

§ 14-404. Issuance or refusal of permit; appeal from refusal; grounds for refusal; sheriff's fee.

(a) Upon application, and such application must be provided by the sheriff electronically, the sheriff shall issue the permit to a resident of that county, unless the purpose of the permit is for collecting, in which case a sheriff can issue a permit to a nonresident, when the sheriff has done all of the following:

- (1) Verified, before the issuance of a permit, 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 and background history of any applicant by accessing computerized criminal history records as maintained by the State Bureau of Investigation and the Federal Bureau of Investigation, by conducting a national criminal history records check, by conducting a check through the National Instant Criminal Background Check System (NICS), and by conducting a criminal history check through the Administrative Office of the Courts.
- (2) Fully satisfied himself or herself by affidavits, oral evidence, or otherwise, as to the good moral character of the applicant. For purposes of determining an applicant's good moral character to receive a permit, the sheriff shall only consider an applicant's conduct and criminal history for the five-year period immediately preceding the date of the application.
- (3) Fully satisfied himself or herself that the applicant desires the possession of the weapon mentioned for (i) the protection of the home, business, person, family or property, (ii) target shooting, (iii) collecting, or (iv) hunting.

(b) If the sheriff is not fully satisfied, the sheriff may, for good cause shown, decline to issue the permit and shall provide to the applicant within seven days of the refusal a written statement of the reason(s) for the refusal. The statement shall cite the specific facts upon which the sheriff concluded that the applicant was not qualified for the issuance of a permit and list, by statute number, the applicable law upon which the denial is based. An appeal from the refusal shall lie by way of petition to the superior court in the district in which the application was filed. The determination by the court, on appeal, shall be upon the facts, the law, and the reasonableness of the sheriff's refusal, and shall be final.

(b1) The sheriff shall keep a list of all permit denials, with the specific reasons for the denials noted. The list shall not include any information that would identify the applicant whose application was denied. The list, as described in this subsection, shall be a public record, and the sheriff shall make the list available upon request to any member of the public. The list shall be organized by the quarters of the year, showing the number of denials and the reasons in each three-month period, and the list shall only be released for past, completed quarters.

(c) A permit may not be issued to the following persons:

- (1) One 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 antitrust violations, unfair trade practices, or restraints of trade). However, a person who has been convicted of a felony in a court of any state or in a court of the United States and (i) who is later pardoned, or (ii) whose firearms rights have been restored pursuant to G.S. 14-415.4, may obtain a permit, if the purchase or receipt of a pistol permitted in this Article does not violate a condition of the pardon or restoration of firearms rights.
- (2) One who is a fugitive from justice.

- (3) One who is an unlawful user of or addicted to marijuana or any depressant, stimulant, or narcotic drug (as defined in 21 U.S.C. § 802).
- (4) One who has been adjudicated mentally incompetent or has been committed to any mental institution.
- (5) One who is an alien illegally or unlawfully in the United States.
- (6) One who has been discharged from the Armed Forces of the United States under dishonorable conditions.
- (7) One who, having been a citizen of the United States, has renounced his or her citizenship.
- (8) One who is 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 the intimate partner or child that would reasonably be expected to cause bodily injury.

(c1) Repealed by Session Laws 2015-195, s. 11(c), effective August 5, 2015.

(d) Nothing in this Article shall apply to officers authorized by law to carry firearms if the officers identify themselves to the vendor or donor as being officers authorized by law to carry firearms and provide any of the following:

- (1) A letter signed by the officer's supervisor or superior officer stating that the officer is authorized by law to carry a firearm.
- (2) A current photographic identification card issued by the officer's employer.
- (3) A current photographic identification card issued by a State agency that identifies the individual as a law enforcement officer or a probation and parole officer certified by the State of North Carolina.
- (4) A current identification card issued by the officer's employer and another form of current photographic identification.

(e) The sheriff shall charge for the sheriff's services upon receipt of an application a fee of five dollars (\$5.00) for each permit requested. There shall be no limit as to the number or frequency of permit applications and no other costs or fees other than provided in this subsection shall be charged for the permit, including, but not limited to, any costs for investigation, processing, or medical background checks by the sheriff or others providing records to the sheriff.

(e1) The application for a permit shall be on a form created by the State Bureau of Investigation in consultation with the North Carolina Sheriffs' Association. This application shall be used by all sheriffs and must be provided by the sheriff both electronically and in paper form. Only the following shall be required to be submitted by an applicant for a permit:

- (1) The permit application developed pursuant to this subsection.
- (2) Five dollars for each permit requested pursuant to subsection (e) of this section.
- (3) A government issued identification confirming the identity of the applicant.
- (4) Proof of residency.
- (5) A signed release, in a form to be prescribed by the Administrative Office of the Court, that authorizes and requires disclosure to the sheriff of any court

orders concerning the mental health or capacity of the applicant to be used for the sole purpose of determining whether the applicant is disqualified to receive a permit pursuant to this section.

No additional document or evidence shall be required from any applicant.

(f) Each applicant for a license or permit shall be informed by the sheriff within 14 days of the date of the application whether the license or permit will be granted or denied and, if granted, the license or permit shall be immediately issued to the applicant.

(g) An applicant shall not be ineligible to receive a permit under subdivision (c)(4) of this section because of involuntary commitment to mental health services if the individual's rights have been restored under G.S. 14-409.42.

(h) The sheriff shall revoke any permit upon the occurrence of any event or condition subsequent to the issuance of the permit, or the applicant's subsequent inability to meet a requirement under this Article, which would have resulted in a denial of the application submitted to obtain the permit if the event, condition, or the applicant's current inability to meet a statutory requirement had existed at the time of the application and prior to the issuance of the permit. The following procedures apply to a revocation:

- (1) 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.
- (2) 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.
- (3) The sheriff shall insure that the list of permits which have been revoked is immediately updated so that any potential transferor calling to check the validity of the permit will be informed of the revocation.
- (4) 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.
- (5) Any person who willfully fails to surrender a permit upon notice of revocation shall be guilty of a Class 2 misdemeanor.

(i) A person or entity shall promptly disclose to the sheriff, upon presentation by the applicant or sheriff of an original or photocopied release form described in subdivision (5) of subsection (e1) of this section, any court orders concerning the mental health or capacity of the applicant who signed the release form. (1919, c. 197, s. 3; C.S., s. 5108; 1959, c. 1073, s. 2; 1969, c. 73; 1981 (Reg. Sess., 1982), c. 1395, s. 1; 1987, c. 518, s. 1; 1995, c. 487, s. 2; 2006-39, s. 1; 2006-264, s. 4; 2008-210, s. 3(a); 2009-570, s. 7; 2010-108, s. 4; 2011-2, s. 1; 2011-56, s. 2; 2011-183, s. 13; 2011-268, s. 10; 2013-369, s. 17.2(a); 2013-389, s. 2; 2014-115, s. 23.5(a); 2015-195, ss. 10(d), 11(c), (f), (j); 2016-77, s. 9(a).)