

Chapter 1 Dealers in Rifles and Shotguns

§ 1-01 Introduction. The following rules and regulations are hereby promulgated for the licensing and regulating of dealers in rifles and shotguns. Licensees are held responsible for the strict enforcement of and adherence to these rules. Any violation thereof is cause for suspension and/or revocation of the subject license.

§ 1-02 Definitions.

Ammunition. The term "ammunition" shall mean any explosives suitable to be fired from a rifle or shotgun.

Certificate of registration. The term "certificate of registration" shall mean the Certificate of Registration of Rifles and Shotguns issued by the New York City Police Department.

Dealer in rifles and shotguns. The term "dealer in rifles and shotguns" shall mean any person, firm, partnership, corporation or company who engages in the business of purchasing, selling, keeping for sale, loaning, leasing, or in any manner disposing of any rifle or shotgun. Dealer in rifles and shotguns shall not include a wholesale dealer.

Dispose of. The term "dispose of" shall mean to dispose of, give away, give, lease, loan, keep for sale, offer, offer for sale, sell, transfer, and otherwise dispose.

Employee. The term "employee" shall mean any person who is employed by a licensed dealer in rifles and shotguns and who has access in any manner to rifles and shotguns.

Fire Commissioner. The term "Fire Commissioner" shall mean the Fire Commissioner of the City of New York.

Police Commissioner. The term "Police Commissioner" shall mean the Police Commissioner of the City of New York.

Police officer, peace officer. The terms "police officer" and "peace officer" shall mean "police officer" and "peace officer" as those terms are defined in §§ 1.20 and 2.10 of the New York State Criminal Procedure Law, respectively.

Principal agent. The term "principal agent" refers to the person who is in active charge of the dealership. Dealer's licenses are issued to individuals. Every premises in which rifles and shotguns are sold requires an individual dealer's license. Thus if a company owns several stores each store would require its own individual dealer's license and the manager of the store would normally be considered the principal agent. Individual owners of stores who do not actively participate in the operation of their store may designate a responsible person as the "principal agent."

Rifle. The term "rifle" shall mean a "rifle" as defined in § 265.00 of the New York State Penal Law, except that for purposes of this chapter a rifle shall have a barrel length of no less than sixteen inches and an overall length of no less than twenty-six inches.

Rifle/Shotgun Section. The term "Rifle/Shotgun Section" shall mean the Rifle/Shotgun Section of the License Division of the New York City Police Department. The "Rifle/Shotgun Section" was at one time known as the "Firearms Control Section."

Rifle/shotgun permit. The term "rifle/shotgun permit" shall mean the permit issued by the New York City Police Department for the purchase and possession of rifles or shotguns.

Shotgun. The term "shotgun" shall mean a "shotgun" as defined in § 265.00 of the New York State Penal Law, except that for purposes of this chapter a shotgun shall have a barrel length of no less than eighteen inches and an overall length of no less than twenty-six inches.

Storage permit. The term "storage permit" shall mean the permit for the storage of more than two hundred (200) rounds of ammunition issued by the Fire Commissioner.

§ 1-03 Applications. (a) A fee of \$150 shall accompany the application. All permits expire on the first day of the second January following the date of issuance of the permit and may be renewed thereafter. The renewal fee is also \$150. The applicant shall pay the applicable fee with a certified check or money order payable to "N.Y.C. Police Department."

(b) All applications, renewals, inquiries and information concerning licenses for dealers in rifles and shotguns shall be made to the Rifle/Shotgun Section, License Division, New York City Police Department, 120-55 Queens Blvd., Kew Gardens, New York, 11424, (718) 520-9300. The Rifle/Shotgun Section shall prescribe the manner by which such license is issued.

(c) A valid license must contain the validation seal of the Rifle/Shotgun Section.

(d) No license shall be issued or renewed pursuant to these rules except by the Police Commissioner, and then only after investigation of the application including a review of the circumstances relevant to the answers provided in the application, and finding that all statements in a proper application for a license or renewal are true. The application may be disapproved if a false statement is made therein. No license shall be issued or renewed except for an applicant:

(1) of good moral character;

(2) who has not been convicted anywhere of a felony or of any serious offense, as defined in § 265.00(17) of the New York State Penal Law, or of a misdemeanor crime of domestic violence as defined in § 921(a) of title 18, United States Code;

(3) who has stated whether s/he has ever suffered any mental illness or been confined to any hospital or institution, public or private, for mental illness and who is free from any disability or condition that would impair the ability to safely possess or use a rifle or shotgun;

(4) who has stated whether s/he is or has been the subject or recipient of an order of protection or a temporary order of protection, or 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; and

(5) concerning whom no good cause exists for the denial of a license.

(e) An application for a license shall be made to the Rifle/Shotgun Section by submitting two copies of the prescribed form by the applicant, or in the case of a corporation or partnership, by a principal agent thereof. All entries on this official form shall be typewritten.

(f) An applicant, or principal agent, shall certify upon the application that s/he has been issued a rifle/shotgun permit, the identification number thereof, that s/he maintains a regular place of business within New York City, the address of the same, that s/he is over the age of twenty-one, that s/he undertakes to supervise the acts of her/his, or in the case of a corporation or partnership, its employees, and that the applicant has not previously been refused a license as a dealer in rifles and shotguns, and that no such license issued to her/him has been revoked.

(g) The Rifle/Shotgun Section shall reserve the right to require that every applicant for dealership and also any officer, partner, agent or employee of the proposed dealership be fingerprinted in contemplation of issuing a dealer's license. The Rifle/Shotgun Section shall also reserve the right to require photographs of all applicants and also of any officer, partner, agent, or employee of the proposed dealership.

(h) 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.

(i) If her/his license application is disapproved 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. 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.

§ 1-04 Licenses and Licensees. (a) For purposes of this section, all employees of a licensed dealer in rifles and shotguns shall personally be in possession of a valid rifle/shotgun permit to purchase and possess rifles and shotguns issued by the Rifle/Shotgun Section. Applications for dealer in rifles and shotguns and for possession of rifles and/or shotguns shall be processed together if submitted together.

(b) A dealer's license shall be valid for one year and may be renewed under the same conditions as for original issuance. All licensees shall be held responsible for renewing their licenses upon expiration. Any application to renew a license that has not previously expired, been revoked, suspended or cancelled shall thereby extend the term of the license until disposition is made of the application. Failure to renew a license after expiration shall result in the cancellation of the license.

(c) Federal law requires that dealers in rifles and shotguns shall be licensed by the United States Government Bureau of Alcohol, Tobacco and Firearms (ATF). The New York City Police Department shall notify the ATF of all dealer's licenses that are issued by the Rifle/Shotgun Section. The Police Department reserves the right to withhold a dealer's license from any applicant who does not have a federal license.

(d) All licensees 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 each type of license or permit issued to them. The Rifle/Shotgun Section shall provide the licensee with the acknowledgment statement to be executed. This acknowledgment statement shall be notarized. Failure to execute the acknowledgment statement and to have it notarized shall result in the license application being denied.

(e) The licensee 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 regarding her/himself, partners, officers, directors or stockholders of the licensed corporation or entity, or affecting the premises or business operations. 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 individual 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;
- (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;
- (8) altered or mutilated license; or
- (9) discharge of a rifle/shotgun on the licensee's premises.

(f) A dealer's license may be suspended and/or revoked by the Rifle/Shotgun Section for good cause by the issuance of a Notice of Determination Letter to the licensee, which shall state in brief the grounds for the suspension or revocation and notify the licensee of the opportunity for a hearing. The conviction of a licensee anywhere of a felony or serious offense as defined in § 265.00(17) of the Penal Law of New York State, or of a misdemeanor crime of domestic violence as defined in § 921(a) of title 18, United States Code, shall operate as a revocation of the license.

(g) If her/his license is suspended or revoked, the licensee 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 licensee.

(h) A license issued shall be valid only for the premises mentioned and described in the license. No license is transferable to another person or location. The license shall be prominently displayed on such premises, and available at all times for inspection by members of the New York City Police Department. Failure of any licensee to so exhibit or display her/his license shall be presumptive evidence that s/he is not duly licensed.

(i) Upon issuance of a written Notice of Determination Letter from the Rifle/Shotgun Section notifying the licensee of suspension or of revocation of the license, a suspended/former licensee shall have thirty (30) calendar days from the date of the notice to submit a written request for a hearing to the Commanding Officer, License Division, One Police Plaza, Room 110A, New York, New York, 10038. A licensee whose arrest or summons resulted in suspension or revocation of her/his license 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 licensee becoming the subject of an order of protection or a temporary order of protection, the licensee 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.

(j) Licensees shall be held responsible for having knowledge of all new laws and/or amendments or regulations that may be enacted through legislation or promulgated by the New York City Police Department affecting dealers in rifles and shotguns.

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

§ 1-05 Rifles/Shotguns and Ammunition. (a) No rifle or shotgun shall be sold, or given away, or disposed of, unless the transferee is authorized by law to possess such rifle or shotgun. Any police officer or peace officer shall produce a shield and proper identification before purchasing a rifle or shotgun. A peace officer whose status does not confer authorization to possess firearms pursuant to § 2.10 of the New York State Criminal Procedure Law shall possess a rifle/shotgun permit in order to be a lawful transferee. Therefore, before delivering a rifle or shotgun to a peace officer without a rifle/shotgun permit, the licensee shall verify that person's status as a peace officer by telephoning the License Division Incident Section at (212) 374-5538 or 5539.

(b) Every dealer in rifles and shotguns shall keep a record book provided by the Rifle/Shotgun Section (P.D. 641-50). This book shall contain a record of all dispositions and registrations of rifles and shotguns purchased and disposed of by the dealer. Such records shall be maintained on the premises stated in the license and permanently preserved thereat. In the event of cancellation and/or revocation of the license, or discontinuance of business by a licensee, such records, as well as rifles and shotguns stored on the premises, shall be surrendered to the New York City Police Department.

(c) In the event of loss or theft of any rifle or shotgun, ammunition, dealer's license, or record, the licensee is required to report the loss or theft to her/his local precinct, and notify the Rifle/Shotgun Section by telephone on the next business day after discovery of the loss or theft. The licensee shall follow up with a written notification to the Rifle/Shotgun Section within 10 calendar days of discovery of the loss or theft.

(d) In the event that any individual lacking authority to possess such weapon attempts to leave any rifle or shotgun with a licensee for cleaning, repairing, or other processing, the licensee may accept the rifle or shotgun and obtain the name, address, telephone number, etc. of the person leaving the weapon. The licensee shall immediately report the incident to the precinct wherein the premises is located. If the licensee does not accept the rifle or shotgun for cleaning, repairing, or other processing, s/he shall report the incident to the precinct wherein the premises is located as soon as the individual possessing the weapon leaves the premises. In the event that such an individual offers to sell or otherwise dispose of such a weapon to a licensee, the licensee shall attempt to obtain the name, address, and telephone number of said individual and shall notify the precinct wherein the premises is located as soon as said individual leaves the premises.

(e) Any dealer who sells, offers to sell, stores, or otherwise disposes of ammunition in excess of two hundred (200) cartridges shall be required to obtain a storage permit from the Fire Commissioner. Dealer's licenses issued by the Rifle/Shotgun Section shall not be valid for the sale of ammunition unless the dealership is also in possession of a storage permit from the Fire Department. Upon receipt of an application which indicates an intention to sell or store ammunition, the Rifle/Shotgun Section shall notify the Fire Department and ask them to conduct an inspection of the premises. The sale or storage of ammunition without a valid Fire Department permit shall be deemed sufficient cause to revoke a dealer's license.

(f) No ammunition shall be stored, exhibited, or displayed in the windows, showcases, or doors of the licensee's premises.

(g) All other ammunition shall be stored in an area of the premises that can be reasonably secured, and is not in view of the public. Only the licensee and authorized employees shall have access to this storage area.

(h) (1) The quantities of cartridges and other ammunition stored on the premises shall not exceed the amounts fixed by the Fire Commissioner for storage of ammunition. These quantities so fixed shall be stated in the storage permit.

(2) All ammunition kept on the licensee's premises shall not be stored in an area where other materials of a highly flammable nature are manufactured, stored, or kept for sale. This restriction shall not apply to any person duly authorized to keep and sell gunpowder.

(i) (1) A record of all ammunition received and dispensed shall be registered in a bound book with pages consecutively numbered. This record book shall be separately maintained from the record book noting all rifle and shotgun transactions. It shall be the responsibility of the licensee or a designated employee to make entries in this recordbook. This book, together with all invoices received, shall be kept in the ammunition storage area.

(2) This record shall be arranged in columnar form as outlined below. The first page of this book shall have an inscription bearing the name and address of the premises, license number, name of owner of premises, name of employee designated to make entries, and date of book being opened. Beginning with page 2, each even numbered page shall contain a record of ammunition received, and starting with page 3, each odd numbered page shall contain a record of ammunition dispensed or sold.

(j) In the event of cancellation or revocation of the license or discontinuance of business by a licensee, such records shall be surrendered to the New York City Police Department.

(k) No ammunition suitable for use in a rifle of any calibre, or for a shotgun of any gauge, shall be sold, given away, or otherwise disposed of to any person who has not been issued a rifle/shotgun permit and a certificate of registration, and who does not exhibit the same to the dealer at the time of purchase. Rifle or shotgun ammunition shall not be sold to any such person except for the shotgun or for the specific calibre of rifle for which the certificate of registration has been issued.

(l) The Rifle/Shotgun Section advises all dealers that certain ammunition calibres are considered to be interchangeable between rifles and handguns. Sales of ammunition in these calibres shall be recorded by dealers. The following list includes most of the calibres likely to be sold as pistol, revolver, or interchangeable ammunition; however, it is not necessarily inclusive:

.4mm Rimfire

.17 Bumble Bee and Ackley Bee

.17 Hornet and "K" Hornet

.17 Mach IV

.17-222 and .17-223

5mm Remington Mag. Rimfire

.22, .25 and .32 Rimfire

.22 Rem. Jet Mag. and .22 Win. Mag.

.22 Hornet and .22 "K" Hornet

.221 Remington Fireball

.222 Remington

.223 Remington

.25 (6.35mm) ACP

25-35 Winchester
 .256 Winchester Mag.
 7.5mm revolver
 .30 Luger (7.65mm)
 .30 Mauser (7.63mm)
 7.62mm Tokarev
 7.65mm French Long
 .30-30 (.30 WCF)
 .30 calibre Carbine
 .32 revolver (all types)
 .32 (7.65ww) ACP
 .32-20 Winchester
 .357 Mag.
 .357-44 B&D
 9mm pistol and revolver (all types)
 .38 revolver (all types)
 .38 Special pistol and revolver (all types)
 .38-40 Winchester
 .38-44 special
 .38 Super
 .38 AMU
 .38 ACP
 .380 ZACP
 .41 revolver (all types)
 .41 Mag.
 .44 revolver (all types)
 .45-38 automatic
 .45 pistol and revolver (all types)
 .455 pistol and revolver (all types)

Below is a sample outline for a licensee's book recording ammunition received, dispensed or sold. While slight variations may be permitted to accommodate clarity and page size, all dealers in ammunition shall provide all information indicated below. Any deviations from this form shall be approved by the Rifle/Shotgun Section of the New York City Police Department.

AMMUNITION RECEIVED(*)

Date-	Manf.	Invoice	Calibre/	Type	Quant.	Signa-	Comments
Time				Gauge		ture	

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AMMUNITION SOLD(**)

Date-	Manf.	Calibre/	Quant.	Name	Address	Date of Birth	License No.
Time							

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* Records for ammunition received shall be placed on all even numbered pages beginning with page 2.

** Records for ammunition sold and disposed of shall be placed on all odd numbered pages beginning with page 3.

(m) Prospective buyers shall not be allowed to load weapons upon the premises of the licensee. If the sale of one or more rifles and/or shotguns as well as ammunition is consummated, the ammunition box shall be sealed prior to the sale and the buyer shall be instructed that the rifle or shotgun is not to be loaded on the premises.

(n) 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 subdivision (o) of this section. 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. The New York City Police Department recognizes that all licensees have incurred an obligation by being issued a dealer's license to maintain and dispose of rifles and shotguns in a responsible fashion. In order to assist licensees, the Rifle/Shotgun Section has issued the following safety requirements in response to past incidents involving dealers in rifles and shotguns:

(1) No weapons shall be stored, exhibited or displayed in windows, showcases, or doors of the premises. Rifle/shotgun storage or inventory areas shall be physically separated from counter and display areas and access to these areas shall be carefully controlled.

(2) All rifle/shotgun display cases shall be kept locked and secured at all times and not readily accessible to the public. All keys to such display cases shall not leave the control of authorized personnel.

(3) All rifles and shotguns shall not be readily capable of firing. They shall be temporarily deactivated by removing magazines or bolts; or by securing with bars or chains through the trigger guard; or by using individual trigger locks or other safety locking devices composed primarily of steel or other metal of significant gauge to inhibit breaking.

(4) All rifles and shotguns within a licensee's inventory shall be tagged and cross referenced to the appropriate entry in the acquisition records.

(o) 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.

(p) 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."

(q) 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.

(r) 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.

§ 1-06 Security. A licensee shall take all reasonable precautions to make the premises secure. These precautions shall include but not be limited to all applicable measures as listed below:

- (a) Securing windows at or near ground level with expanded metal welded to bolted angle-iron frames.
- (b) Securing the front of the premises with a metal folding scissors gate, roll-down door, or another similar device.
- (c) Adequately protecting and securing all rear windows and doors, and skylights.
- (d) Allowing the interior of the premises to be visible at all times; no drapes or blinds shall be used that would block the view of police or passersby who might observe unusual activity within the premises.
- (e) Illuminating fully the exterior and interior of the premises at night, and during the hours when business is not conducted within.
- (f) Installing alarms, or other appropriate security/service systems upon the premises.
- (g) Posting signs prominently on the premises warning of the presence of electronic or other types of security systems and containing penalties for criminal violations.
- (h) Installing high-security cylinder locks in all doors.
- (i) In order to properly protect a licensee's premises and the weapons and ammunition stored within, the New York City Police Department requires that dealers utilize its "Crime Prevention Security Survey." A member of the New York City Police Department will come to a licensee's business establishment and inspect the building for security measures. After the inspection, the officer will recommend and suggest various methods in order to better protect the premises. These recommendations may include the choice of locks, gates, and alarm systems suitable for the licensee's premises. The inspection is free of charge. Licensees shall contact their local police precinct, and request an appointment with the Crime Prevention Officer or the Community Policing Supervisor for a survey of the premises.

Note: References within this chapter to masculine shall be presumed to include the feminine and neuter. References to the singular shall be presumed to include the plural.

Chapter 2 Organizations Possessing Rifles and Shotguns

§ 2-01 Introduction. The following rules have been promulgated by the Police Commissioner for the registration and regulation of organizations possessing rifles and shotguns. Such organizations are held responsible for the strict enforcement of and adherence to these rules. Any violation thereof is cause for suspension or revocation of the privilege to possess rifles and shotguns.

§ 2-02 Definitions.

Ammunition. The term "ammunition" shall mean any explosives suitable to be fired from a rifle or shotgun.

Certificate of registration. The term "certificate of registration" shall mean the Certificate of Registration of Rifles and Shotguns issued by the New York City Police Department.

Custodian. The term "custodian" shall mean an individual personally possessing a rifle/shotgun permit, and designated by an organization to be held responsible for the safeguarding and supervision of any rifle or shotgun owned by the organization.

Alternate custodian. The term "alternate custodian" shall mean an individual personally possessing a rifle/shotgun permit, and designated by an organization to be held responsible for the safeguarding and supervision of any rifle or shotgun owned by the organization when the custodian is unavailable to perform her/his duties.

Fire Commissioner. The term "Fire Commissioner" shall mean the Fire Commissioner of the City of New York.

Organization. The term "organization" shall mean any firm, partnership, corporation, company or other entity, association, educational institution, cultural institution, or paramilitary organization registered by the Rifle/Shotgun Section to possess rifles and/or shotguns for the purpose of holding itself out to the general public as a business providing security or protection services for compensation; or instructing individuals in the use of rifles and/or shotguns; or organizing and supervising a competition or target practice involving the use of rifles and/or shotguns.

Organization registration certificate. The term "organization registration certificate" shall mean the certificate issued by the Rifle/Shotgun Section to approved organizations registered to possess rifles and shotguns.

Rifle. The term "rifle" shall mean a "rifle" as defined in § 265.00 of the New York State Penal Law, except that for purposes of this chapter, a rifle shall have a barrel length of no less than sixteen inches, and an overall length of no less than twenty-six inches.

Rifle/Shotgun Section. The term "Rifle/Shotgun Section" shall mean the Rifle/Shotgun Section of the License Division of the New York City Police Department. The "Rifle/Shotgun Section" was at one time known as the "Firearms Control Section."

Rifle/shotgun permit. The term "rifle/shotgun permit" shall mean the permit issued by the Rifle/Shotgun Section for the possession and purchase of rifles and shotguns.

Shotgun. The term "shotgun" shall mean a "shotgun" as defined in § 265.00 of the New York State Penal Law, except that for purposes of this chapter, a shotgun shall have a barrel length of no less than eighteen inches and an overall length of no less than twenty-six inches.

Storage permit. The term "storage permit" shall mean the permit for the storage of more than two hundred (200) rounds of ammunition issued by the Fire Commissioner.

§ 2-03 Applicability. These rules shall apply to any person, firm, partnership, corporation, company or other entity, association, educational institution, cultural institution, or paramilitary organization possessing rifles and/or shotguns for the purpose of holding itself out to the general public as a business providing security or protection services for compensation; or instructing individuals in the use of rifles and/or shotguns; or engaging in a military drill or parade with rifles and/or shotguns; or organizing and supervising a competition or target practice involving the use of rifles and/or shotguns.

§ 2-04 Original Applications and Renewals. (a) All applications, renewals, requests for information and inquiries by an organization pursuant to these regulations shall be made to the Rifle/Shotgun Section, License Division, New York City Police Department, 120-55 Queens Blvd., Kew Gardens, N.Y. 11424, (718) 520-9300. The Rifle/Shotgun Section shall prescribe and enforce the manner in which an organization may be registered to possess rifles and shotguns.

(b) A letter prepared on the letterhead of the organization shall accompany the official application. In addition to a request to be designated an organization to possess rifles and shotguns, this letter shall set forth:

- (1) the names of the custodian and alternate custodian;
- (2) the manner in which the rifles and shotguns shall be secured when not in use.

The applicant shall also submit two (2) color photographs each of the designated custodian and alternate custodian, size 1-1/2 X 1-1/2 inches, taken within the past thirty (30) days, front view from the chest up, with the application.

(c) 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.

(d) If the application is disapproved the organization shall receive a written "Notice of Application Disapproval" from the Rifle/Shotgun Section indicating the reason(s) for the disapproval. If the organization wishes to appeal the decision it 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 organization or its New York State licensed attorney shall not be accepted. All timely appeals shall receive a complete review of the applicant's entire file by the Division Head, License Division, who shall notify the organization 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 the disapproval is denied, the organization 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.

(e) An organization registration certificate shall expire on the last day of the third December after the date of issue and may be renewed every three (3) years thereafter. A renewal application shall be forwarded to the organization at least thirty (30) calendar days prior to the expiration date. If the renewal application is not received in a timely manner, the custodian or alternate custodian shall so notify the Rifle/Shotgun Section by telephone. Certificates may be renewed under the same conditions as original issuance. An application for issuance or renewal of a certificate may be disapproved if a false statement is made therein. All organizations shall be held responsible for renewing a certificate upon expiration. Failure to renew a registration prior to its expiration date shall result in its cancellation.

(f) An organization registration certificate issued shall be valid only for the organization, custodian and alternate custodian mentioned and described in the certificate. A certificate shall not be transferable to another organization. The certificate and all rifles and shotguns possessed by an organization shall be available for inspection by members of the New York City Police Department. Failure by any organization to so exhibit a registration certificate shall be presumptive evidence that it is not duly registered.

(g) All organizations shall abide by the laws, rules, standards, and procedures promulgated by federal, state and local jurisdictions and law enforcement agencies applicable to the organization. A violation thereof is cause for suspension or revocation of a registration certificate issued by the Rifle/Shotgun Section. Upon suspension or revocation of a registration certificate, the custodian or alternate custodian shall deposit all rifles/shotguns in the organization's possession with her/his local police precinct and forward a copy of the voucher together with the registration certificate 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 arrest or other action by the Police Department.

(h) An organization registration certificate may be revoked or suspended by the Rifle/Shotgun Section for good cause by the issuance of a Notice of Determination Letter to the organization, which shall state in brief the grounds for the suspension or revocation and notify the organization of the opportunity for a hearing.

(i) Upon issuance of a written Notice of Determination Letter from the Rifle/Shotgun Section notifying the organization of suspension or revocation of a registration certificate by the Rifle/Shotgun Section, the organization shall have thirty (30) calendar days from the date of the notice to submit a written request for a hearing to the Commanding Officer, License Division, One Police Plaza, Room 110A, New York, New York 10038.

§ 2-05 Custodian Appointment and Duties. (a) Upon application an organization shall appoint two (2) active members or employees of the organization to be personally responsible for all rifles and shotguns possessed by the organization, its employees or members. These individuals shall be known as the custodian and alternate custodian.

(b) It shall be certified upon an application for registration that the custodian and alternate custodian are rifle/shotgun permit holders; the identification numbers thereof; that they are active members or employees of the organization; that they undertake to supervise the acts of the employees and members of the organization while they use any rifles or shotguns possessed by the organization; and that they have not been previously denied or had revoked appointment as a custodian or alternate custodian for the applicant or any other organization. If the organization does not have two active members or employees, the custodian shall be an active member or

employee and the alternate custodian shall be a suitable designated individual who possesses a rifle/shotgun permit.

(c) The Rifle/Shotgun Section reserves the right to require the custodian and alternate custodian to be fingerprinted and/or photographed in contemplation of issuing an organization registration certificate.

(d) The custodian and alternate custodian shall ensure that all members or employees using rifles and shotguns registered by the organization are licensed by the Rifle/Shotgun Section to possess rifles and shotguns. The provisions of § 2-05(d) shall not be applicable to the following organizations:

(1) An organization actively engaged in the instruction of minors in the use of rifles and/or shotguns or the supervision of a competition or target practice for minors. A custodian and alternate custodian, designated by an organization of this nature, shall closely supervise all minors using rifles and/or shotguns registered by the organization, and ensure that such minors are instructed in the safe use of rifles and/or shotguns.

(2) A paramilitary organization actively engaged in the presentation of military drill or parade. A custodian and alternate custodian designated by an organization of this nature shall closely supervise all individuals using rifles and/or shotguns during all military drills or parades. The custodian and alternate custodian shall also ensure that such rifles and/or shotguns are not loaded during such events.

(e) The conviction of a custodian or alternate custodian anywhere of a felony or serious offense as defined in § 265.00(17) of the New York State Penal Law, or of a misdemeanor crime of domestic violence as defined in § 921 (a) of title 18, United States Code, may require suspension or revocation of an organization's registration certificate. An organization's registration certificate may be suspended or revoked if the custodian or alternate custodian is the subject or recipient of an order of protection or a temporary order of protection, or the subject of an 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.

(f) A custodian or alternate custodian 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 regarding the custodian or alternate custodian, or affecting the premises or business operations. 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 custodian or alternate custodian 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;

(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;

(8) lost, stolen, altered or mutilated certificate of registration or organization registration certificate; or

(9) unlawful discharge of a rifle/shotgun.

(g) An organization shall inform the Rifle/Shotgun Section in writing of any proposed change of custodianship or any other amendment of its registration. An organization shall not alter a registration certificate without the permission of the Rifle/Shotgun Section.

(h) The custodian and alternate custodian shall each be required to sign an acknowledgment that s/he 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 each type of license or permit issued to her/him and to the organization. The Rifle/Shotgun Section shall provide the custodian and alternate custodian with the acknowledgment statement. These acknowledgment statements shall be affirmed in writing. Failure to affirm the acknowledgment statements shall result in denial of the application for the organization registration certificate. Upon appointment, each successive custodian and alternate custodian shall be required to affirm in writing an acknowledgment statement. Failure to do so shall result in the suspension or revocation of the organization's registration certificate. Custodians and alternate custodians shall be held responsible for having knowledge of all new laws and rules that may be enacted by local, state, or federal legislatures or promulgated by the New York City Police Department affecting their organization.

(i) The custodian and alternate custodian shall be responsible for securing all rifles and shotguns and all ammunition possessed by the organization at the close of business/activities every day. Failure to do so shall constitute good cause for suspension or revocation of the organization's registration certificate.

(j) 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.

(k) 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."

(l) 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.

(m) 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.

(n) Organizations, custodians and alternate custodians shall cooperate with all reasonable requests by the Police Department for information and assistance in matters relating to the certificate.

§ 2-06 Storage of Rifles and Shotguns and Ammunition. (a) 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 section 2-05(j) of this chapter. 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. The Rifle/Shotgun Section recognizes that all organizations have incurred an obligation by being registered to maintain and use rifles and shotguns in a responsible fashion. In order to assist organizations, the Rifle/Shotgun Section has issued the following safety guidelines for storing rifles and shotguns on the premises:

(1) All rifle and shotgun cases shall be kept locked and secured at all times and shall be inaccessible to unauthorized individuals. All keys to such cases shall not leave the control of the custodian or alternate custodian.

(2) Rifles and shotguns shall be incapable of firing when not in use. Rifles and shotguns may be temporarily deactivated by removing magazines or bolts; by securing with bars or chains through the trigger guard; or by using individual trigger locks or other safety locking devices composed primarily of steel or other metal of significant gauge to inhibit breaking.

(3) A custodian and alternate custodian shall keep one updated inventory of all rifles and shotguns possessed by the organization in the event of loss or theft. Such inventory shall include a full description of each rifle and shotgun including manufacturer, model, serial number, if applicable, and calibre or gauge. The certificate of registration issued for each rifle and shotgun shall accompany these records.

(4) In the event of loss or theft of any rifle or shotgun, certificate of registration, ammunition, or organization registration certificate, the custodian or alternate custodian is required to report the loss or theft to her/his local precinct and notify the Rifle/Shotgun Section by telephone on the next business day after discovery of the loss or theft. Follow up with a written notification to the Rifle/Shotgun Section within 10 calendar days of discovery of the loss or theft is also required.

(b) Any organization that stores in excess of two hundred (200) cartridges shall be required to obtain a storage permit from the Fire Commissioner. The storage of ammunition without a valid permit issued by the Fire Commissioner shall be deemed sufficient cause to revoke an organization's registration certificate.

(c) The quantities of cartridges and other ammunition stored on the premises shall not exceed the amounts fixed by the Fire Commissioner for storage of ammunition. The quantities so fixed shall be stated in the storage permit.

(d) All ammunition kept on the premises shall not be stored in an area where other materials of a highly flammable nature are manufactured or stored.

(e) Ammunition shall be stored in an area of the premises that can be reasonably secured. Only the custodian, alternate custodian, and authorized members or employees shall have access to this storage area.

(f) A custodian and alternate custodian shall take reasonable precautions to make the premises secure. These precautions shall include but not be limited to all applicable measures as listed below:

- (1) Adequately protecting and securing all rear windows, doors and skylights.
- (2) Securing windows at or near ground level with expanded metal welded to belted angle-iron frames.
- (3) Installing alarms or other appropriate security/service systems upon the premises.
- (4) Posting signs prominently on the premises warning of the presence of electronic or other types of security systems and containing penalties for criminal violations.
- (5) Installing high-security cylinder locks in all doors.
- (6) Illuminating fully the exterior and interior of the premises at night, and during the hours when business is not conducted within.

§ 2-07 Security Plan. In order to properly protect an organization's premises and the rifles, shotguns and ammunition stored within, the Rifle/Shotgun Section requires that custodians utilize the New York City Police Department's Crime Prevention Security Survey. A member of the New York City Police Department will come to an organization's premises and inspect the building for security measures. After the inspection, the officer will recommend and suggest various methods designed to better protect the premises. These recommendations may include the choice of locks, gates, and alarm systems suitable for the premises. The inspection is free of charge. An organization shall contact its local police precinct, and request an appointment with the Crime Prevention Officer or the Community Policing Supervisor for a survey of the premises of the organization.

§ 2-08 Separability. If any clause, sentence, paragraph, or part of these rules of the application to any organization, custodian, or circumstances shall be determined to be invalid, such determination shall not affect, impair or invalidate the remainder thereof.

Note: References within this chapter to the masculine shall be presumed to include the feminine and neuter. References to the singular shall be presumed to include the plural.

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 X 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 section 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 section 10-303 of the Administrative Code and sections 3-02 and 3-03 of this chapter. 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 § 3-10 or § 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 section 3-12(b) of this chapter. 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.

Note: References within these rules to the masculine shall be presumed to include the feminine and neuter. References to singular shall be presumed to include the plural.

Chapter 4 Gunsmiths and Dealers in Firearms

§ 4-01 Introduction. The following rules are hereby promulgated for the licensing and regulation of gunsmiths, manufacturers, dealers in firearms and dealers in air pistols, air rifles or similar instruments. Licensees are held responsible for the strict enforcement of and adherence to these rules. Any violation thereof is cause for suspension and/or revocation of the subject license.

§ 4-02 Definitions.

Air pistols, air rifles, or similar instruments. The terms "air pistols," "air rifles," or "similar instruments" shall mean any instrument designed or redesigned, made or remade to use the energy of a spring or air to fire a projectile.

Ammunition. The term "ammunition" shall mean any explosives suitable to be fired from a firearm, machine-gun, rifle, shotgun or other dangerous weapon.

Applicant, licensee or license. The terms "applicant," "licensee" or "license" shall mean and refer to gunsmiths, manufacturers, dealers in firearms and dealers in air pistols, air rifles, or similar instruments unless expressly restricted.

Assault weapon. The term "assault weapon" shall mean an "assault weapon" as defined in § 10-301(16) of the New York City Administrative Code.

Assembler. The term "assembler" shall include any person, firm, partnership, corporation or company who engages in the business of joining or fitting together any firearm or parts thereof.

Commissioner. The term "Commissioner" shall mean the Police Commissioner of the City of New York.

Dealer in air pistols, air rifles or similar instruments. The term "Dealer in air pistols, air rifles or similar instruments" shall mean any person, firm, partnership, corporation or company who engages in the business of purchasing, selling, keeping for sale, loaning, leasing, or in any manner disposing of, any air pistol, air rifle or similar instrument. Dealer in air pistols, air rifles or similar instruments shall not include a wholesale dealer.

Dealer in firearms. The term "dealer in firearms" shall mean any person, firm, partnership, corporation or company who engages in the business of purchasing, selling, keeping for sale, loaning, leasing, or in any manner disposing of, any pistol or revolver. Dealer in firearms shall not include a wholesale dealer.

Employee. The term "employee" shall mean any person who is employed by a licensed gunsmith, manufacturer or dealer in firearms and who has access in any manner to firearms, rifles, shotguns, machine-guns, or assault weapons.

Firearm. The term "firearm" shall mean a "firearm" as defined in § 265.00 of the New York State Penal Law and shall include a pistol, a revolver, and any firearm which may be concealed upon the person.

Gunsmith. The term "gunsmith" shall mean any person, firm, partnership, corporation or company who engages in the business of repairing, altering, assembling, manufacturing, cleaning, polishing, engraving or trueing, or who performs any mechanical operation on any rifle, shotgun, firearm, machine-gun, or assault weapon.

Machine-gun. The term "machine-gun" shall mean a weapon of any description, irrespective of size, by whatever name known, loaded or unloaded, from which a number of shots or bullets may be rapidly or automatically discharged from a magazine with one continuous pull of the trigger and includes a submachine gun.

Manufacturer. The term "manufacturer" shall include any person, firm, partnership, corporation or company who engages in the business of machining, producing, constructing, or making any firearm, rifle, shotgun, machine-gun, assault weapon, firearm frames or receivers. The term "manufacturer" shall include "assembler".

Rifle. The term "rifle" shall mean a "rifle" as defined in § 265.00 of the New York State Penal Law, except that for purposes of this chapter a rifle shall have a barrel length of no less than sixteen inches and an overall length of no less than twenty-six inches.

Shotgun. The term "shotgun" shall mean a "shotgun" as defined in § 265.00 of the New York State Penal Law, except that for purposes of this chapter a shotgun shall have a barrel length of no less than eighteen inches and an overall length of no less than twenty-six inches.

§ 4-03 Requirements of Applicants. (a) Applications for dealer in firearms, gunsmith, manufacturer and dealer in air pistols and air rifles shall be filed in the precinct in which the business premises is located.

(b) An applicant shall be over 21 years of age and maintain a place of business in the city, and if the applicant is a partnership, each member shall be over 21 years of age; if the applicant is a corporation each officer shall be over 21 years of age.

(c) Each applicant shall be a citizen of the United States.

(d) Each applicant shall be of good moral character.

(e) Each applicant shall never have been convicted anywhere of a felony or any other "serious offense" as defined in § 265.00(17) of the New York State Penal Law, or of a misdemeanor crime of domestic violence, as defined in § 921(a) of title 18 of the United States Code.

(f) No license shall be issued or renewed to any applicant who has not disclosed whether s/he is or has been the subject or recipient of an order of protection or a temporary order of protection, or 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.

(g) No license shall be issued or renewed to any applicant unless s/he has stated whether s/he has ever suffered any mental illness or been confined to any hospital or institution, public or private, for mental illness.

(h) Each applicant shall be free from any disability or condition that may affect the ability to safely possess or use a rifle, shotgun, firearm, machine-gun, assault weapon, air pistol or air rifle.

(i) No license shall be transferable to any other person or premises. The license shall mention and describe the premises for which it is issued and shall be valid only for such premises.

(j) A license issued pursuant to this section shall be prominently displayed on the licensed premises. Failure of any licensee to so exhibit or display her/his license shall be presumptive evidence that s/he is not duly licensed.

(k) If applicant has any branch units in the City of New York where any firearms, rifles, shotguns, machine-guns, assault weapons, air pistols, or air rifles are stored or any activities requiring a license are conducted, a separate application shall be filed with the precinct where each branch is located and a separate license secured for each premises.

(l) Each applicant shall be fingerprinted pursuant to the provisions of New York State Penal Law § 400.00.

(m) A corporation shall file a certified copy of its articles of incorporation with application.

(n) If names of current officers do not appear in articles, a certified copy of the minutes of the directors' meeting at which current officers were elected shall be submitted with application.

(o) If there is a change of officers in a corporation, the corporation shall send to the License Division, One Police Plaza, Room 110A, New York, New York 10038, a certified copy of the minutes showing names of new officers.

(p) If applicant represents a partnership or uses a trade name, a certificate from the county clerk of the county in which the certificate is recorded shall be filed with application.

(q) Change of residence address for any individual licensee, partner, officer, stockholder, or director of a corporation, except those stockholders or directors whose fingerprints are waived, shall be filed with the Commanding Officer of the precinct wherein the premises is located, within 48 hours after change becomes effective.

(r) Applications shall be submitted together with the application fee on forms supplied by the Commissioner and shall be subscribed and sworn to by all individual applicants, partners, stockholders or officers of the corporation as the case may be. The annual fee, to be submitted with the application, by certified check or money order payable to the N.Y.C. Police Department, shall be twenty-five (\$25) dollars for a gunsmith or manufacturer, fifty (\$50) dollars for a dealer in firearms and ten (\$10) dollars for a dealer in air pistols and air rifles.

(s) A false statement on the application shall be grounds for disapproval.

(t) Plans and Permits. (1) Applicant shall submit architectural plans of the premises proposed to be licensed and such plans shall be prepared by a registered architect.

(2) Applicant shall submit a current class (1) Federal Firearms License.

(3) Applicant shall submit a Certificate of Occupancy (C of O) zoned for gun dealers business. The C of O will state if premises is approved for more or less than 200 rounds of ammunition. If approved for more than 200 rounds a Fire Department permit is required.

(4) Applicant shall submit a current lease or deed for license location.

(5) Commanding Officer or designee (crime prevention officer or community policing supervisor) of the local precinct shall inspect premises to ensure that security measures are adequate. A central station alarm shall be in place and operable.

(6) Applicant shall submit any and all licenses issued to her/him by the License Division, including a New York City Rifle/Shotgun Dealer's License, handgun license, or rifle/shotgun permit.

(7) Applicant shall submit a Second-Hand Dealer's License issued by the Department of Consumer Affairs, if applicable.

(u) During the pendency of the application, the applicant shall notify the License Division 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.

(v) If her/his license application is disapproved the applicant shall receive a written "Notice of Application Disapproval" from the License Division 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, 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. 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.

§ 4-04 Licensee Requirements. (a) For purposes of this section, all employees, as defined in § 4-02 of this chapter, of a licensed gunsmith or dealer in firearms, shall personally be in possession of the required, valid license(s) or permit(s) issued by the License Division to possess handguns, rifles and/or shotguns. No person shall be employed who has been convicted anywhere of a felony, misdemeanor, serious offense as defined in § 265.00(17) of the New York State Penal Law, or a misdemeanor crime of domestic violence, as defined in § 921(a) of title 18 of the United States Code. No person shall be employed 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. The fitness of any employee for continued employment is subject to review by the Commissioner. The licensee may be directed to terminate such employment if such employment involves access in any manner to firearms, rifles, shotguns, machine-guns, or assault weapons, based upon an arrest for any offense, or upon previous connection with a premises wherein the license was revoked or denied, or on said employee's character or reputation, or upon the employee's being or becoming the recipient or subject of an order of protection or a temporary order of protection. Licensees shall submit a roster of employees in triplicate on a form prescribed by the Commissioner, together with original application and with each renewal application. A report of any change of personnel, or change of residence address of an employee shall be filed in writing with the Commanding Officer of the precinct wherein the premises is located, within 48 hours after such change becomes effective.

(b) No firearms shall be sold, or given away, or otherwise disposed of, except to a person expressly authorized under the provisions of Articles 265 and 400 of the New York State Penal Law and §§ 1.20 and 2.10 of the New York State Criminal Procedure Law to possess and have such firearm. Any police officer or peace officer as defined in the Criminal Procedure Law shall produce her/his shield and proper identification card before purchasing a pistol or revolver. A peace officer whose status does not confer authorization to possess firearms pursuant to § 2.10 of the New York State Criminal Procedure Law shall possess a handgun license or rifle/shotgun permit in order to be a lawful transferee. Therefore, before delivering a firearm, rifle, shotgun, machine-gun or assault weapon to a peace officer, the licensee shall verify that person's status as a peace officer with the License Division Incident Section at (212) 374-5538 or 5539.

(c) Pursuant to New York City Administrative Code § 10-311(a), it shall be unlawful for any person or business enterprise to dispose of any firearm 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.

(d) 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 firearm 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 firearm and on a separate sheet of paper included within the packaging enclosing the firearm: "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."

(e) 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 firearm shall be required to purchase or obtain a safety locking device at the time s/he purchases or obtains the firearm.

(f) 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.

(g) In the event that any individual lacking authority to possess a firearm, rifle, shotgun, machine-gun or assault weapon attempts to leave such weapon with a licensee for cleaning, repairing or other processing, the licensee may accept the firearm, rifle, shotgun, machine-gun or assault weapon and obtain the name, address, telephone number, etc. of the person leaving the weapon. The licensee shall immediately report the incident to the precinct wherein the premises is located. If the licensee does not accept the firearm, rifle, shotgun, machine-gun or assault weapon for cleaning, repairing, or other processing, s/he shall report the incident to the precinct wherein the premises is located as soon as the individual possessing the weapon leaves the premises.

In the event that any individual lacking authority to possess a firearm, rifle, shotgun, machine-gun or assault weapon offers to sell or otherwise dispose of such weapon to a licensee, the licensee shall attempt to obtain the name, address, and telephone number of said individual and shall notify the precinct wherein the premises is located as soon as said individual leaves the premises.

(h) The licensee and all stockholders, officers, directors, applicants, agents and employees shall at all times comply with all laws, rules, regulations and requirements of all federal, state and local jurisdictions and agencies having authority with respect to the premises and conduct and operation of the licensed business, now in effect or hereafter adopted.

(i) The licensee shall immediately make a telephone notification to the Division Head, License Division and the Commanding Officer of the precinct wherein the premises is located, followed by written notice to both within ten (10) calendar days, of any incident or violations of law or rules of federal, state or local jurisdictions regarding her/himself, partners, officers, directors, stockholders, agents or employees of the licensed corporation affecting the premises or business operations. 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 individual 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;

(7) the presence or occurrence of a disability or condition that may affect the handling of a firearm, rifle, shotgun, machine-gun or assault weapon including but not limited to epilepsy, diabetes, fainting spells, blackouts, temporary loss of memory, or nervous disorder;

- (8) lost, stolen, altered or mutilated license; or

(9) unauthorized discharge of a firearm, rifle, shotgun, machine-gun or assault weapon on the licensee's premises.

(j) The conviction of a licensee anywhere of a felony or any other "Serious Offense" as defined in § 265.00(17) of the New York State Penal Law, or of a misdemeanor crime of domestic violence, as defined in § 921(a) of title 18 of the United States Code, shall operate as a revocation of the license. A license may also be revoked or suspended by a court pursuant to §

530.14 of the New York State Criminal Procedure Law or § 842-a of the New York State Family Court Act.

(k) If her/his license is suspended or revoked, the licensee shall be required to deposit any firearms, rifles, shotguns, machine-guns and assault weapons as well as any handgun license or rifle/shotgun permit in her/his possession with her/his local police precinct and forward a copy of the voucher together with her/his license to the License Division. Her/his failure to comply within ten (10) calendar days from the date of suspension or revocation may result in the arrest of the licensee.

(l) A license may be suspended and/or revoked by the License Division for good cause by the issuance of a Notice of Determination Letter to the licensee, which shall state in brief the grounds for the suspension or revocation and notify the licensee of the opportunity for a hearing. Upon issuance of a written Notice of Determination Letter notifying the licensee of suspension or revocation of the license, a suspended/former licensee shall have thirty (30) calendar days from the date of the notice of determination to submit a written request for a hearing to the Commanding Officer, License Division, One Police Plaza, Room 110A, New York, New York, 10038. A licensee whose arrest or summons resulted in suspension or revocation of her/his license 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 licensee becoming the subject of an order of protection or a temporary order of protection, the licensee 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.

(m) A license issued shall be valid only for the premises mentioned and described in the license and shall be prominently displayed on such premises.

(n) 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 firearm 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 subdivision (c) of this section. 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. Firearms may be displayed so long as the firearms are enclosed in a glass case within the premises and are removed and adequately safeguarded during the hours the business is closed. Firearms dealers may not display firearms or ammunition in the store windows or doors. Licensees are responsible for the safeguarding of their firearm inventory and the loss of firearm(s) may result in the revocation of the firearms dealer's license. All firearms shall be locked in an enclosed security room or safe, when not properly displayed.

(o) Each licensee shall cause a physical inventory to be taken prior to making application for renewal of her/his license, which shall include a listing of each firearm by make, calibre and serial number and shall be prepared in triplicate. The original copy of the inventory shall be maintained on the premises, the duplicate forwarded to the License Division and the triplicate filed in the precinct. In addition to the annual inventory, the licensee shall maintain a perpetual inventory and establish an internal security system acceptable to the Commissioner.

(p) Ammunition shall not be displayed in any area. Any ammunition required in the selling area shall be kept in a locked container not visible to the public. All other ammunition

shall be stored in an area of the premises that can be secured and is not in view of the public. Only the licensee and authorized employees shall have access to this area.

(q) A record of all ammunition received and dispensed shall be maintained in a bound book with pages consecutively numbered. It shall be the responsibility of the licensee or a designated employee to make entries in this record. This book together with all invoices received shall be kept in the ammunition storage area.

(r) This record shall be arranged in columnar form as outlined below. The first page of this book shall have an inscription bearing the name and address of the premises, license number, name of the owner of the premises, name of employee designated to make entries, and the date of the book being opened. Beginning on page 2, each even numbered page shall contain a record of ammunition received and starting with page 3, each odd numbered page shall contain a record of ammunition dispersed.

AMMUNITION RECEIVED

Gauge/Type Porter/ Manufacturer	Quan- tity	Signa- ture	Com- ments	Date	Time	Trans-	Invoice
--	--	--	--	--	--	--	--
--	--	--	--	--	--	--	--

AMMUNITION SOLD

Date	Time	Manu- facturer	Gauge/ Calibre	Quan- tity	Name	Add- ress	Date	Identifi- cation
--	--	--	--	--	--	--	--	--

(how determined)

(s) Permission to deviate from the above indicated procedure shall be requested from the Division Head, License Division, through the Commanding Officer of the precinct in which the licensed premises is located.

(t) Licensees shall cooperate with all reasonable requests by the Police Department for information and assistance in matters relating to the license.

§ 4-05 Rules Affecting Gunsmiths Only. (a) Every gunsmith shall keep a bound record book with pages numbered consecutively, in which the following information shall be entered:

(1) The name, address, age and occupation of every person for whom any work is performed on a rifle, shotgun, firearm, machine-gun, or assault weapon.

(2) Make, model, calibre, serial number of the rifle, shotgun, firearm, machine-gun, or assault weapon, and time, date and nature of the work performed.

(3) The authority to carry or possess such rifle, shotgun, firearm, machine-gun, or assault weapon; enter date and number of license or permit, if any. If the owner is a police officer or a peace officer as defined in the New York State Criminal Procedure Law, enter rank, shield number, agency, unit assigned, identification number, and license/permit number or License Division notification reference in addition to other captioned information as required.

(b) Such records shall be maintained at the premises stated in the license and permanently preserved thereat. Such records, as well as the premises and all rifles, shotguns, firearms, machine-guns, and assault weapons thereat, shall be subject to inspection at all times by members of the New York City Police Department.

(c) In the event of cancellation, suspension or revocation of the license or discontinuance of the business by a licensee, such records shall be delivered to the precinct through which the license was issued and the license forwarded to the License Division.

(d) A gunsmith shall not engage in the licensed activities of a dealer in firearms, unless s/he has first obtained a license as a dealer in firearms.

§ 4-06 Rules Affecting Dealers in Firearms Only. (a) Every dealer in firearms shall keep a bound record book with pages numbered consecutively, in which the following information shall be entered:

(1) The date, time, name, address, age, occupation, and authority to possess, of every person or firm from whom a firearm is received, together with the make, calibre and serial number of each such firearm and the name of the employee of the dealer making the purchase. If the owner is a police officer or a peace officer as defined in the New York State Criminal Procedure Law, enter rank, shield number, agency, unit assigned, identification number, and license/permit number or License Division notification reference, in addition to other captioned information as required.

(2) When a firearm is sold, exchanged, or in any manner disposed of by the dealer, the name, age, occupation and address of the person accepting same, her/his authority to purchase, carry or possess, enter date, name of issuing officer and number of license, if any, the make, model, calibre and serial number, time and name of the dealer or person in her/his employ effecting the transaction. If the purchaser is a police officer or a peace officer, as defined in the New York State Criminal Procedure Law, rank, shield number, agency, unit assigned, identification number and license/permit number or License Division notification reference, shall be entered in addition to other required information.

(3) Such records shall be maintained on the premises stated in the license and permanently preserved thereat. Such records, as well as the premises and firearms, shall be subject to inspection at all times by members of the Police Department.

(4) In the event of cancellation, suspension or revocation of the license, or discontinuance of business by a licensee, such records as well as the permanent inventory records, shall be delivered to the precinct through which license was issued and the license shall be forwarded to the Division Head, License Division.

(b) Every licensed dealer who sells, gives or otherwise provides any authorized person with a firearm shall prepare and forward to Stolen Property Inquiry Section, Pistol Index, One Police Plaza, New York, New York 10038 within 72 hours, Form P.D. 524-101 (Pistol Index Card).

(c) Every acquisition of a second-hand firearm by a licensed dealer, by trade-in or otherwise, shall be reported and forwarded to Stolen Property Inquiry Section, Pistol Index, One Police Plaza, New York, New York 10038, within 72 hours on Form P.D. 524-151, Dealer's Report on Second-Hand Guns. Each report shall give the date, hour, name and address of each person from whom a firearm is received, the authority to possess and dispose of same, and the make, model, calibre and serial number of each such firearm. No second-hand firearm shall be sold or disposed of until the expiration of fifteen (15) days after its acquisition. The date and hour of transmission of each report required hereunder shall be entered in the permanent record book which each licensed dealer is required to maintain under these rules.

§ 4-07 Rules Affecting Air Pistol and Air Rifle Dealers Only.

Every dealer shall keep a record of the name and address of each person purchasing air pistols, air rifles, or similar instruments, together with place of delivery and said record shall be open to inspection during regular business hours by a member of the New York City Police Department.

§ 4-08 Validity of Licenses. (a) A license issued to a dealer in firearms, gunsmith or manufacturer shall be valid until the 1st day of the second January after date of issuance, and may be renewed annually thereafter.

(b) A license for dealers in air pistols/air rifles is an annual license which may be renewed thereafter.

§ 4-09 Familiarity with Rules and Law. All licensees 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 each type of license or permit issued to them. Licensees are specifically reminded of the prohibitions against possession of assault weapons in New York City pursuant to New York City Administrative Code, Title 10, Chapter 3. The License Division shall provide the licensee with the acknowledgment statement to be executed. This acknowledgment statement shall be notarized. Failure to execute the acknowledgment statement and to have it notarized shall result in the license application being denied.

Note: Reference within this chapter to the masculine shall be presumed to include the feminine and neuter. Reference to singular shall be presumed to include the plural.

Chapter 5 Handgun Licenses

Subchapter A Issuance Of Handgun Licenses

§ 5-01 Types of Handgun Licenses. As used in this chapter, the term "handgun" shall mean a pistol or revolver. This section contains a description of the various types of handgun licenses issued by the Police Department. Section 5-09 of this subchapter contains a description of the procedure for obtaining an exemption from New York State Penal Law Article 265, allowing pre-license possession of a handgun for the purpose of possessing and using a handgun for instructional purposes with a certified instructor in small arms at an authorized small arms range/shooting club.

(a) *Premises License -- Residence or Business.* This is a restricted handgun license, issued for a specific business or residence location. The handgun shall be safeguarded at the specific address indicated on the license. This license permits the transporting of an unloaded handgun directly to and from an authorized small arms range/shooting club, secured unloaded in a locked container. Ammunition shall be carried separately.

(b) *Carry Business License.* This is an unrestricted class of license which permits the carrying of a handgun concealed on the person. In the event that an applicant is not found by the License Division to be qualified for a Carry Business License, the License Division, based on its investigation of the applicant, may offer a Limited Carry Business License or a Business Premises License to an applicant.

(c) *Limited Carry Business License.* This is a restricted handgun license which permits the licensee to carry the handgun listed on the license concealed on the person to and from specific locations during the specific days and times set forth on the license. Proper cause, as defined in § 5-03, shall need to be shown only for that specific time frame that the applicant needs to carry a handgun concealed on her/his person. At all other times the handgun shall be safeguarded at the specific address indicated on the license, and secured unloaded in a locked container.

(d) *Carry Guard License/Gun Custodian License.* These are restricted types of carry licenses, valid when the holder is actually engaged in a work assignment as a security guard or gun custodian.

(e) *Special Licenses.* Special licenses are issued according to the provisions of § 400.00 of the New York State Penal Law, to persons in possession of a valid New York State County License. The revocation, cancellation, suspension or surrender of such person's County License automatically renders her/his New York City license void. The holder of a Special License shall carry her/his County License at all times when possessing a handgun pursuant to such Special License.

(1) *Special Carry Business License.* This is a special license, permitting the carrying of a concealed handgun on the person while the licensee is in New York City.

(2) *Special Carry Guard License/Gun Custodian License.* These are restricted types of special licenses that permit the carrying of a concealed handgun on the person only when the licensee is actually engaged in the performance of her/his duties as a security guard or gun custodian.

§ 5-02 Premises Licenses. The requirements for the issuance of a Premises License are listed below. The license application shall be investigated, including a review of the circumstances relevant to the information provided in the application. During the pendency of the application, the applicant shall notify the License Division 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.

The applicant shall:

(a) Be of good moral character;

(b) Have no prior conviction for a felony or other serious offense, as defined in § 265.00(17) of the New York State Penal Law, or of a misdemeanor crime of domestic violence, as defined in § 921(a) of title 18 of the United States Code;

(c) Disclose whether s/he is or has been the subject or recipient of an order of protection or a temporary order of protection;

- (d) Have no prior revocation of a license nor be 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;
- (e) Disclose any history of mental illness;
- (f) Be free from any disability or condition that may affect the ability to safely possess or use a handgun;
- (g) Reside or maintain a principal place of business within the confines of New York City;
- (h) Be an applicant concerning whom no good cause exists for the denial of such license;
- (i) Be at least 21 years of age.

§ 5-03 Carry and Special Handgun Licenses. In addition to the requirements in § 5-02, an applicant seeking a carry or special handgun license shall be required to show "proper cause" pursuant to § 400.00(2)(f) of the New York State Penal Law. "Proper cause" is determined by a review of all relevant information bearing on the claimed need of the applicant for the license. The following are examples of factors which shall be considered in such a review.

- (a) Exposure of the applicant by reason of employment or business necessity to extraordinary personal danger requiring authorization to carry a handgun.

Example: Employment in a position in which the applicant routinely engages in transactions involving substantial amounts of cash, jewelry or other valuables or negotiable items. In these instances, the applicant shall furnish documentary proof that her/his employment actually requires that s/he be authorized to carry a handgun, and that s/he routinely engages in such transactions.

- (b) Exposure of the applicant to extraordinary personal danger, documented by proof of recurrent threats to life or safety requiring authorization to carry a handgun.

Example: Instances in which Police Department records demonstrate that the life and well-being of an individual is endangered, and that s/he should, therefore, be authorized to carry a handgun. The factors listed above are not all inclusive, and the License Division will consider any proof, including New York City Police Department records, which document the need for a handgun license. It should be noted, however, that the mere fact that an applicant has been the victim of a crime or resides in or is employed in a "high crime area," does not establish "proper cause" for the issuance of a carry or special handgun license.

§ 5-04 Carry Guard License/Gun Custodian License and Special Carry Guard License/Gun Custodian License. (a) In addition to the requirements in § 5-02 an applicant shall demonstrate the employer's need to employ armed security guards/gun custodians.

- (b) Such need may be shown and documented by memorandum, letters or contract(s) for the hiring of said employer to provide armed security personnel or otherwise require the services of gun custodians.

(c) Additionally, such need may be shown by other documentation or acceptable form as required by the License Division.

- (d) If applicable, an applicant shall show satisfactory evidence that such business possesses a professional license, relevant to the need for a handgun, issued by the State of New York.

(e) In addition to the requirements in § 5-06 an applicant shall show proof of current employment which requires the need for a handgun license.

(f) If applicable, an applicant shall show satisfactory evidence of having a professional license, relevant to the need for a handgun issued by the State of New York.

§ 5-05 Application Form. (a) An application form shall be distributed, one per person, at the License Division during normal business hours. Assistance in completing the form shall be made available at the License Division. The application form shall be completely filled out and submitted in person at the License Division, and only an original application form shall be accepted. Special license applicants should also specifically refer to paragraph (9) of subdivision (b) of this section for application requirements.

(b) The applicant shall furnish the items listed below which are applicable, either at the time s/he completes and submits her/his application in person, or no later than fourteen (14) calendar days after the date of submission of the application, either in person or by mail. All documents, certificates, licenses, etc., shall be submitted in the original. A copy certified by the issuing agency as true and complete is also acceptable. In addition, a legible photocopy of each item submitted shall accompany the original or certified copy. Originals and certified copies shall be returned. The application shall not be accepted or processed without the required fee payments described in paragraph (10) of this subdivision.

(1) *Photographs.* Two (2) color photographs of the applicant taken within the past thirty (30) days. They should measure 1-1/2 X 1-1/2 inches and show applicant from the chest up. The wearing of any article of clothing or adornment that obscures identification is not acceptable. Special license applicants should refer to paragraph (9) of this subdivision.

(2) *Birth certificate.* If there is no record of the applicant's birth on file with the New York City Department of Health Office of Vital Statistics, some other proof of applicant's birth date, e.g., a military record, U.S. passport or baptismal certificate, shall be submitted.

(3) *Proof of citizenship/alien registration.* If the applicant was born outside the United States, s/he shall submit her/his naturalization papers or evidence of citizenship if derived from her/his parents. All other applicants born outside the United States shall submit their Alien Registration Card. Additionally, applicants who are aliens and have resided in the United States for less than seven (7) years shall submit a good conduct certificate, or the equivalent thereof, from their country of origin and two (2) letters of reference which identify the writer's relationship to the applicant and which certify to the good character of the applicant. Inability to provide the documents mentioned in this paragraph shall not operate as an absolute bar to issuance of a handgun license.

(4) *Military discharge.* If the applicant served in the armed forces of the United States, s/he shall submit her/his separation papers (DD 214) and her/his discharge papers.

(5) *Proof of residence.* The applicant shall submit proof of her/his present address. Proof may consist of one of the following, but is not limited to: a real estate tax bill, a copy of a lease indicating ownership shares in a cooperative or condominium or a current residential lease. The License Division may request further documentation, e.g., a New York State Driver's License, a New York State Income Tax Return, a current utility bill, etc.

(6) *Arrest information.* If the applicant was ever arrested for any reason s/he shall submit a Certificate of Disposition showing the offense and disposition of the charges. Also, the applicant shall submit a detailed statement describing the circumstances surrounding each arrest. This statement shall be affirmed in writing. The applicant shall do this even if the case was dismissed, the record sealed or the case nullified by operation of law. The New York State

Division of Criminal Justice Services shall report to the Police Department every instance involving the arrest of an applicant. The applicant shall not rely on anyone's representation that s/he need not list a previous arrest. If the applicant was ever convicted or pleaded guilty to a felony or a serious offense, as defined in New York State Penal Law §265.00(17), an original, signed Certificate of Relief from Disabilities shall be submitted.

(7) *Proof of business ownership.* If the applicant is making application for a license in connection with a business, s/he shall submit proof of ownership for that business. Such proof shall clearly state the name(s) of the owner(s), or, if a corporation, the name(s) of the corporate officer(s). A corporation shall submit its corporate book to include Filing Receipt, Certificate of Incorporation and minutes of the corporate meeting reflecting current corporate officers; others shall provide their business certificate or partnership agreement, whichever is applicable. If the business requires a license or permit from any government agency, e.g., alcohol or firearms sales, gunsmith, private investigation and guard agencies, the applicant shall submit the license or permit or a certified copy thereof.

(8) *Letter of necessity.* (i) A letter of necessity explains the need for the license. It shall be typewritten on current letterhead stationery; signed by a corporate officer, partner, or in the case of a sole proprietorship, the owner of the business. Self-employed applicants may submit such letter under their own signature. The letter of necessity shall be affirmed. A letter of necessity shall be submitted by the following applicants:

- (A) All applicants except applicants for a Premises Residence License.
- (B) All employees seeking a Premises Business License for use in connection with their employment shall submit a letter of authorization signed by the owner of the business.

(A) All applicants except applicants for a Premises Residence License.

(B) All employees seeking a Premises Business License for use in connection with their employment shall submit a letter of authorization signed by the owner of the business.

(ii) Regardless of whether a handgun license was previously issued by the New York City Police Department or any other issuing authority, the letter of necessity shall contain the following information:

(A) A detailed description of the applicant's employment and an explanation of why the employment requires the carrying of a concealed handgun.

(B) A statement acknowledging that the handgun shall only be carried during the course of and strictly in connection with the applicant's job, business or occupational requirements, as described herein.

(C) A statement explaining the manner in which the handgun shall be safeguarded by the employer and/or applicant when not being carried.

(D) A statement indicating that the applicant has been trained or shall receive training in the use and safety of a handgun.

(E) A statement acknowledging that the applicant's employer or, if self-employed, the applicant, is aware of its or her/his responsibility to properly dispose of the handgun and return the license to the License Division upon the termination of the applicant's employment or the cessation of business.

(F) A statement indicating that the applicant, and if other than self-employed, a corporate officer, general partner or proprietor, has read and is familiar with the provisions of New York State Penal Law Articles 35 (use of deadly force), 265 (criminal possession and use of a firearm), and 400 (responsibilities of a handgun licensee).

(G) At the time of the applicant's interview, the applicant shall be advised whether any additional forms or documents are required. Failure to provide the information requested may result in the disapproval of the applicant's application.

(9) *Special license applicants shall submit the items listed below:*

(i) All applicants shall submit two (2) application forms, to be filled out completely and presented by the applicant in person. The applicant shall not mail the application forms.

(ii) All applicants shall submit three (3) 1-1/2 X 1-1/2 inch color photographs showing the applicant from the chest up, taken within the past 30 days. The wearing of any article of clothing or adornment that obscures identification is not permitted.

(iii) The applicant shall bring her/his current County Handgun License with her/him to have her/his application processed.

(10) Upon application, required fees are payable to the New York City Police Department and the New York State Division of Criminal Justice Services. Fees to the New York City Police Department shall be paid by certified check or money order made payable to the N.Y.C. Police Department.

Note: The fee payable to N.Y.S. Division of Criminal Justice Services applies to all applicants. These fees shall be paid separately. Only U.S. Postal or bank drawn money orders shall be accepted. If the applicant has any questions concerning her/his application, s/he may call (212) 374-5553. Applications shall be submitted in person at the License Division, Room 110A, Monday through Friday, 8:30 A.M. to 4:00 P.M. The License Division is closed on all legal holidays. All fees are non-refundable.

§ 5-06 Gun Custodian, Carry Guard and Special Licenses. Establishing company need for handgun licensing. (a) An applicant shall initially submit a typed license application, which shall be affirmed in writing, in accordance with general handgun license rules, including all personal and business documentation requested. Examples of business documentation would be a company's corporate book, including filing receipt; certificate of incorporation; minutes of the corporate meeting reflecting current corporate officers; business certificate or partnership agreement, whichever is applicable.

(b) Where the applicant for a handgun license is an owner of a security guard, courier or private investigation company, or a company providing similar services, and desires the license in connection with such business, the applicant shall:

(1) present satisfactory evidence that such business is licensed by the State of New York, and;

(2) present satisfactory evidence of contracts for armed services to be performed within the City of New York.

(c) Where an applicant for a handgun license is an owner of a check cashing business and desires the license for use in connection with such business, the applicant shall: present satisfactory evidence that such business is licensed by the State of New York Banking Department.

(d) Carry Guards. (1) Once a gun custodian's license has been issued in connection with a particular employer, applications for individual security guards/personnel for the same employer may be submitted.

(2) In addition to the handgun license application required of all license applicants, carry guard/personnel applicants shall submit the form Handgun License Application

Company and a specific letter of necessity following the format supplied by the License Division.

§ 5-07 License Approval/Disapproval Procedures. (a) It takes approximately six months to process an application. If her/his application is approved the applicant shall receive a "Notice of Application Approval" in the mail. If the applicant moves during the time her/his application is being processed, the applicant shall immediately notify the License Division's Handgun License Application Section, Room 110A, One Police Plaza, New York, New York 10038, 212-374-5553, and be guided by their instructions. Failure to make timely notification may result in the disapproval/cancellation of the applicant's application.

(b) To receive her/his license the applicant shall report in person with her/his "Notice of Application Approval" letter, to the Issuing Unit -- Room 152, One Police Plaza, New York, New York 10038 -- within thirty (30) calendar days of the date on the "Notice of Application Approval" letter. Licenses shall only be issued between the hours of 9:00 a.m. and 12:00 p.m., Monday through Thursday. The applicant should note that the Issuing Unit is closed on all legal holidays.

(c) If the applicant does not appear to pick up her/his license within thirty (30) calendar days of the date on the "Notice of Application Approval," her/his license and application shall be cancelled.

(d) With her/his license the applicant shall receive a copy of the "New York City Handgun License Rules" (Subchapter B of this chapter). The applicant shall become knowledgeable regarding these handgun rules, as any violation of these rules may result in the suspension or revocation of her/his handgun license.

(e) If her/his license application is disapproved the applicant shall receive a written "Notice of Application Disapproval" from the License Division 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, 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.

(f) 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.

§ 5-08 Limitations. Applicants issued licenses pursuant to this subchapter shall be subject to such conditions and limitations as established by the Police Commissioner regarding, but not necessarily limited to the permissible number, type, transportation and safeguarding of handguns.

§ 5-09 Application for Pre-License Exemption. Each applicant desiring to obtain the exemption set forth in New York State Penal Law § 265.20(a)(7-b), allowing pre-license possession of a handgun for the purpose of possessing and using a handgun for instructional purposes with a certified instructor in small arms at an authorized small arms range/shooting club, shall make such request in writing to the Division Head, License Division at the time the application for a handgun license is filed. Such request shall include a signed and verified statement by the person authorized to instruct and supervise the applicant, that s/he has met with the applicant and s/he has determined that, in her/his judgment, said applicant does not appear to be or pose a threat to be a danger to her/himself or others. S/he shall include a copy of her/his certificate as an instructor in small arms, if s/he is required to be certified, and state her/his address and telephone number. S/he shall specify the exact location by name, address and telephone number where such instruction shall take place. The Division Head, License Division shall, no later than ten (10) business days after such filing, commence an investigation and ascertain whether the applicant has a criminal record. The Division Head, License Division shall no later than ten (10) business days after the completion of such investigation determine if the applicant has been previously denied a license, been convicted of a felony, been convicted of a serious offense as defined in Penal Law § 265.00(17), been convicted of a misdemeanor crime of domestic violence, as defined in § 921(a) of Title 18 of the United States Code, been the subject or recipient of an order of protection or a temporary order of protection, been 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, or appears to be, or poses a threat to be, a danger to her/himself or others, and either approve or disapprove the applicant for exemption purposes based upon such determinations. If the applicant is approved for the exemption, the Division Head, License Division shall notify the applicant. Such exemption shall terminate if the application for the license is denied, or at any earlier time based upon any information obtained by the Division Head, License Division which would cause the application to be rejected. The applicant shall be notified of any such rejection.

§ 5-10 Grounds for Denial of Handgun License. In addition to other bases for disqualification pursuant to federal, state, and local law and this chapter, an application for a handgun license may be denied where it is determined that an applicant lacks good moral character or that other good cause exists for denial, pursuant to New York State Penal Law § 400.00 (1). 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 handgun, 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 license 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 firearms, 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 license.

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.

§ 5-11 Grounds for Suspension for Defined Period or Revocation of Handgun License. A handgun license may be suspended for a defined period or revoked upon evidence of any disqualification pursuant to this chapter. A handgun license 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 licensee's failure to cooperate with such an investigation, or by other evidence.

Chapter 5 Handgun Licenses

Subchapter B Licensee Responsibilities

§ 5-21 Introduction. Any violation of this subchapter and/or the restrictions of the license, if any, may result in the suspension and/or revocation of the license.

§ 5-22 Conditions of Issuance. (a) A handgun license is issued under the following conditions:

- (1) It is revocable at any time.
- (2) It is not transferable to any other person or location.
- (3) Any mutilation, alteration, or lamination of the license shall render it void.

The licensee may not make any additions, deletions, or other changes on her/his license. Only License Division personnel may make changes on the license.

(4) If the license is mutilated, altered, laminated, lost, or destroyed an additional fee shall be required for replacement. If any of these circumstances occur, the licensee shall notify the License Division.

(5) When the license expires, and if the licensee has not renewed it, or if it is suspended, or revoked, the licensee shall immediately surrender the license with the handgun(s) to the precinct of her/his place of business or residence.

(6) The licensee shall be in possession of her/his license at all times while carrying, transporting, possessing at residence, business, or authorized small arms range/shooting club, the handgun(s) indicated on said license.

(7) If the licensee has a "Carry" or "Special Carry" type license only one (1) handgun may be carried on her/his person at any time.

(8) The licensee is authorized to own only the handgun(s) that are listed on her/his license.

(9) The licensee shall not purchase or replace a handgun prior to obtaining written permission from the Division Head, License Division (see Handgun Purchase Authorizations).

(10) A handgun may be replaced or purchased only by requesting permission in writing from the Division Head, License Division.

(11) The licensee shall not draw, expose or display handgun(s) unnecessarily.

(12) The licensee shall not leave handgun(s) in an unauthorized person may readily obtain them.

(13) To assure maximum safety, proper safeguards shall be taken at all times to keep handguns away from unauthorized persons, especially children. 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 handgun 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 section 5-25(a)(2) of this chapter. 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.

(14) The licensee should endeavor to engage in periodic handgun practice at an authorized small arms range/shooting club.

(15) Any misuse of the purpose for which the license was issued, or any action or misconduct on the part of the licensee which may constitute just cause, shall result in the suspension or revocation of the license.

(16) Except for licensees with unrestricted Carry Business licenses or Special Carry Business Licenses, a licensee wishing to transport her/his handgun to a gunsmith shall request permission in writing from the Division Head, License Division. Authorization shall be provided in writing. The licensee shall carry this authorization with her/him when transporting the handgun to the gunsmith, and shall transport the handgun directly to and from the gunsmith. The handgun shall be secured unloaded in a locked container during transport.

(17) Licensees shall cooperate with all reasonable requests by the Police Department for information and assistance in matters relating to the license.

(b) In the following instances the licensee shall make an immediate report to the License Division -- Incident Section, telephone #(212) 374-5538, 5539, and to the precinct where the incident occurred. (See additional requirements under "Incident Section" -- § 5-30).

(1) Theft/loss of handgun.

(2) Discharge of handgun other than during practice at an authorized small arms range/shooting club.

(3) Theft/loss of handgun license.

(4) Improper use/safeguarding of handgun(s).

(5) Public display of an unholstered handgun.

(c) In the following instances, the licensee shall make an immediate report to the License Division -- Incident Section (see Incident Section -- § 5-30).

(1) Arrest, indictment, or conviction in any jurisdiction; summons other than traffic infraction; 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.

(2) Change of business or residence address (see Address Changes -- § 5-29).

(3) Change of business, occupation or employment (see Name Changes -- § 5-29).

(4) Any change in the circumstances for which the licensee received the license.

The licensee shall immediately notify the License Division and shall then be instructed on how to proceed. The licensee may be required to report to the License Division with required documentation to have the change reviewed and effected by License Division personnel.

(5) Alteration, mutilation, destruction of handgun license.

(6) Intent to dispose of handgun. Failure to notify in writing the Division Head, License Division prior to disposing of handgun is a Class A Misdemeanor pursuant to New York State Penal Law § 265.10(7).

(7) Receipt of psychiatric treatment or treatment for alcoholism or drug abuse, or the presence or occurrence of any disability or condition that may affect the ability to safely possess or use a handgun.

(8) Licensee is or becomes the subject or recipient of an order of protection or a temporary order of protection.

§ 5-23 Types of Handgun Licenses. (a) *Premises License -- Residence or Business.* This is a restricted handgun license, issued for the protection of a business or residence premises.

(1) The handguns listed on this license may not be removed from the address specified on the license except as otherwise provided in this chapter.

(2) The possession of the handgun for protection is restricted to the inside of the premises which address is specified on the license.

(3) To maintain proficiency in the use of the handgun, the licensee may transport her/his handgun(s) directly to and from an authorized small arms range/shooting club, unloaded, in a locked container, the ammunition to be carried separately.

(4) A licensee may transport her/his handgun(s) directly to and from an authorized area designated by the New York State Fish and Wildlife Law and in compliance with all pertinent hunting regulations, unloaded, in a locked container, the ammunition to be carried separately, after the licensee has requested and received a "Police Department -- City of New York Hunting Authorization" Amendment attached to her/his license.

(b) *Carry Business License.* This is an unrestricted class of license which permits the carrying of a handgun concealed on the person.

(c) *Limited Carry Business License.* This is a restricted handgun license which permits the licensee to carry a handgun listed on the license concealed on the person to and from specific locations during the specific days and times set forth on the license. Proper cause, as defined in § 5-03, shall need to be shown only for that specific time frame that the applicant needs to carry a handgun concealed on her/his person. At all other times the handgun shall be safeguarded at the specific address indicated on the license and secured unloaded in a locked container.

(d) *Carry Guard License/Gun Custodian License.* These are restricted types of carry licenses, valid when the holder is actually engaged in a work assignment as a security guard or gun custodian.

(e) *Special Licenses.* Special licenses are issued according to the provisions of § 400.00 of the New York State Penal Law, to persons in possession of a valid County License. The revocation, cancellation, suspension or surrender of her/his County License automatically renders her/his New York City license void. The holder of a Special License shall carry her/his County License at all times when possessing a handgun pursuant to such Special License.

(1) *Special Carry Business.* This is a class of special license permitting the carrying of a concealed handgun on the person while the licensee is in New York City.

(2) *Special Carry Guard License/Gun Custodian License.* These are restricted types of Special Carry Licenses. The handgun listed on the license may only be carried concealed on the licensee's person while the licensee is actively on duty and engaged in the work assignment which formed the basis for the issuance of the license. The licensee may only transport the handgun concealed on her/his person when travelling directly to and from home to a work assignment.

§ 5-24 Gun Custodians and Carry Guards.

(a) Gun custodian. (1) Once a company employs and intends to arm additional employees, a gun custodian and alternate custodian shall be designated by the company.

(2) Each designee shall submit to the License Division an additional handgun license application for gun custodian, which shall be typed and affirmed in writing, along with two (2) color photos, $1\frac{1}{2} \times 1\frac{1}{2}$ inches, taken within the past thirty (30) days, showing the applicant from the chest up, and the necessary fees.

(3) The responsibilities of the gun custodian and alternate custodian are as follows:

(i) To insure that an applicant works a minimum of twenty (20) hours per week for the company.

(ii) To insure that an applicant commences work within fifteen (15) days of issuance of license.

(iii) On a semiannual basis, the gun custodian or alternate custodian shall be required to submit the following reports to the License Division:

(A) Employment Report -- indicating hours worked by each licensee per month.

(B) Employee Termination Report.

(C) Annual Handgun Inventory Report.

(iv) The gun custodian or alternate custodian or an authorized designee of the company shall be required to permit properly identified representatives of the New York City Police Department to examine company records pertaining to handgun licensees.

(v) During those periods that a security guard will not be reporting to work due to illness or vacation, the gun custodian or alternate custodian shall be responsible for the security of the handgun.

(vi) In the event of termination of employment, the custodian or alternate custodian shall see to the immediate surrender of the licensee's handgun license to the New York City Police Department License Division and return of the handgun to the company.

(vii) In the event of a licensee's death, the gun custodian or alternate custodian is responsible for the security of the handgun and for the immediate notification, in writing, to the New York City Police Department License Division.

(viii) Where a licensee becomes involved in an incident or suffers a condition which shall be reported to the License Division and/or the precinct of occurrence

pursuant to subdivision (b) of this section, the gun custodian or alternate custodian shall ensure that such report is made immediately.

(4) When appearing at the License Division to pick up a license, an applicant shall present a handgun assignment letter from the gun custodian or alternate custodian. If no handgun is available from the company handgun inventory, the gun custodian or alternate custodian shall request, in writing, a purchase order by following the rules set forth in § 5-25, "Handgun Purchase Authorizations," to obtain a new handgun.

(5) The purchase order shall be valid for only thirty (30) calendar days from the date of issuance.

(6) After the gun custodian or alternate custodian has purchased the handgun, s/he shall return to the License Division within 72 hours to have the handgun inspected. This handgun shall be unloaded in a locked container and accompanied by the purchase order authorization and a photocopy of the bill of sale. This handgun may not be carried or transported except as indicated in this paragraph before it has been inspected.

(7) If the gun custodian or alternate custodian makes her/his purchase from other than an authorized dealer, the seller shall be either a New York City or New York State licensee, Police Officer or a Peace Officer.

(8) A handgun may be replaced by requesting permission, in writing, from the Division Head, License Division.

(b) Carry Guard Licensee. (1) This license is restricted to the days and hours that the licensee is actually engaged in employment, or when a licensee is travelling from her/his residence to employment, or from employment to her/his residence. These restrictions shall be strictly interpreted by the New York City Police Department and violation of these rules shall result in the immediate suspension of the pistol license. This means that the handgun may be carried only when the licensee is actually engaged in employment by the security company the name of which appears on the face of the license. This does not permit "freelancing" on the licensee's day off. The handgun may only be carried from the licensee's residence as listed on the application, to the licensee's place of employment or assignment for that particular day.

The licensee may carry her/his handgun from employment back to her/his residence. This means that there shall be no unreasonable delay in returning to the licensee's residence where the handgun shall be secured.

Example: If the licensee does not intend to stay at her/his residence the evening prior to working at her/his place of assignment, s/he will be obligated to return home to pick up her/his handgun just prior to going to work. Carrying her/his handgun with her/him the entire evening preceding her/his next work day is a distinct violation of license restrictions.

Example: If the licensee finishes a 4 p.m. to midnight shift and takes action involving the handgun at 3:30 a.m. in a local tavern, s/he is in violation of license restrictions and the New York State Penal Law.

(2) A licensee has the responsibility of making an immediate report to the Division Head, License Division, the precinct where the incident occurred, and the gun custodian or alternate custodian in the following instances:

- (i) Loss or theft of handgun.
- (ii) Discharge of handgun (other than practice at an authorized small arms range/shooting club).
- (iii) Loss or theft of handgun license.
- (iv) Improper use/safeguarding of handgun(s).

(v) Public display of an unholstered handgun.

(3) An immediate report shall be made in the following instances to the Division Head, License Division and the gun custodian or alternate custodian:

(i) Change of residence.

(ii) Mutilation, alteration or destruction of handgun license.

(iii) Arrest, indictment, summons other than a traffic summons, or conviction in any jurisdiction; 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.

(iv) Receipt of psychiatric treatment or treatment for alcoholism or drug abuse, or the presence or occurrence of any disability or condition that may affect the ability to safely possess or use a handgun.

(v) Licensee is or becomes the subject or recipient of an order of protection or a temporary order of protection.

(4) The license shall be in the possession of the licensee at all times while the licensee is carrying the handgun.

(5) Misconduct or misuse of the purpose for which this license is issued may result in the suspension or revocation of the license.

(6) A handgun licensee is authorized to use only the handgun that is endorsed on her/his license.

(c) Failure to comply with all of the above conditions set forth herein may result in the suspension, revocation, or cancellation of any/or all handgun licenses issued to employees of the subject company.

§ 5-25 Handgun Purchase Authorizations. (a) The licensee may not obtain a handgun without prior written authorization from the Division Head, License Division. This authorization shall be provided in the nature of a "Handgun Purchase Authorization" form. The following are the rules concerning handgun acquisition:

(1) The "Handgun Purchase Authorization" form is valid only for thirty (30) calendar days from the issuance date.

(2) Pursuant to New York City Administrative Code § 10-311(a), it shall be unlawful for any person or business enterprise to dispose of any handgun 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:

(i) a trigger lock, which prevents the pulling of the trigger without the use of a key; or

(ii) a combination handle, which prevents the use of the weapon without the alignment of the combination tumblers; or

(iii) 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.

(3) 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 handgun 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 handgun and on a separate sheet of paper included within the packaging enclosing

the handgun: "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."

(4) 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 handgun shall be required to purchase or obtain a safety locking device at the time s/he purchases or obtains the handgun.

(5) 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.

(6) Once the licensee has purchased the handgun, s/he shall return to the License Division -- Room 152, One Police Plaza, New York, New York 10038, within 72 hours to have the handgun and safety locking device inspected. The handgun may not be utilized before it has been inspected by License Division personnel and entered on the license.

(7) Handgun inspections are conducted only between the hours of 12 to 2 p.m., Monday through Friday.

Note: The License Division is closed on all legal holidays.

(8) The licensee may only purchase a handgun from the following:

(i) A licensed New York State Firearms Dealer.

(ii) The holder of a current, valid, New York State, or New York City Handgun License.

(iii) A New York State or New York City Police Officer or Peace Officer, as defined under the New York State Criminal Procedure Law.

(iv) Estate of deceased New York City/New York State handgun licensee.

(9) If the licensee purchases a handgun from a licensed New York State Firearms Dealer, s/he shall submit the following documents when s/he presents the handgun for inspection:

(i) Completed "Handgun Purchase Authorization" form.

(ii) Original Bill of Sale and a clear carbon copy or photocopy of same.

(10) If the licensee purchases a handgun from the holder of a valid New York State or New York City handgun license, s/he shall also submit the following documents when s/he presents the handgun for inspection:

(i) Completed "Handgun Purchase Authorization" form.

(ii) A signed and notarized Bill of Sale and a clear photocopy by the seller which includes the following information: make, model, calibre, and serial number of handgun sold; Seller's: name, address, license number; Buyer's: name, address, license number, date of sale.

(iii) Clear photocopy of the seller's valid, current Handgun License, listing the handgun to be purchased thereon. The front and back of the license shall be photocopied.

(11) If the licensee purchases a handgun from a New York State or New York City Police Officer or Peace Officer, s/he shall submit the following documents when s/he presents the handgun for inspection:

(i) Completed "Handgun Purchase Authorization" form.

(ii) A signed and notarized Original Bill of Sale and a clear photocopy. Bill of Sale shall include: date of sale; Seller's: name, address, agency, including command, and shield number; Buyer's: name, address, license number; make, model, calibre and serial number of handgun.

(12) The aforementioned transaction shall not be permitted if the seller is a New York City Police Officer who has not complied with Police Department guidelines regarding the sale of firearms to a handgun licensee.

(13) If the seller is a Police Officer or Peace Officer from a jurisdiction other than New York City, the License Division requires prior written notification as to the seller, so that verification of employment, etc., can be obtained. This information shall be listed in the "Handgun Purchase Authorization" request submitted by licensee.

(14) If the licensee wishes to purchase a handgun from the Estate of a deceased New York State/New York City licensee, s/he shall provide the below specified documents prior to obtaining a "Handgun Purchase Authorization" form. This transaction shall be conducted in person at the License Division, Room 152, between the hours of 9 a.m. and 12 p.m., Monday through Thursday only.

(i) A written request for purchase authorization for the desired handgun(s) including make, model, calibre and reason for request; the licensee's name, address, and license number.

(ii) The license is required for this transaction.

(iii) A copy of the voucher for the handgun(s).

(iv) The decedent's license, if not previously surrendered, showing registration of the handgun(s) in question.

(v) A copy of the death certificate.

(vi) If there is a Will: The License Division requires a short certificate of Letters Testamentary, that gives the Executor or Executrix the authority to dispose of the property. Letters can be obtained from the Surrogate's Court, of the borough in which the deceased lived.

(vii) If there is no Will: The License Division requires a short certificate of Letters of Administration that gives the administrator the authority to dispose of the property. Letters can be obtained from the Surrogate's Court, of the borough in which the deceased lived.

(viii) A notarized Bill of Sale from the Executor or Administrator of the decedent's estate, indicating the weapon, make, model, calibre and serial number, and stating that they are being sold to: the licensee's name, address and license number.

(ix) Once purchased, the handgun shall be presented for inspection within seventy-two (72) hours; Monday through Friday 12 to 2 p.m.

(b) *New licensees.* A "Handgun Purchase Authorization" form shall be issued to the licensee with her/his new handgun license. As indicated previously this form is only valid for thirty (30) calendar days from the date of issuance.

(1) If the licensee does not purchase a handgun within the specified period of time, s/he shall within ten (10) calendar days of the expiration date of the "Handgun Purchase Authorization" form, surrender said form and her/his handgun license to the License Division Issuing Unit.

(2) The license is only valid if there is a handgun listed thereon.

(3) Requests for extensions for Handgun Purchase Authorizations shall be made by written request to the Division Head, License Division.

(c) *Purchasing an additional handgun.* (1) Requests for the purchase of an additional handgun shall be made in writing to the License Division -- Issuing Unit -- One Police Plaza, Room 152, New York, New York, 10038. Pre-printed request forms are available at the Reception Desk in Room 152.

(2) The written request shall include: the licensee's name, address and license number, and the make, model and calibre of the handgun s/he wishes to purchase.

(3) The licensee shall be notified in writing of the approval or disapproval of her/his request for an additional handgun. If the request has been approved, the licensee shall receive by mail, a "Notice of Handgun Purchase Authorization Approval." To receive the purchase document the licensee shall appear at the License Division, Room 152, by the date indicated on the notice. The licensee shall bring the approval notice and her/his license with her/him to receive her/his purchase document.

(4) Purchase documents are issued only between the hours of 9 AM to 12 Noon, Monday through Thursday.

Note: The License Division is closed on all legal holidays.

(5) "Handgun Purchase Authorizations" shall be returned to the License Division within ten (10) calendar days of their expiration date. Failure to return the document within the specified time shall result in the suspension and/or revocation of the handgun license(s).

(6) All purchasers of handguns shall also be required to prepare a "Handgun Index Card," at the License Division.

(d) *Number of handguns allowed on a handgun license.* (1) When the total number of handguns possessed by licensee(s) residing in or located in the same household/business exceeds four, the licensee(s) shall utilize a safe when handguns are stored at the premises.

(2) Requests for handguns in excess of four shall not be entertained without proof of the ownership of a safe in which the handguns shall be safeguarded when not in use. Proof of ownership consists of a Bill of Sale for the safe and two color photos of the safe, one with the door open and one with the door closed.

(3) The Division Head, License Division reserves the right to accept or reject the type of safe proposed for safeguarding the handguns.

(4) The number of handguns allowed under each type of handgun license is listed below. Requests for additional handguns shall be reviewed on an individual basis. More than four handguns requires satisfactory evidence of safeguarding to prevent theft, as approved by the Division Head, License Division - see above.

(i) Carry Business and Special Carry Business -- Two handguns. The Division Head of the License Division may in her/his discretion limit to one the number of handguns that appear on the carry handgun license when the licensee's needs do not require possession of two handguns.

(ii) Limited Carry Business -- One handgun.

(iii) Carry Guard and Special Carry Guard -- One handgun.

(iv) Gun Custodian -- Number of handguns shall be determined by the Division Head, License Division, consistent with the demonstrated needs of the applicant.

(v) Premises Business -- One handgun.

(vi) Premises Residence -- One handgun.

(e) *Requests for additional handguns for "Special Handgun Licenses."*

(1) Holders of "Special Handgun Licenses" shall comply with the purchase authorization request guidelines of the county in which they hold their basic handgun license. Once the addition has been made to their basic County License, a request to add the handgun to

their New York City Special License may be made in writing to the Division Head, License Division. If the Division Head, License Division approves the request, the licensee shall be notified when to report to the License Division to effect the addition. The following documents shall be required at that time:

- (i) The basic County License.
- (ii) A copy of the county Handgun Purchase Authorization form.
- (iii) A copy of the Bill of Sale.
- (iv) The New York City Special Handgun License.

(2) Inquiries concerning this type of transaction may be made to the Issuing Unit at telephone numbers (212) 374-5522 or 5523.

§ 5-26 Disposal of a Handgun Listed on the License. (a) Any person lawfully in possession of a handgun who disposes of the same without first notifying the License Division in writing shall be guilty of Class A Misdemeanor in accordance with the provisions of New York State Penal Law § 265.10(7). Pursuant to New York City Administrative Code § 10-311(a), it shall be unlawful for any person or business enterprise to dispose of any handgun 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.

Note: The license becomes invalid if the licensee sells the one and only handgun on her/his license. Should the licensee wish to sell it without cancelling her/his license, s/he shall first follow the instructions to add a handgun.

(b) 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 handgun 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 handgun and on a separate sheet of paper included within the packaging enclosing the handgun: "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."

(c) 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 handgun shall be required to purchase or obtain a safety locking device at the time s/he purchases or obtains the handgun.

(d) 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.

(e) The buyer may only be a:

- (1) Licensed New York State Firearms Dealer.
- (2) A New York State/New York City Handgun License Holder.
- (3) A New York State/New York City Police Officer or Peace Officer.

(f) If the licensee sells to a licensed New York State Firearms Dealer the following documentation shall be required to process the transaction:

- (1) The "Original Bill of Sale" from the dealer and photocopy.

(2) The "Bill of Sale" shall show the Dealer's License number, name, address; the make, model, calibre and serial number of the handgun sold; the licensee's name, address, license number and expiration date of the license; the date of sale; the bill shall clearly indicate that the Dealer purchased the handgun(s).

(3) The licensee shall appear at the License Division, Room 152, with her/his license to process this transaction.

(g) If the licensee sells to a New York State/New York City Handgun license holder, the following documentation shall be required to process the transaction:

(1) An "Original Bill of Sale," signed by the seller and the purchaser, with both signatures notarized.

(2) The "Bill of Sale" shall include: the seller's name, address and license number, expiration date of license; the purchaser's name, address, license number and expiration date; the make, model, calibre, and serial number of the handgun(s) sold, the date of sale.

- (3) A copy of the purchaser's handgun license, front and back.

- (4) A copy of the buyer's "Handgun Purchase Authorization form."

(5) The licensee shall be required to appear at the License Division -- Room 152, with her/his license, to process this transaction.

(h) Once the licensee has sold her/his handgun(s), s/he shall appear in person to delete them from her/his license within ten (10) calendar days of the transaction.

(i) If the licensee wishes to sell her/his handgun to a New York State/New York City Police Officer or Peace Officer the following documentation shall be required to process the transaction:

(1) A notarized "Bill of Sale" showing the make, model, calibre and serial number of the handgun sold; the name, address, shield number, Agency and Command of the Police Officer/Peace Officer. The bill of sale shall be signed by both the seller and the purchaser, dated, and each signature shall be notarized.

(2) If the purchaser is a New York City Police Officer or Peace Officer, the License Division requires prior written notification relative to the purchaser so that verification of employment, etc. can be obtained.

(3) Once the licensee has sold her/his handgun s/he shall appear at the License Division, Room 152, with her/his license and the aforementioned documentation to process this transaction.

(j) If the licensee wants to transfer her/his handgun(s) to another New York State/New York City license s/he also possesses s/he shall make a written request to the Division Head, License Division. The request shall include the following information:

- (1) The licensee's name, address and telephone number.

(2) The license number; make, model, calibre, and serial number of the handgun the licensee wishes transferred; and the number of the license to which the licensee wants to transfer the handgun.

- (3) The licensee shall enclose copies of both licenses front and back.

(4) The licensee shall receive a written response. If the request is approved, the licensee shall have to appear at the License Division with both licenses to process the transaction.

(k) If the licensee wishes to sell all of her/his handguns and cancel her/his license, s/he may do so by submitting the applicable documentation and her/his handgun license, by mail. (See Cancellation Procedures below.)

§ 5-27 Cancellation of the Handgun License. (a) Anyone cancelling a New York City Handgun License shall:

(1) Legally dispose of handgun(s). To legally dispose of her/his handgun(s) the licensee shall either:

- (i) Voucher the handgun at her/his local precinct, or
- (ii) Sell to a licensed Firearms Dealer, or
- (iii) Sell to a Police Officer or Peace Officer, or
- (iv) Transfer handgun(s) to another license s/he may possess, if authorized

to do so, or

- (v) Sell to a licensee, if the licensee is authorized to purchase.

(2) Return license to the License Division and attach a copy of voucher or Bill of Sale.

(3) Attach letter briefly giving reason for cancellation.

(b) If the licensee intends to relocate out of State, the License Division requests verification from the local authorities of that particular jurisdiction that the licensee has notified them that s/he is in possession of the handgun listed on her/his N.Y. license.

(c) To document proper disposal of the handgun, follow the rules listed in § 5-26 concerning "Disposal of a Handgun Listed on the License."

(d) All documents and the license shall be returned to the License Division -- Cancellation Unit -- One Police Plaza, Room 152, New York, New York 10038, within ten (10) calendar days of the disposal of handguns, relocation, etc. If the licensee has any questions concerning these procedures s/he may call telephone number (212) 374-5531 or 5532.

Note: If the licensee relocates out of New York City or New York State, s/he shall immediately contact her/his new local Police Department and receive instructions on how to legally possess her/his handgun(s) in their jurisdiction.

§ 5-28 Renewal of the Handgun License. The licensee is required to renew her/his handgun license every three (3) years. The license expires on the licensee's birthday.

(a) The renewal process generally begins sixty (60) calendar days prior to the licensee's month of birth. The licensee shall receive her/his renewal application, instructions, and other required forms and her/his invalidated license in the mail. As part of the renewal process, the License Division may require that the licensee produce all licensed handguns for inspection, either using a random selection procedure or when a review of the renewal package discloses the need for such an inspection, as directed by the Commanding Officer, License Division. The licensee shall receive appropriate instructions and a form Affidavit of Handgun Possession, to be completed and affirmed in writing as part of the renewal package. If so directed, the licensee shall transport all licensed handguns to the License Division, One Police Plaza, Room 152, New York, New York or otherwise make the handguns available for inspection, in the manner directed by the instructions. The licensee shall examine the license, complete all required forms including providing color photos, forwarding fees (payable by certified check or money order

only), etc., and return the renewal package to the License Division by mail, as soon as possible. Upon receipt of the renewal material, the License Division shall process the renewal and return the validated license to the licensee by mail.

(b) The license is not valid unless stamped and sealed by the License Division. The licensee shall sign her/his license in the designated area on the back of the license.

(c) The renewal application and related documents shall be mailed to the address on the license. If the licensee has moved and has not notified the License Division, the renewal documents shall be returned to the License Division and her/his license shall be cancelled for failure to notify the License Division of an address change (see Address Change -- § 5-29).

(d) If the licensee has not received her/his renewal documents thirty (30) calendar days prior to her/his birth date, s/he shall contact the Renewal Unit at telephone number (212) 374-5531, or 5532, for instructions.

(e) If the licensee has extenuating circumstances which prevent her/him from renewing prior to her/his birth date, s/he shall submit a notarized letter to the Renewal Unit explaining the circumstances. The License Division shall contact the licensee and advise her/him on how to proceed. However, if the licensee is not notified by the License Division by her/his birth date, s/he shall voucher her/his handgun(s) at her/his local precinct until the matter is resolved.

(f) Licensees shall carefully read and comply with the instructions on their renewal documents.

(g) Incomplete or incorrectly prepared renewal documents shall not be processed, and shall be returned to the licensee for completion/correction, with a letter indicating the problem, information omitted, etc. Consequently, if as a result of the licensee's error, the licensee fails to submit the required material, fees, etc., by her/his birthday, s/he shall be required to voucher her/his handgun(s) at her/his local precinct until the renewal process is completed.

(h) If the licensee's birthday has passed and s/he has not yet renewed, s/he shall immediately voucher her/his handgun(s) at her/his local precinct. The License Division shall not process any late renewals unless a copy of the voucher is attached to the complete renewal application which is to be submitted by mail.

(i) Failure to renew the license on time is cause for cancellation of the license.

(j) Possession of any unlicensed handgun is a violation of Article 265 of the New York State Penal Law, and may subject the licensee to arrest.

(k) Renewal fees shall be in the form of a money order or a certified check made payable to the N.Y.C. Police Department. Cash and personal checks shall not be accepted.

§ 5-29 License Amendments. (a) Originals of all verifying documents shall be presented along with photocopies. After the original documents have been reviewed, they shall be returned to the licensee.

(1) *Premises Residence License -- address changes.*

(i) If the licensee has moved, s/he shall change the address listed on her/his license. To do so the licensee shall come to the License Division no later than ten (10) calendar days after her/his change becomes effective. S/he shall bring her/his license and verifying documents such as current utility bills. Any and all verifying documents shall include the licensee's name and the licensee's new address.

(ii) If the licensee has relocated outside of New York City, s/he shall follow the instructions for "Cancellation."

(2) *All Carry/Premises Business Licenses -- address changes.* If the licensee's business name, principals, corporate officers (if a corporation), and the nature of her/his business

remain the same, but s/he has changed her/his business location, the licensee shall within ten (10) calendar days, provide the License Division with a copy of a current utility bill verifying the name and new address of the business, and other verifying documents substantiating the move. This transaction shall be conducted in person. If the nature of the licensee's business has changed, s/he shall follow the instructions for "Cancellation."

(3) *Premises/business name changes.*

(i) If the licensee has a Premises Business License and changes her/his business name, but her/his business is of the same nature and at the same location, s/he shall provide the License Division with Amended Business Certificate, verifying documents, etc. within ten (10) calendar days.

(ii) If the licensee is an employee of a company, in addition to the documentation required in subparagraph (i) above, the licensee shall submit a letter on company stationery signed by the company president or owner, which states that the licensee is still employed by them in the same capacity for which the license was issued, and that the licensee still requires the handgun license for her/his employment.

(iii) If the nature of the licensee's business has changed s/he shall follow the instructions for Cancellation.

(4) *Carry Business License name changes.* If the licensee has a Carry Business License and s/he changes her/his business name -- but not the nature of the business, the corporate officers, or the location, s/he shall contact the License Division immediately at telephone #(212) 374-5531 or 5532 for instructions on how to proceed.

(5) *"Special" Carry Handgun License Changes.* Licensees shall call telephone number (212) 374-5531 or 5532, for specific instructions. However, the licensee's basic County Handgun License shall be amended prior to requesting any amendment of her/his New York City "Special Handgun License."

(6) *Individual name changes.*

(i) If the licensee has changed her/his name because of marriage, registration of a domestic partnership, or for other reasons, s/he shall provide the License Division with a Marriage Certificate, affidavit or legal court documents verifying the change. Where an affidavit is provided, the Department may require additional evidence that the affiant has changed her/his name, including but not limited to a certificate of domestic partnership registration, credit cards issued to the affiant, or bills addressed to the affiant. For purposes of this subparagraph, "domestic partnership" shall mean a domestic partnership registered in accordance with applicable law with the City Clerk, or a domestic partnership registered with the former City Department of Personnel pursuant to Executive Order 123 (dated August 7, 1989) during the period August 7, 1989 through January 7, 1993. (The records of domestic partnerships registered at the former City Department of Personnel have been transferred to the City Clerk.)

(ii) The aforementioned document(s) shall be submitted in the original, with a copy attached. The License Division shall return the original document to the licensee.

(iii) The licensee shall appear in person at the License Division -- Room 152, with the required documents and her/his license to effect this change.

(b) *New business.* (1) If the licensee has changed her/his business from the one for which s/he was originally licensed, or her/his current business has had a change of name and/or corporate officers, owners, etc., or the nature of her/his business or responsibilities have changed; or if s/he has ended her/his association with the business, *i.e.*, retired, terminated, resigned, the licensee shall within ten (10) calendar days of the change surrender her/his

handgun(s) and license to her/his local precinct for safekeeping. Her/his license may be subject to cancellation. (See § 5-27 -- Cancellation of the Handgun License). Questions may be directed to the Incident Section (212) 374-5538 or 5539.

(2) Handgun licenses are not transferable to new businesses. The licensee shall re-apply for a new handgun license for her/his new business.

(3) New applications shall not be accepted without proof of the surrender of the old license and proof of the proper disposal or surrender of the handgun(s).

(4) Failure to make proper notification of any of the above changes to the License Division shall result in immediate cancellation of the license.

§ 5-30 Incidents Involving Suspension. (a) Whenever a handgun licensee is involved in an "Incident," the licensee shall immediately report said incident to the License Division's Incident Section -- Telephone number (212) 374-5538 or 5539. Certain "Incidents" shall also be reported to the "Precinct of Occurrence" (where the incident took place).

(b) The following "Incidents" shall be immediately reported to the "Precinct of Occurrence" and the License Division Incident Section:

(1) Lost handgun(s).

(2) Stolen handgun(s).

(3) Discharge of handgun -- other than at an authorized small arms range/shooting club.

(4) Lost handgun license (see lost/stolen license).

(5) Stolen handgun license (see lost/stolen license).

(6) Improper use/safeguarding of handgun(s).

(7) Public display of an unholstered handgun.

(c) The following "Incidents" shall be immediately reported to the License Division's Incident Section:

(1) Arrest, summons, (except traffic infractions), indictment, or conviction of licensee, in any jurisdiction, federal, state, local, etc.; 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.

(2) Admission of licensee to any psychiatric institution, sanitarium, and/or the receipt of psychiatric treatment by licensee.

(3) The receipt of treatment for alcoholism or drug abuse by licensee.

(4) The presence or occurrence of a disability or condition that may affect the handling of a handgun, including but not limited to epilepsy, diabetes, fainting spells, blackouts, temporary loss of memory, or nervous disorder.

(5) Licensee is or becomes the subject or recipient of an order of protection or a temporary order of protection.

(6) Alteration, mutilation or destruction of handgun license.

Note: The above "Incidents" shall be reported if they were not previously disclosed by licensee to the License Division, or if previously disclosed, circumstances have changed.

(d) In addition to the aforementioned "Incidents," whenever the holder of a handgun license becomes involved in a situation which comes to the attention of any police department, or other law enforcement agency, the licensee shall immediately notify the License Division's Incident Section of the details.

(e) All "Incidents" shall be reviewed and evaluated by License Division investigators. If, as a result of the "Incident," the License Division finds it necessary to suspend or revoke the license, the licensee shall receive notification by mail. Said notification shall advise the licensee of the status of her/his license and the reason for the suspension/revocation.

(f) The licensee shall be directed to immediately voucher for safekeeping all handguns, rifles and/or shotguns listed on any license and any rifle/shotgun permit s/he possesses. After the handguns, rifles and/or shotguns have been vouchered, the licensee shall immediately send her/his handgun license and any rifle/shotgun permit s/he possesses and a copy of the "Voucher" to the License Division's Incident Section.

(g) Failure to comply with these directions is a violation of the New York State Penal Law, and shall result in summary action by the Police Department. Possession of an unlicensed handgun is a crime. If a license is suspended or revoked, the handgun(s) listed thereon are no longer considered licensed. Failure to comply with the License Division's directions may result in the permanent revocation of the licensee's handgun license.

(h) If her/his license is suspended or revoked, the licensee shall be issued a written Notice of Determination Letter, which shall state in brief the grounds for the suspension or revocation of the license and notify the licensee of the opportunity for a hearing. The suspended/former licensee has the right to submit a written request for a hearing to appeal the decision. This request shall be made within thirty (30) calendar days of the date of the Notice of Determination Letter. The written request shall be submitted to the Commanding Officer, License Division, One Police Plaza, Room 110A, New York, New York 10038. A licensee whose arrest or summons resulted in suspension or revocation of her/his license 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 licensee becoming the subject of an order of protection or a temporary order of protection, the licensee 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. However, requests for hearings shall not be entertained, nor shall a hearing be scheduled until the licensee:

- (1) Complies with the provisions of subdivision (f) above; and
- (2) Provides a Certificate of Final Disposition, if applicable; and
- (3) Provides a Certificate of Relief from Disabilities, if applicable, to the License

Division.

(i) The written request for a hearing shall include:

- (1) License number.
- (2) Reason(s) for the request.
- (3) Disposition of license(s) and handgun(s).

(j) Upon receipt of the licensee's letter, the License Division shall schedule the licensee for a hearing and notify the licensee by mail.

§ 5-31 Mutilated, Lost or Stolen Licenses. (a) If her/his license was lost or stolen, the licensee shall report the loss/theft to the "Precinct of Occurrence" and obtain a "Complaint Report Number."

(1) *If the licensee's license was lost, s/he shall:*

- (i) Obtain a "Complaint Report Number" from the precinct of occurrence.

(ii) Report in person to the License Division -- Room 152.

(iii) Bring a ten (\$10) dollar money order or certified check. Cash and personal checks shall not be accepted. Make instrument payable to "N.Y.C. Police Department."

(iv) Bring two current color photos -- 1-1/2 X 1- 1/2 inches, front view, from the chest up, taken within the past thirty (30) days. S/he shall not wear anything which would obstruct identification, *e.g.*, hats, sunglasses, etc.

(v) Bring the "Complaint Report Number."

(vi) Bring personal identification -- driver's license, credit card, old Handgun License.

(vii) The licensee shall be required to prepare a duplicate application and have it notarized.

(2) *If her/his license was stolen, the licensee shall:*

(i) Obtain a Complaint Report Number from the precinct of occurrence.

(ii) Report in person to the License Division -- Room 152.

(iii) Bring two color photos -- 1-1/2 X 1-1/2 inches, front view, from the chest up, taken within the past thirty (30) days. S/he shall not wear anything which would obstruct identification, *e.g.*, hats, sunglasses, etc.

(iv) Bring the "Complaint Report Number."

(v) Bring personal identification -- driver's license, credit card, old Handgun License.

(vi) S/he shall be required to prepare a duplicate application and have it notarized.

(b) If her/his license was altered, laminated or mutilated, the licensee shall: Report in person to the License Division -- Room 152 with the following:

(1) A ten (\$10) dollar money order or certified check. Cash and personal checks shall not be accepted. Make instrument payable to "N.Y.C. Police Department."

(2) Two color photos -- 1-1/2 X 1-1/2 inches, front view, from the chest up, taken within the past thirty (30) days. S/he shall not wear anything which would obstruct identification, *e.g.*, hats, sunglasses, etc.

(3) S/he shall be required to prepare a duplicate application and have it notarized.

(4) S/he shall bring with her/him the remnants of her/his license.

§ 5-32 Transfer of Records. New York City handgun licensees who have moved out of New York City may request a transfer of their records to their new licensing jurisdiction, in accordance with § 400.00, Subdivision 5, of the New York State Penal Law.

(a) This request shall be made in writing by the new licensing agency and accompanied by a five (\$5.00) dollar money order, made payable to the N.Y.C. Police Department.

(b) The request shall not be processed unless the License Division has received the licensee's New York City handgun license; documentation of the legal disposition of her/his handgun(s), *i.e.*, Bill Of Sale or Voucher (see Cancellation and Disposal of Handgun(s) -- §§ 5-26 and 5-27), her/his new address, and the name and address of her/his new licensing authority.

(c) Requests for a records transfer may be mailed to the New York City Police Department License Division -- Records Unit, One Police Plaza, Room 152, New York, New York 10038. The License Division shall process her/his request as expeditiously as possible once the License Division has received the necessary information, documentation, fee, etc. If the licensee has any questions concerning this matter contact (212) 374-5522 or 5523.

§ 5-33 Familiarity with Rules and Law. All licensees 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 license. The License Division shall provide the licensee with the acknowledgment statement. This acknowledgment statement shall be affirmed in writing. Failure to affirm the acknowledgment statement shall result in denial of the license application.

Note: Reference within this chapter to the masculine shall be presumed to include the feminine and neuter. Reference to the singular shall be presumed to include the plural.

Chapter 13 Special Patrolmen

§ 13-01 Appointment. (a) Pursuant to New York City Administrative Code § 14-106, the Police Commissioner may appoint Special Patrolmen upon application by individuals whose employers demonstrate need for such appointment.

(b) Applications for appointment as Special Patrolman from employees, properly endorsed by the following agencies or institutions, shall be given consideration:

- (1) City and state governmental agencies.
- (2) Housing complexes.
- (3) Hospitals, cemeteries and social welfare agencies.
- (4) Educational and cultural institutions, schools, libraries, museums, etc.
- (5) Financial institutions and business entities.
- (6) As deemed appropriate by the Police Commissioner.

(c) Special Patrolmen are appointed in connection with special duties of employment, and such designation confers limited Peace Officer powers upon the employee pursuant to New York State Criminal Procedure Law § 2.10(27). The exercise of these powers is limited to the employee's geographical area of employment and only while such employee is actually on duty. Such duties of employment may include:

- (1) Issuing of summonses; or
- (2) Making arrests and issuing desk appearance tickets; or
- (3) Controlling crowds and maintaining order in governmental or public buildings.

(d) Special Patrolman designations shall be renewed every two years upon a showing, to the satisfaction of the Police Commissioner, of continuing fitness of the employee, continuing necessity by the employer, *i.e.*, that the duties and responsibilities of the positions require the special powers conferred by the New York City Administrative Code and New York State Criminal Procedure Law.

(e) To be eligible for appointment as a Special Patrolman, an applicant shall be of good character, as more specifically defined in these rules, cooperate in a background investigation by the License Division of the Police Department and possesses the following qualifications:

(1) A citizen of the United States and resident of the City of New York unless exempted by law.

(2) Presently employed or about to be employed for the purpose of performing duties as specified in § 13-01(b) above, within the City of New York for an employer approved by the Police Department. Appointments are made for the benefit of the employing agency,

institution or business entity, at whose request the appointment is made, and the duration of the appointment shall be coterminous with such employment.

(3) No record of convictions for any felony or serious offense as enumerated in § 265.00 (17) of the New York State Penal Law. If an applicant presents a Certificate of Relief from Disabilities for a conviction as aforesaid, consideration shall be given to the circumstances of the underlying arrest, the age of the applicant when arrested, the time elapsed since the occurrence of the act which led to the arrest and conviction, and the subsequent conduct of the applicant.

(4) Be at least 21 years of age at the time of appointment.

(5) If discharged from the military service, it shall not have been dishonorably.

(6) Not possess a condition or disability which, even with reasonable accommodations, would prevent the performance of the essential functions of Special Patrolman.

(f) In addition to the above, applicants for Special Patrolman designation may be disapproved by failure to meet character requirements as disclosed by a background investigation. This determination shall be based upon a review of the circumstances of previous arrests, employment records, mental history, reports of misconduct reflecting on character as referred to above, and any other pertinent records or information.

(g) An applicant may be disapproved if a false statement is made on the application.

(h) All applicants shall be fingerprinted upon the filing of the application on forms provided by the License Division. A processing fee, required by the New York State Division of Criminal Justice Services, shall be paid at the time the applicant is fingerprinted, by a money order payable to the N.Y.S. Division of Criminal Justice Services. An application fee shall also be paid at that time, by certified check or money order made payable to the N.Y.C. Police Department. The following items of information shall be provided by applicants: Court disposition of any arrest in which Police Department records do not indicate a final determination; two color photos 1-1/2 X 1-1/2 inches, front view, taken within the past thirty (30) days; certified copy of birth certificate; certified copy of DD214 and military discharge; proof of residence; if foreign born, naturalization certificate; handgun license or rifle/shotgun permit if applicable; driver's license or New York State Department of Motor Vehicles identification card. All application forms shall be typed and notarized, and co-signed by the employer's Chief of Security. The Special Patrolman Section shall be notified at least three (3) business days prior to any scheduled appointments if the applicant is unable to appear.

(i) During the pendency of the application, the applicant shall notify the License Division 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.

(j) An employer seeking approval to employ one or more Special Patrolmen shall be evaluated utilizing the following criteria:

(1) Demonstrated need for Special Patrolman services.

(2) Financial ability to support adequate compensation, uniform, training, and supervision expenses.

(3) Establishment of training program and sufficient management supervision.

(4) Character and reputation of employer including any criminal activity associated with employer's operations.

(5) Prior experiences with Special Patrolmen engaged by employer.

(6) Compliance with the rules and requirements of this chapter.

(k) Once an application for Special Patrolman appointment has been disapproved, or appointment once granted has been revoked, the disqualified individual shall be ineligible to file a new application for at least two (2) years, unless reinstated earlier after a suspension or revocation hearing.

(l) Each Special Patrolman shall be required to sign an acknowledgment that s/he 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 her/his appointment. The License Division shall provide the Special Patrolman with the acknowledgment statement. This acknowledgment statement shall be notarized. Failure to execute the acknowledgment statement and to have it notarized shall result in disapproval of the application.

(m) Special Patrolmen shall cooperate with all reasonable requests by the Police Department for information and assistance in matters relating to their designation.

(n) If her/his application for special patrolman appointment is disapproved the applicant shall receive a written "Notice of Application Disapproval" from the License Division 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, 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. 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.

§ 13-02 Cancellations, Suspensions and Revocations. (a) A Special Patrolman and her/his employer shall immediately notify the License Division of the Police Department, Special Patrolman Section, whenever an employee, appointed as Special Patrolman is:

- (1) Arrested.
- (2) Suspended from employment.
- (3) Terminated from employment.

(4) Disabled or subject to a condition which prevents the Special Patrolman from being able to perform the duties of a Special Patrolman.

- (5) Transferred to a position not requiring such appointment.

(6) Involved in an incident which demonstrates conduct which is contrary to the purpose of appointment as a Special Patrolman, *i.e.*, the protection of property, or the safety of specific individuals or the public at large, and to her/his continued designation as a Special Patrolman.

(b) Upon receipt of this notice from the Special Patrolman, her/his employer, or otherwise, the License Division shall immediately notify the Special Patrolman and the employer that the appointment is cancelled, suspended or revoked.

(c) A Special Patrolman and her/his employer shall immediately notify the License Division of the Police Department, Special Patrolman Section, whenever said employee changes her/his address. The failure of a Special Patrolman and/or her/his employer to report a Special Patrolman's change of address to the Special Patrolman Section may result in the immediate revocation of the appointment.

(d) The appointment of a Special Patrolman may also be cancelled, suspended or revoked by the Police Commissioner on her/his own initiative for any of the reasons enumerated in § 13-02(a) above, or upon a finding that a condition exists, which would be cause for a disapproval of an application, or revocation, as aforesaid. In appropriate circumstances, the approval for an employer to participate in the Special Patrolman program may be revoked.

(e) When a cancellation, suspension or revocation is initiated by the Police Department, written notice shall be given to the employer and the employee whose designation has been cancelled, suspended or revoked, advising them of the reasons for the action taken.

§ 13-03 Appeal from Written Notice of Determination of Suspension or Revocation. (a) An employer or suspended/ former Special Patrolman may within thirty (30) calendar days from the date of the Notice of Determination Letter notifying the employer or Special Patrolman of suspension or revocation make a written request for a hearing to the Commanding Officer, License Division, One Police Plaza, Room 110A, New York, New York 10038.

(b) A Special Patrolman whose arrest or summons resulted in suspension or revocation of her/his appointment 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 Special Patrolman becoming the subject of an order of protection or a temporary order of protection, the Special Patrolman 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.

§ 13-04 Uniform and Equipment. (a) The shield of a Special Patrolman shall be of a design and color approved by the Police Commissioner. The Special Patrolman's uniform shall be prescribed by the employer, shall not resemble in any way the uniform of a New York City Police Officer, and shall be worn at all times while the Special Patrolman is on duty unless the Special Patrolman's identification card authorizes the wearing of civilian clothes or s/he is otherwise excused by the Police Commissioner. A Special Patrolman shall not wear her/his uniform while off-duty. (New York City Administrative Code § 14-107.)

(b) When appointed, a Special Patrolman shall be provided with a shield and identification card. To insure the return of the shield, a \$25 deposit shall be required for each shield issued. The deposit shall be refunded upon the return of the shield. The theft or loss of a shield or identification card shall be reported without delay to the precinct of occurrence and in writing to the License Division.

(c) Identification cards bearing the raised seal of the License Division, including an expiration date, shall be issued to Special Patrolmen who are in compliance with all applicable standards.

(d) Upon the death, resignation, termination of employment, cancellation, suspension or revocation of the appointment of a Special Patrolman, the employer shall cause the Special Patrolman's shield, identification card and pistol or revolver, if any, to be delivered to Police Department custody immediately, if this has not already been done.

(e) If handguns are required, applications for a handgun license authorizing the possession of a handgun in connection with Special Patrolman duties should be made to the License Division's Handgun License Application Section. A determination shall be made as to whether sufficient need exists for approval. It is a crime for a Special Patrolman to possess a handgun without having a valid handgun license therefor, and grounds for revocation of the Special Patrolman designation.

(f) If handcuffs are required, Special Patrolmen are restricted to possession while on duty or while traveling to and from their assigned place of duty. Unlawful possession of handcuffs is a criminal violation (New York City Administrative Code § 10-147(b)).

§ 13-05 Conduct. (a) It is a crime for a Special Patrolman to represent her/himself as a Police Officer (§ 190.25 of the New York State Penal Law).

(b) Unlawful use and possession of a police uniform, shields or emblems, as prescribed by § 14-107 of the New York City Administrative Code, shall be cause for revocation of a Special Patrolman designation.

(c) A Special Patrolman shall be subject to the orders and regulations of the Police Commissioner, and shall cooperate in the performance of duty with members of the Police Department.

(d) Upon making an arrest, a Special Patrolman shall, without delay, bring the prisoner before the Desk Officer at the precinct in which the arrest is made, or directly to the Central Booking facility as appropriate.

(e) A Special Patrolman employed by a city or state governmental agency other than the New York City Police Department, which has a formalized procedure for the issuing, recording, and forwarding of summonses for personnel of the agency concerned, shall comply with the regulations of that agency. Any other Special Patrolman who serves a summons shall deliver the necessary papers to the Desk Officer of the precinct in which it was served, without delay.

(f) A Special Patrolman shall promptly notify the Special Patrolman Section of a change in residence, telephone number or employment status.

(g) If a Special Patrolman is arrested, s/he shall immediately notify her/his employer and the Special Patrolman Section of that occurrence.

(h) Non-compliance with any provision of these rules by a Special Patrolman may result in suspension or revocation of her/his designation. Non-compliance with any of these rules by an employer may result in revocation of its approval to participate in the Special Patrolman program.

§ 13-06 Training. (a) Persons appointed as Special Patrolmen by the Police Commissioner are mandated to have received training pursuant to New York State Criminal Procedure Law § 2.30(1), within 12 months of their designation. Employers are solely responsible for providing such training.

(b) Employers of Special Patrolmen shall be responsible for certifying to the Division Head, License Division that their designated personnel have completed the required training and shall submit copies of completion certificates to the License Division within 30 days of such training.

(c) Non-compliance with these mandated training provisions by employers or their designated Special Patrolmen shall be cause for revocation of their designations and revocation of approval for the employer to participate in the Special Patrolman program.

§ 13-07 Required Reports. (a) Agencies, institutions, et al., employing persons appointed as Special Patrolmen are solely responsible for compliance with mandatory reporting requirements as established by the New York State Division of Criminal Justice Services. Tel: (518) 457-6101.

(b) Failure to comply with New York State Division of Criminal Justice Services mandated reporting requirements may be grounds for removal from the Special Patrolman program.

Note: References within this chapter to masculine shall be presumed to include the feminine and neuter. References to the singular shall be presumed to include the plural.

Chapter 15 Adjudications

Subchapter C Hearing Rules Governing Suspension and Revocation of Handgun Licenses, Rifle/Shotgun Permits, Dealer's, Gunsmith's and Manufacturer's Licenses, Organization Registration Certificates and Special Patrolman Designations.

§ 15-21 Definitions.

Department. The term "Department" shall mean the New York City Police Department.

Handgun. The term "handgun" shall mean a pistol or revolver.

Hearing Officer. The term "Hearing Officer" shall mean an individual designated by the Police Commissioner to preside over hearings pertaining to suspension and revocation of handgun licenses, rifle/shotgun permits, dealer's, gunsmith's and manufacturer's licenses, organization registration certificates and special patrolman designations.

License. The term "License" shall mean a license or permit to possess handguns or rifles/shotguns, or to conduct business as a dealer, gunsmith or manufacturer, or the registration certificate allowing organizations to possess rifles or shotguns, or the granting of special patrolman designation.

License Division. The term "License Division" shall mean the New York City Police Department License Division.

Licensee. The term "Licensee" shall mean any person, business, organization or governmental agency which is requesting a hearing to contest a decision made by the Department regarding an individual license, permit or certificate.

Party. The term "Party" shall mean the Department or any licensee involved in a hearing.

Revocation. The term "Revocation" shall mean removal of a license and privilege to possess a handgun or rifle/shotgun and/or be designated a special patrolman, or to conduct business as a dealer, gunsmith, or manufacturer, or to possess rifles or shotguns as an organization.

Special Patrolman. The term "Special patrolman" shall mean an individual who has been granted a designation as special patrolman by the Police Commissioner pursuant to New York City Administrative Code § 14-106.

Suspension. The term "Suspension" shall mean temporary removal of a license and privilege to possess a handgun or rifle/shotgun and/or be designated a special patrolman, or to conduct business as a dealer, gunsmith, or manufacturer, or to possess rifles or shotguns as an organization.

§ 15-22 Commencement of Proceedings. (a) *Entitlement to a Hearing.* A licensee shall be entitled to submit a written request for a hearing following issuance of a Notice of Determination Letter notifying the licensee of suspension or revocation of a license and the opportunity for a hearing.

(b) *Scheduling of Hearings.* A licensee who wishes to request a hearing relating to a suspension or revocation shall submit a written request to the Commanding Officer, License Division, following the issuance of a Notice of Determination Letter, within 30 calendar days of the date on the Notice of Determination Letter. A licensee whose arrest or summons resulted in suspension or revocation of her/his license 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 licensee becoming the subject of an order of protection or a temporary order of protection, the licensee 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. The License Division shall schedule a hearing within a reasonable time of receipt of the request.

(c) *Notice of Hearing.* A licensee shall receive notification of the date, time and place of the hearing by regular mail addressed to the licensee's last known address. Additionally, a licensee's New York State licensed attorney shall receive notification, if the attorney has filed an appearance with the Department.

§ 15-23 Proceedings upon Default. (a) *Failure to Appear.* (1) Upon a licensee's failure to appear at a license suspension or revocation hearing, or any adjournment thereof, without good cause, it shall be deemed that the licensee does not contest the issues underlying the suspension or revocation of the license. The Hearing Officer may recommend the suspension or revocation of the license and/or may proceed to take testimony with regard to the merits of the case.

(2) *Notice of Default.* The parties shall be notified of the Hearing Officer's declaration of default.

(3) *Application to Vacate Default.* An application for a rehearing and stay of default may be made within 20 calendar days of the date of the notification of default/hearing results. Such application shall be made to the Hearing Officer and may be granted upon a showing of good cause.

§ 15-24 Adjournments. (a) A request for an adjournment shall be made at least 72 hours prior to the date of the hearing. An adjournment shall not be granted except for good cause shown.

(b) (1) If an adjournment is granted, the adjourned hearing date may be marked final against the licensee requesting the adjournment.

(2) Attorneys requesting an adjournment because of a conflicting engagement shall submit an Affirmation of Actual Engagement, setting forth the name of the court, case, and date and time of the proceedings.

§ 15-25 Evidence. (a) *Evidence.* (1) Parties shall have the right to call witnesses, conduct examinations and cross-examinations, to present evidence, and make objections, motions and arguments.

(2) The rules of evidence governing proceedings in the courts of this State shall not be strictly enforced at hearings. Objections shall be timely and the basis for the objection shall be clearly stated.

(3) The introduction of cumulative or irrelevant evidence shall be avoided. The Hearing Officer may curtail the testimony of any witness which is deemed to be cumulative or irrelevant.

(4) Parties may stipulate to facts involved in the proceedings. Stipulations shall be noted on the record and shall be approved by the Hearing Officer.

(b) *Requests for Records.* Licensees or their New York State licensed attorneys may request copies of records at least three weeks in advance of the date of the hearing. Documents shall not be provided in response to such request where: (1) the documents are privileged or confidential pursuant to law or rule, or (2) where disclosure of the documents would reveal investigative techniques, would impair active investigations or judicial proceedings, would constitute an unwarranted invasion of privacy, or would endanger the life or safety of any person.

(c) *Oral Argument.* Oral argument may be curtailed or limited, in the Hearing Officer's discretion, and shall be included in the record.

§ 15-26 Hearing Officers and Representation of Parties. (a) *Hearing Officer.* (1) The Hearing Officer shall serve both as impartial examiner and impartial judge and shall have the duty to conduct fair and impartial hearings, to take all necessary action to avoid delay in the disposition of the proceedings, and to maintain order. It shall be the duty of a Hearing Officer to inquire fully into all matters at issue and to obtain a full and complete record. The Hearing Officer shall write a Hearing Report which includes a recommended disposition. A Hearing Officer's duties shall be restricted to adjudication and related matters.

(2) The Hearing Officer shall have all powers necessary to conduct a hearing, including the power to administer oaths and affirmations, rule upon offers of proof, receive evidence, regulate the course of hearings and the conduct of the parties and their counsel and to hold conferences, both on and off the record, for settlements, simplification of issues, or any other proper purposes.

(b) *Prosecuting Attorney.* An Attorney designated by the Department's Legal Bureau may act as prosecutor to present the Department's case.

(c) *Representation of Licensees.* Licensees may be represented by an attorney who is a member in good standing of the bar of the State of New York.

§ 15-27 Conduct of Hearings. (a) *Public Access to Hearings.* Hearings are generally open to the public. If good cause is shown by either party, the Hearing Officer may exclude the public from a particular hearing or portion of a hearing. Additionally, the public may be excluded at the Hearing Officer's discretion.

(b) *General Provisions.* (1) The Hearing Officer shall rule upon matters of procedure and introduction of evidence and shall conduct the hearing in such manner as will best serve the attainment of justice.

(2) Licensees shall appear and testify at the hearing. They may submit evidence relevant to the matter under consideration. If a licensee fails to testify an adverse inference may be drawn against him or her by the Hearing Officer.

(3) Any licensee desiring to subpoena a witness, document or other evidence may do so in the manner provided for in the New York Civil Practice Law and Rules. The Hearing

Officer shall issue administrative subpoenas to necessary individuals and may issue administrative subpoenas upon request by a party.

(4) No ex parte communications relating to other than ministerial matters regarding a proceeding shall be received by a Hearing Officer, including internal agency directives not published as rules.

(c) *Disposition by Settlement.* Informal disposition may be made of any matter which is the subject of an adjudication by means of stipulation, agreed settlement or consent order.

(d) *Transcripts.* All hearings shall be recorded on a tape recorder. A transcript of the hearing may be ordered by any party to the hearing. The transcript shall be provided upon payment of reasonable transcription costs.

§ 15-28 Hearing Officer's Report and Recommendation. (a) After the conclusion of the hearing, the Hearing Officer shall prepare a written hearing report and recommended disposition. The report shall include a statement of the issues, findings of fact, and conclusions of law, as well as the reasons and basis therefor. Findings of fact shall be based exclusively upon all the material issues of fact and law presented in the record. The Division Head, License Division shall review the report and recommendation and make a final determination. S/he may approve the recommendation or modify the findings or the penalty consistent with the record. The Division Head's determination is the final administrative determination.

(b) Licensees shall receive a copy of the Hearing Officer's report and the Division Head's final determination, by regular mail, within a reasonable time after the conclusion of the hearing.

§ 15-29 Penalties. Appropriate penalties may be imposed upon a licensee including suspension or revocation of the license.

Note: References within this chapter to masculine shall be presumed to include the feminine and neuter. References to the singular shall be presumed to include the plural.

Chapter 16 Transport or Delivery of Weapons

§ 16-01 Definitions

License Division. The term "License Division" shall mean the License Division of the New York City Police Department.

Person. The term "person" shall mean an individual, firm, partnership, corporation, company or other business entity, and shall include any common or contract carrier, shipper, transport company, weapons manufacturer, distributor or dealer.

Police Commissioner. The term "Police Commissioner" shall mean the Police Commissioner of the City of New York or her/his designee(s).

Transitory Shipment. For purposes of this chapter, the term "transitory shipment" shall mean a shipment which begins outside of the City of New York, and moves continuously and without interruption through the City of New York to a final destination outside of the City of New York. A shipment which is within the City of New York and involves any off-loading of the weapons from one means of transportation, followed by subsequent on-loading of the weapons to another means of transportation, shall not be considered a transitory shipment.

Unanticipated Delay. For purposes of this chapter, the term "unanticipated delay" is an event involving the operator of a vehicle who intended to make a transitory shipment of weapons when s/he entered the City of New York with a shipment of weapons, and having done so, has

experienced an unexpected mechanical problem, or other unexpected condition or set of circumstances which causes the operator to remain within the City, and off of a limited access highway, for a period of greater than one hour.

Weapon. For purposes of this chapter, the term "weapon" shall mean a "firearm," "rifle," "shotgun," or "machine-gun," as those terms are defined in § 265.00 of the New York State Penal Law and shall also include anything that is defined as an "assault weapon" in § 10-301 of the New York City Administrative Code.

Weapons Dealer. For purposes of this chapter, the term "weapons dealer" shall mean any person, firm, partnership, corporation or company who engages in the business of purchasing, selling, keeping for sale, loaning, leasing, or in any manner disposing of any weapon as defined in this chapter and who is licensed by the Police Commissioner pursuant to Article 400 of the New York State Penal Law and/or § 10-302 of the New York City Administrative Code.

§ 16-02 Applicability This chapter shall apply to all persons who transport or deliver one or more weapons into or within any location in the City of New York, except that it shall not apply to:

(a) the transitory shipment of weapons through New York City to a final destination outside of New York City. However, if the operator of the vehicle containing a transitory shipment of weapons experiences an unanticipated delay as that term is defined in § 16-01 of this chapter, such operator shall immediately report to the nearest Police Department facility the following information:

- (1) her/his current location;
- (2) the location of the transporting vehicle;
- (3) the cause of the unanticipated delay;
- (4) the expected duration of the shipment's presence in the City; and
- (5) how the shipment shall be secured during its stay in the City.

In the case of such delay, the officer receiving such notice may direct the vehicle operator to take reasonably necessary measures to secure the weapons shipment, or the officer may seize and secure the weapons until such time that the shipper makes alternative arrangements which are acceptable to the officer.

(b) the shipment or delivery of five (5) or fewer weapons from one licensed weapons dealer located in New York City directly to another licensed weapons dealer located in New York City. However, the manner of storage of such weapons during their transportation shall be in compliance with § 16-05 of this chapter.

§ 16-03 Authorization to Transport or Deliver Firearms (a) No person shall transport or deliver, or cause to be transported or delivered, weapons into or within the City of New York where s/he knows or has reasonable means of ascertaining what s/he is transporting, without first obtaining written authorization to do so from the Police Commissioner.

(b) A request by any person for authorization to transport or deliver weapons shall be made in writing to the Commanding Officer, License Division, New York City Police Department, One Police Plaza, Room 110A, New York, New York 10038, or by Facsimile transmission (212) 374-2828, so as to be received by the License Division at least ten (10) calendar days prior to the transportation within the City of New York. Such request shall include the following information:

(1) The name and address of the source of the shipment of weapons. If the source is a corporation, the name of the president or authorized representative of such corporation shall be included.

(2) The number of weapons, including the manufacturer's name, caliber, and model identification, for each type of weapon being transported.

(3) The name of the shipping company, if different from the source of the shipment, including the address and telephone number of the company's headquarters.

(4) The day, date, and the estimated time and place of arrival of the shipment into New York City.

(5) The name, address, and weapons dealer's or gunsmith's license number of the person authorized to receive the shipment in New York City.

(6) The type of vehicle to be used by the source of the shipment, or the shipping company, including any distinctive company logos or markings on the vehicle.

(7) A photocopy of the driver's license of the person scheduled to make the delivery, and a photocopy of the driver's license of an alternate driver who may be required by the source of the shipment, or the shipping company, to substitute for the principally scheduled delivery person.

(8) The application for permission to transport weapons shall contain the following statement, subscribed and sworn to by the applicant before a notary public, commissioner of deeds, or other comparable official: "I, [Name] -----, the applicant for permission to transport weapons within or through the City of New York, state that such weapons shall be transported in an unloaded condition, and in a manner that conforms with § 16-05 of Chapter 38 of the Rules of the City of New York, and if upon inspection of the contents of the transporting vehicle it is discovered that such weapons are not secured in a manner conforming with said section, then any permission issued by virtue of this application shall be void and deemed to have never been granted, and it is understood that I and any of my agents, employees, or assignees, may be prosecuted for transporting weapons without permission pursuant to the New York State Penal Law and the New York City Administrative Code, and that the property being transported as well as the means of transport may be seized and forfeited pursuant to law."

(c) If a person seeking permission to transport a weapon pursuant to this section is utilizing a shipping company or other delivery service and is unable to provide information relevant to paragraphs (4), (6) or (7) of subdivision (b) of this section, a separate request for permission to transport shall be submitted by the shipping company or delivery service, which shall include the required information.

(d) Upon receiving a request for authorization to transport or deliver weapons, the Police Commissioner shall cause to be conducted a review of Police Department records to ascertain whether the intended recipient of the weapons shipment or delivery is an authorized person, and whether there exists any information which would otherwise provide a basis for denying authorization to receive such weapons shipment. The Police Commissioner or her/his designee shall then notify the requesting person that such authorization has or has not been granted.

(e) In addition to any other applicable penalties, the Police Commissioner may deny an application submitted pursuant to this chapter if the applicant has previously failed to comply with the provisions of this chapter.

§ 16-04 Surrender of Firearms Not Authorized For Transportation or Delivery Any person who transports or delivers weapons without obtaining authorization pursuant to the requirements

of this chapter shall be liable for the penalties set forth in Article 265 of the New York State Penal Law and the New York City Administrative Code, and shall further be directed by any member of the Police Department to surrender the weapons to the Police Department. In addition, the property being transported, as well as the means of transport, may be seized and forfeited pursuant to law.

§ 16-05 Required Security Measures for Weapons Shipments in Transit Any person, corporation, partnership, or other business entity using a vehicle to transport weapons within or through the City of New York shall, at a minimum, employ the following security measures while such weapons are in transit:

- (a) All weapons shall be transported unloaded.
- (b) All weapons shall be placed in one or more containers located within the vehicle used for transportation of the weapons. Such containers shall be constructed of materials of such a sturdy character that when the container is closed and locked, it cannot be forced open by hands alone, or sliced open with a common tool such as a knife or box cutter.
- (c) The above referenced container(s) shall be securely fastened, with a combination or key locking device, to the interior body structure of the transporting vehicle, in such a manner that the containers cannot be manually removed without releasing the locks.
- (d) Such containers, while in transit and carrying weapons, shall be closed and locked with a heavy-duty combination or key-type lock.
- (e) Ammunition shall not be stored in the same container as weapons.
- (f) At all times other than loading and unloading, the cargo area of the transporting vehicle in which all of the above referenced containers shall be stored shall be closed and locked with a heavy-duty combination or key-type lock.
- (g) The driver of the transporting vehicle shall carry a manifest which declares the numbers and types of weapons being transported, and the intended point of delivery. Such manifest shall not be considered valid unless it shall have written upon it the permission serial number issued by the New York City Police Department License Division.
- (h) (1) The Police Commissioner may require, as a condition of the authorization to transport or deliver weapons, that shipments of weapons which will be off-loaded from one means of transportation and subsequently on-loaded to the same means or another means of transportation within the city of New York, be escorted by a uniformed member of the New York City Police Department, from the time of on-loading until such point that the shipment has left the jurisdictional boundaries of the City of New York.
(2) If the Police Commissioner elects to impose the escort requirement as a condition of the authorization to transport or deliver weapons, the applicant shall notify the Commanding Officer, License Division, of the day, date, estimated time and place of on-loading of the shipment to the second means of transportation. The escort requirement shall be deemed waived if the escort is not present at the place within the City of New York where the weapons will be on-loaded within thirty minutes of the shipment's estimated time of on-loading and departure.

§ 16-06 Requirement to Report Theft, Loss or Misdelivery

- (a) Any person, firm, corporation, or other business entity who has received permission to transport weapons pursuant to the provisions of this chapter, and who suffers a loss or theft of any part of her/his weapons shipment while it is located within New York City, shall forthwith report such loss or theft to the nearest Police Department facility and shall comply with all

reasonable requests for assistance by police officers who investigate the circumstances of the loss or theft.

(b) Any person, firm, corporation or other business entity who has received permission to transport weapons pursuant to the provisions of this chapter, and who knows or reasonably should know that any part of her/his weapons shipment was delivered to a person other than the person designated in § 16-03(b)(5) of this chapter, shall forthwith report such misdelivery to the Police Department's Operations Unit, at (212) 374-5580.

Note: References within this chapter to masculine shall be presumed to include the feminine and neuter. References to the singular shall be presumed to include the plural.