic violence protective order violations;

(j) Former G.S. § 14-277.3, Stalking;

(k) Any person convicted of a “misdemeanor crime of domestic violence” as defined in federal law at 18 USC § 922(g)(8);

(l) Any crimes involving an assault or a threat to assault a law enforcement officer, probation or parole officer, person employed at a State or local detention facility, firefighter, emergency medical technician, medical responder, or emergency department personnel.

ATTACHMENT 7

Concealed Handgun Chart- Prohibited Carry Areas				
Prohibited Carry Area	Individuals Authorized Pursuant to GS 14-269(b)	Out-of-State Officer HR 218	Concealed Carry Handgun Permittee GS 14-415.10	Out-of-State Reciprocal Concealed Carry Handgun
Educational Property	YES	YES--If Secured in Vehicle or on the permittee who remains in the locked vehicle.	YES -- If Secured in Vehicle or on the permittee who remains in the locked vehicle.	YES -- If Secured in Vehicle or on the permittee who remains in the locked vehicle.
Posted Private Educational Property	YES	NO	NO	NO
Where Alcoholic Beverages are sold and consumed	YES	YES--Unless Posted	YES -- Unless Posted	YES -- Unless Posted
Certain State Property & Courthouses (This does not address Legislative office properties.)	YES	YES-- If Secured in Vehicle	YES -- If Secured in Vehicle	YES -- If Secured in Vehicle
Parades or Funeral Processions	YES	YES -- Unless Posted	YES -- Unless Posted	YES -- Unless Posted
Picket lines, Private Health Care Facilities	YES	NO	NO	NO
Posted Property	see note below	NO	NO	NO
Law Enforcement or Correctional Facility	YES	NO	NO	NO
Federal Property	NO	NO	NO	NO
While consuming alcohol or while alcohol or controlled substance is in the blood	NO	NO	NO	NO
Assembly where admission is charged	YES	YES--Unless Posted	YES--Unless Posted	YES--Unless Posted
State owned rest area	YES	YES	YES	YES
Posted local government recreational facilities	YES	NO	NO	NO

A “yes” in the block indicates the person in that category can carry in the establishment listed.
A “no” in the block indicates the person in that category cannot carry in the establishment listed.

NOTE: While carrying in this area may not be in violation of our concealed carry statutes, it may constitute a trespass violation in certain circumstances.

Individuals Authorized Pursuant to G.S. § 14-269(b)

1. Officers and enlisted personnel of the armed forces of the United States when in the discharge of their official duties as such and when acting under orders requiring them to carry arms and weapons;
2. Civil and law enforcement officers of the United States;
3. Officers and soldiers of the Militia and the National Guard when called to actual service and any National Guard member with a valid concealed handgun permit, who has been designated by the N.C. Adjutant General to carry firearms in the discharge of his/her duties;
4. Officers of the State, or of any county, city, or town, charged with the execution of the laws of the State, when acting in the discharge of their official duties;
5. Any person who is a district attorney, an assistant district attorney, or an investigator employed by the office of a district attorney and who has a concealed handgun permit issued in accordance with Article 54B of this Chapter or considered valid under G.S. § 14-415.24; provided that the person shall not carry a concealed weapon at any time while in a courtroom or while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body. The district attorney, assistant district attorney, or investigator must secure the weapon in a locked compartment when it is not carried on their person;
6. Any person who is a qualified retired law enforcement officer as defined in G.S. § 14 - 415.10 and meets **any one** of the following conditions:
 - a. Is the holder of a NC concealed handgun permit;
 - b. Is exempt from obtaining a permit pursuant to G.S. § 14-415.25; or
 - c. Is certified by the North Carolina Criminal Justice Education Training Standards Commission pursuant to G.S. § 14-415.26
7. Detention personnel or correctional officers employed by the State or a unit of Local government who park a vehicle in a space that is authorized for their use in the course of their duties may transport a firearm to the parking space and store that firearm in the vehicle parked in the parking space, provided that: (i) the firearm is in a closed compartment or container within the locked vehicle; or (ii) the firearm is in a locked container securely affixed to the vehicle;
8. State probation or parole certified officers and State correctional officers, when off-duty, provided that an officer does not carry a concealed weapon while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the officer's body;
9. Sworn law enforcement officers, when off duty, provided that an officer does not carry a concealed weapon while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the officer's body;

10. A North Carolina district court judge, North Carolina Superior Court Judge, North Carolina magistrate or N.C. administrative law judge who has a concealed handgun permit, provided that the person cannot carry a concealed weapon at any time while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body. The judge or magistrate shall secure the weapon in a locked compartment when the weapon is not on their person;
11. A NC clerk of court or register of deeds with a valid concealed handgun permit, provided that the person cannot carry a concealed weapon at any time while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in their body. The clerk of court or register of deeds must secure the weapon in a locked compartment when the weapon is not on their person. This allowance **does not** apply to assistants, deputies or other employees of the clerk or register of deeds.
12. Employees of the Department of Public Safety who have valid concealed handgun permits and are designated in writing by the Secretary of the Department to carry a firearm.
13. Valid concealed handgun permittees and the handgun is in a closed compartment or container within the person's locked vehicle, and the vehicle is in a parking area that is owned or leased by state government.