

Chapter 3: Rifle/Shotgun Permits

§ 3-01 Introduction.

All New York City rifle and shotgun permittees shall be aware of the responsibilities incurred by accepting a permit. The permittee should especially be familiar with the rules applicable to the possession of a rifle or shotgun or both. The following rules for the proper and safe use of rifles and shotguns have been promulgated by the Police Commissioner of the New York City Police Department. A violation of these provisions may be cause for suspension or revocation of a rifle/shotgun permit.

§ 3-02 Application for Permit.

- (a) The applicant shall complete the application supplied to her/him by the Police Department.
- (b) The minimum age for obtaining a permit is 18 years of age.
- (c) 1) If the applicant was ever arrested for any crime or violation s/he shall submit a certificate of disposition indicating the offense and final disposition of the charges. The applicant shall do this even if the case was dismissed, the record sealed or the case nullified by operation of law (e.g., Youthful Offender Status). Any omission of a previous arrest may result in the denial of the application.
- (2) If the applicant was ever convicted in New York State of a felony or a serious offense as defined in § 265.00(17) of the New York State Penal Law, s/he shall get a New York State Certificate of Relief from Disabilities.
- (3) No permit shall be issued or renewed to any applicant who has been convicted of a misdemeanor crime of domestic violence, as defined in § 921(a) of title 18 of the United States Code, or who is the subject of a suspension or ineligibility order issued pursuant to § 530.14 of the New York State Criminal Procedure Law or § 842-a of the New York State Family Court Act.
- (d) If the applicant was discharged from the Armed Forces under other than honorable conditions s/he shall submit a copy of her/his separation papers and an affirmed statement explaining the reason for discharge.
- (e) If the applicant's answer to Question 2, 3 or 4 on the application is YES s/he shall submit a letter from a licensed physician stating that s/he has examined the applicant within the last 30 days, that the examination included a review of the applicant's medical record and all pertinent hospital and institutional records, and shall conclude that the applicant is capable of possessing a rifle or a shotgun without presenting a danger of harm to the applicant or to others. Further evidence may be requested.
- (f) Four color photographs, 1 1/2 × 1 1/2 inches, of the applicant, from the chest up, taken within the past thirty (30) days shall accompany the application. The wearing of any article of clothing or other adornment obscuring the identification of the wearer is not acceptable.
- (g) Payment of applicable fees shall be made by certified check or money order, made payable to the N.Y.C. Police Department or to the N.Y.S. Division of Criminal Justice Services, respectively.
- (h) All permittees shall be required to sign an acknowledgment that they shall be responsible for compliance with all laws, rules, regulations, standards, and procedures promulgated by federal, state, or local jurisdictions, and by federal, state, or local law enforcement agencies, that are applicable to this permit. The Rifle/Shotgun Section shall provide the permittee with the acknowledgment statement in writing. Failure to affirm the acknowledgment statement in writing shall result in denial of the permit application.
- (i) During the pendency of the application, the applicant shall notify the Rifle/Shotgun Section of any necessary correction to or modification of the information provided in the original application, or any change in her/his status or circumstances, which may be relevant to the application.

§ 3-03 Grounds for Denial of Permit.

In addition to other bases for disqualification pursuant to federal, state, and local law and this chapter, an application for a rifle/shotgun permit may be denied where it is determined that an applicant lacks good moral character or that other good cause exists for denial, pursuant to § 10-303 of the Administrative Code of the City of New York. Such a determination shall be made based upon consideration of the following factors:

- (a) The applicant has been arrested, indicted or convicted for a crime or violation except minor traffic violations, in any federal, state or local jurisdiction.
- (b) The applicant has been other than honorably discharged from the Armed Forces of this country.
- (c) The applicant has or is reasonably believed to have a disability or condition that may affect the ability to safely possess or use a rifle or shotgun, including but not limited to alcoholism, drug use or mental illness.
- (d) The applicant is or has been an unlawful user of, or addicted to, a controlled substance or marijuana.
- (e) The applicant made a false statement on her/his application, or failed to disclose her/his complete arrest history, including sealed arrests. Sealed arrests are made available to the License Division pursuant to Article 160 of the Criminal Procedure Law when an application has been made for a permit to possess a gun.
- (f) The applicant is the subject of an order of protection or a temporary order of protection.
- (g) The applicant has a history of one or more incidents of domestic violence.
- (h) The applicant has a poor driving history, has multiple driver license suspensions or has been declared a scofflaw by the New York State Department of Motor Vehicles.
- (i) The applicant has failed to comply with federal, state or local law or with Police Department rules governing possession and use of handguns, rifles, shotguns or ammunition.
- (j) The applicant has been terminated from employment under circumstances that demonstrate lack of good judgment or lack of good moral character.
- (k) The applicant has demonstrated an inability to safely store firearms, such as through a history of lost/stolen firearms.
- (l) The applicant has failed to pay legally required debts such as child support, taxes, fines or penalties imposed by governmental authorities.
- (m) The applicant fails to cooperate with the License Division's investigation of her/his application or fails to provide information requested by the License Division or required by this chapter.
- (n) Other information demonstrates an unwillingness to abide by the law, a lack of candor towards lawful authorities, a lack of concern for the safety of oneself and/or other persons and/or for public safety, and/or other good cause for the denial of the permit. In evaluating incidents or circumstances pursuant to this section, the License Division shall consider all relevant factors, including but not limited to the number, recency and severity of incidents

and the outcome of any judicial or administrative proceedings.

§ 3-04 Right to Appeal Following Denial of Permit.

If for any reason her/his application is denied the applicant has the right to an appeal.

(a) If the applicant's original application is denied, the applicant shall receive a written "Notice of Application Disapproval" from the Rifle/Shotgun Section indicating the reason(s) for the disapproval. If the applicant wishes to appeal the decision s/he shall submit a sworn written statement, which shall be known as an "Appeal of Application Disapproval," to the Division Head, License Division, One Police Plaza, Room 110A, New York, New York 10038 within thirty (30) calendar days of the date on the "Notice of Application Disapproval" requesting an appeal of the denial, and setting forth the reasons supporting the appeal. The Appeal of Application Disapproval shall become part of the application. It shall state the grounds for the appeal and shall contain the following statement to be signed by the applicant and notarized: "Under penalty of perjury, deponent being duly sworn, says that s/he is familiar with all of the statements contained herein and that each of these statements is true, and no pertinent facts have been omitted." Appeals that are unsworn by the applicant or submitted by individuals or business entities other than the applicant or her/his New York State licensed attorney shall not be accepted.

(b) All timely appeals shall receive a complete review of the applicant's entire file by the Division Head, License Division, who shall notify the applicant of her/his determination. The Division Head, License Division shall not consider any documentation that was not submitted during the initial background investigation. There shall be no personal interviews to discuss appeals. If the appeal of her/his disapproval is denied, the applicant shall receive a "Notice of Disapproval After Appeal" letter from the Division Head, License Division. This notice concludes the Police Department's administrative review procedure.

§ 3-05 Suspension or Revocation of Permit.

(a) The permittee shall immediately notify the Rifle/Shotgun Section by telephone, followed by written notice within ten (10) calendar days, of any incident or violation of law or rules of federal, state, or local jurisdictions. For purposes of this subdivision, an incident includes:

- (1) arrest, indictment or conviction in any jurisdiction;
- (2) summons (except traffic infraction);
- (3) suspension or ineligibility order issued pursuant to § 530.14 of the New York State Criminal Procedure Law or § 842-a of the New York State Family Court Act;
- (4) the fact that the permittee is or becomes the subject or recipient of an order of protection or a temporary order of protection;
- (5) admission to any psychiatric institution, sanitarium and/or the receipt of psychiatric treatment;
- (6) receipt of treatment for alcoholism or drug abuse; or
- (7) the presence or occurrence of a disability or condition that may affect the handling of a rifle/shotgun, including but not limited to epilepsy, diabetes, fainting spells, blackouts, temporary loss of memory, or nervous disorder; or
- (8) unlawful discharge of a rifle/shotgun.

(b) The permittee's rifle/shotgun permit may be suspended for a defined period or revoked upon evidence of any disqualification pursuant to subdivision a of § 10-303 of the Administrative Code and 38 RCNY §§ 3-02 and 3-03. A rifle/shotgun permit shall be revoked upon the conviction in this state or elsewhere of a felony or a serious offense, as defined in subdivision seventeen of section 265.00 of the penal law. Evidence of disqualification may be demonstrated by an investigation, by a permittee's failure to cooperate with such an investigation, or by other evidence.

(c) If her/his permit is suspended or revoked, the permittee shall be required to deposit any rifles or shotguns as well as any handgun license and any handguns in her/his possession with her/his local police precinct and forward a copy of the voucher together with her/his permit to the Rifle/Shotgun Section, 120-55 Queens Boulevard, Kew Gardens, N.Y. 11424, Room B-11. Her/his failure to comply within ten (10) calendar days from the date of suspension or revocation may result in the arrest of the permittee.

(d) If her/his permit is suspended or revoked, the suspended/former permittee shall be issued a Notice of Determination Letter by the Rifle/Shotgun Section, which shall state in brief the grounds for the suspension or revocation and notify the permittee of the opportunity for a hearing. The permittee shall have a right to submit a written request for a hearing within thirty (30) calendar days from the date of the Notice of Determination Letter to the Commanding Officer, License Division, One Police Plaza, Room 110A, New York 10038. Before a hearing is scheduled the permittee shall be required to submit the above documents and any additional documents requested in the suspension or revocation notice. A permittee whose arrest or summons resulted in suspension or revocation of her/his permit may only submit a written request for a hearing within thirty (30) calendar days after the termination of the criminal action, as defined in New York State Criminal Procedure Law § 1.20(16)(c). If the suspension or revocation resulted from the permittee becoming the subject of an order of protection or a temporary order of protection, the permittee may only submit a written request for a hearing within thirty (30) calendar days after the expiration or voiding of the order of protection or temporary order of protection. If the suspension or revocation was related to both a criminal action and an order of protection or temporary order of protection, then the later of the two waiting periods shall apply.

(e) Upon receipt of the permittee's letter, the License Division shall schedule the permittee for a hearing and notify the permittee by mail. However, requests for hearings shall not be entertained, and a hearing shall not be scheduled, unless the permittee complies with the provisions of subdivision (c) above, and forwards a Certificate of Final Disposition or Certificate of Relief from Disabilities, if applicable, to the License Division.

§ 3-06 Renewal of Permit.

Prior to the expiration of her/his rifle/shotgun permit the permittee shall be sent a renewal notice. The permittee shall answer all questions, comply with all instructions, submit a certified check or money order made payable to the N.Y.C. Police Department as required, sign and date the notice and forward it to the Rifle/Shotgun Section. In the event the permittee does not wish to renew her/his permit, s/he shall surrender her/his permit and all rifles/shotguns to her/his local precinct or otherwise lawfully dispose of the rifles/shotguns in accordance with 38 RCNY § 3-10 or 38 RCNY § 3-12 below. Any delays in renewing the permit may result in confiscation of all the permittee's rifles/shotguns by the New York City Police Department. Renewal of the permit may be disapproved if the permittee makes a false statement in connection with the renewal.

§ 3-07 Possession and Registration of Permit.

(a) The permit issued to the permittee by the Rifle/Shotgun Section enables the permittee to possess only rifles or shotguns that are properly registered under her/his permit.

(b) The permittee shall have the permit to possess rifles and shotguns in her/his possession at all times when in possession or carrying a rifle and/or shotgun in addition to a separate certificate of registration for that particular rifle and/or shotgun.

(c) Permittees are not permitted to purchase, acquire, sell, transfer or otherwise dispose of any rifle and/or shotgun and ammunition from or to gun dealers or individuals without exhibiting a Rifle/Shotgun Permit.

(d) The permit is not transferable.

§ 3-08 Change of Address.

The permittee shall notify the Rifle/Shotgun Section of any change in address within ten (10) calendar days.

§ 3-09 Lost or Stolen Documents and Rifles/Shotguns.

All lost or stolen documents and rifles/shotguns shall be reported to the precinct in which the permittee resides or the theft or loss was discovered. The permittee shall obtain a complaint number from the precinct and report in person the loss or theft to the Rifle/Shotgun Section within five (5) calendar days of the loss. A fee of two (2) dollars is charged for each document for which a replacement is requested. This fee shall be paid by certified check or money order made payable to the N.Y.C. Police Department and shall accompany the report. The permittee shall not send cash. For lost permits two color photos of permittee, 1 1/2 x 1 1/2 inches, from the chest up, taken within the past thirty (30) days shall also be provided. The wearing of any article of clothing or other adornment obscuring the identification of the wearer is not acceptable.

§ 3-10 Request to Cancel Permit.

The permittee shall notify the Rifle/Shotgun Section if s/he wishes to cancel or decline to renew her/his rifle/shotgun permit by forwarding the permit, certificate(s) of registration, and an affirmed letter to the Rifle/Shotgun Section. The letter shall inform the Rifle/Shotgun Section where the rifles/shotguns are located or how they have otherwise been disposed of.

§ 3-11 Purchase of Ammunition.

The certificate of registration shall be presented to a dealer in rifles and shotguns at time of purchase of ammunition to confirm calibre or gauge of said specified rifle or shotgun.

§ 3-12 Disposal of Rifles and Shotguns.

(a) The permittee may sell or dispose of her/his rifle/shotgun only to a licensed dealer in rifles and shotguns, to the holder of a valid rifle/shotgun permit, or to an individual who is exempt from the permit requirements of the City of New York. When the permittee sells her/his rifle or shotgun, s/he shall complete a certificate of registration. These forms may be obtained from the Rifle/Shotgun Section or the licensed dealer purchasing the rifle/shotgun and shall be forwarded to the Rifle/Shotgun Section within 72 hours of disposition.

(b) Pursuant to New York City Administrative Code § 10-311(a), it shall be unlawful for any person or business enterprise to dispose of any rifle or shotgun which does not contain a safety locking device, defined as a design adaptation or attachable accessory that will prevent the use of the weapon by an unauthorized user. The following types of safety locking devices will be deemed to comply with this provision:

- (1) a trigger lock, which prevents the pulling of the trigger without the use of a key; or
- (2) a combination handle, which prevents the use of the weapon without the alignment of the combination tumblers; or
- (3) a detachable or non-detachable locking device, composed primarily of steel or other metal of significant gauge to inhibit breaking, utilizing a metallic key or combination lock, rendering the weapon inoperable until the locking device is removed by an authorized person.

(c) Pursuant to New York City Administrative Code § 10-311(b), it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to dispose of any rifle or shotgun in New York City unless it is accompanied by the following warning, which shall appear in conspicuous and legible type in capital letters, and which shall be printed on a label affixed to the rifle or shotgun and on a separate sheet of paper included within the packaging enclosing the rifle or shotgun: "THE USE OF A LOCKING DEVICE OR SAFETY LOCK IS ONLY ONE ASPECT OF RESPONSIBLE WEAPON STORAGE. ALL WEAPONS SHOULD BE STORED UNLOADED AND LOCKED IN A LOCATION THAT IS BOTH SEPARATE FROM THEIR AMMUNITION AND INACCESSIBLE TO CHILDREN AND ANY OTHER UNAUTHORIZED PERSONS."

§ 3-13 Transfer of Rifles/Shotguns from an Estate.

The following procedures shall be followed to dispose of any rifles/shotguns belonging to an estate:

- (a) A copy of the death certificate shall be provided.
- (b) The legal heir, executor, executrix, administrator or administratrix shall establish her/his claim to be legal heir, executor or administrator. This is done by one of the following means:
 - (1) If there is no Will, then any person claiming to be the administrator or administratrix shall submit Letters of Administration from the Surrogate's Court.
 - (2) If there is a Will then the executor or executrix shall submit Letters Testamentary issued by the Surrogate's Court.
 - (3) All requests for transfer of rifles/shotguns shall be made on Police Department Disposition Report.
- (c) If any rifles/shotguns are to be transferred to a New York City resident the person receiving the rifles/shotguns shall have a valid New York City rifle/shotgun permit.

§ 3-14 Supplemental Rules.

(a) The permittee's rifle or shotgun shall not be loaded in a public place within New York City at any time except when using it at a licensed rifle and shotgun range.

(b) When the permittee travels to and from a licensed range or hunting area, or transports her/his rifle/shotgun for any reason, it shall be carried unloaded in a locked, non-transparent case, and the ammunition shall be carried separately. If the permittee is transporting her/his rifle/shotgun in a vehicle, it shall be kept locked in the trunk or equivalent space, not in plain view. The permittee shall never leave her/his rifle/shotgun in a vehicle unless s/he is physically present in or in close proximity to the vehicle.

(c) The permittee shall never alter, remove, obliterate or deface any of the following markings that may be on her/his rifle/shotgun:

- (1) name of the manufacturer;
- (2) model;
- (3) serial number. This information identifies the rifle or shotgun in the permittee's possession.

(d) Pursuant to New York City Administrative Code § 10-311(c), any person who applies for and obtains authorization to purchase, or otherwise lawfully obtains, a rifle or shotgun shall be required to purchase or obtain a safety locking device at the time s/he purchases or obtains the rifle or shotgun. Pursuant to New York City Administrative Code § 10-311(d), the City of New York and its agencies, officers or employees shall not be liable to any party by reason of any incident involving, or the use or misuse of a safety locking device that may have been purchased in compliance with these rules. The permittee shall take proper safety measures at all times to keep her/his rifle/shotgun from unauthorized persons – especially children. The permittee's rifle or shotgun should be kept unloaded and locked in a secure location in her/his home. Ammunition shall be stored separately from her/his

rifle or shotgun.

Note: Many rifles/shotguns that are stolen in residential burglaries are taken from bedroom closets.

(e) Pursuant to New York City Administrative Code § 10-312, it shall be a criminal violation for any person who is the lawful owner or lawful custodian of a rifle or shotgun to store or otherwise place or leave such weapon in such a manner or under circumstances that it is out of her/his immediate possession or control, without having rendered such weapon inoperable by employing a safety locking device as defined in 38 RCNY § 3-12(b). Such offense shall constitute a misdemeanor if the offender has previously been found guilty of such violation or if the violation is committed under circumstances which create a substantial risk of physical injury to another person.

(f) While there is no limit in the number of rifles or shotguns the permittee may possess, s/he should be advised that permittees who own several rifles/shotguns shall be expected to safeguard and maintain each rifle or shotgun.

(g) Minors under the age of eighteen may carry or use the permittee's rifle or shotgun only in the permittee's actual presence. The permittee shall be held responsible for supervising closely any minor using her/his rifle/shotgun. The minor, in turn, shall be expected to abide by the same rules and restrictions as a permittee.

(h) It is recommended that new permittees take advantage of instruction and safety courses in the use of rifles/shotguns that are offered by the rifle ranges and clubs within the New York area. The permittee should consult the local consumer telephone directory to find out more about a course offered in her/his area.

(i) New laws or amendments of existing rules may be enacted by a legislature or promulgated by the Police Department affecting the ownership or use of rifles/shotguns. The permittee shall be held responsible for knowing any modification of rules pertaining to her/his permit.

(j) The permit to possess a rifle or shotgun expires three years after the last day of the month in which the permit was issued. The permittee is held responsible for applying to renew her/his permit when it expires. Failure to apply to renew the permit at such time shall result in cancellation of the permit and confiscation of any rifles/shotguns the permittee may possess.

(k) Permittees shall cooperate with all reasonable requests by the Police Department for information and assistance in matters relating to the permit.