

## SUBCHAPTER 2I - COMPANY AND RAILROAD POLICE

### SECTION .0100 - GENERAL PROVISIONS

#### 12 NCAC 02I .0101 LOCATION

The administrative office for the commissioning of company police officers and the certification of company police agencies is located in the office of the Criminal Justice Standards Division. Correspondence shall be directed to:

Company Police Administrator

Company Police Program

Post Office Drawer 310

Raleigh, North Carolina 27602-0310

Telephone: (919) 733-2530

*History Note:* Authority G.S. 74E; 143A-54;  
Eff. February 1, 1976;  
Amended Eff. September 9, 1976;  
Readopted Eff. January 5, 1978;  
Amended Eff. August 1, 1996; August 2, 1993; November 1, 1984; September 1, 1981;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

#### 12 NCAC 02I .0102 PURPOSES

The purposes of the Attorney General's Office in granting company police commissions are:

- (1) to allow those organizations and corporations described in G.S. 74E-2 to apply for certification as a company police agency;
- (2) to allow those organizations and corporations described in G.S. 74E-2 to employ individuals commissioned as company police officers pursuant to G.S. 74E-6; and
- (3) to ensure the integrity, proficiency, and competence of company police officers and establishing minimum standards for obtaining and maintaining both company police officer commissions and company police agency certifications.

*History Note:* Authority G.S. 74E-2; 74E-6;  
Eff. February 1, 1976;  
Readopted Eff. January 5, 1978;  
Amended Eff. August 2, 1993; November 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

#### 12 NCAC 02I .0103 ADMINISTRATIVE STAFF

The administrative staff responsible for company police commissions and company police agency certifications consists of assigned personnel from the Criminal Justice Standards Division. The duties of this staff are to carry out the policies of the law and regulations herein and to actively police the individuals already commissioned as company police officers to assure compliance with the law in all respects.

*History Note:* Authority G.S. 74E-4;  
Eff. February 1, 1976;  
Amended Eff. September 9, 1976;  
Readopted Eff. January 5, 1978;  
Amended Eff. August 2, 1993; November 1, 1984; September 1, 1981;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

#### 12 NCAC 02I .0104 DEFINITIONS

In addition to any definitions set forth in G.S. 74E, the following definitions will apply throughout this Chapter, unless the context clearly defines otherwise:

- (1) "Agency Records" means those records specified pursuant to this Subchapter and that documentation required to be maintained and compiled under the requirements of G.S. 74E.
- (2) "Badge" means a shield bearing the title of "Company Police Officer" or "Railroad Police", "Campus Police," or "Special Police" and the name of the agency and the officer's issued identification card provided by the Attorney General which identifies the individual as a company police officer.
- (3) "Calendar Year" shall be defined solely for the purpose of in-service training as a period beginning January 1 and ending on December 31.
- (4) "Certification" means:
  - (a) company police officers - the authority granted by the North Carolina Criminal Justice Education and Training Standards Commission to those individuals who meet the minimum requirements as a sworn law enforcement officer pursuant to Title 12, Chapter 9B of the North Carolina Administrative Code.
  - (b) company police agency - the authority granted by the Attorney General to those Company Police agencies who meet the minimum requirements established for such agencies pursuant to this Chapter.
- (5) "Commission" as it pertains to criminal offenses, means a finding by an administrative body, pursuant to the provisions of G.S. 150B, that a person performed the acts necessary to satisfy the elements of a specified criminal offense.
- (6) "Commissioned company police officer" means those individuals authorized by the Company Police Administrator to exercise all law enforcement powers within the constraints provided in G.S. 74E and classified as a company police officer pursuant to G.S. 74E-6(b).
- (7) "Company Police Administrator" means the individual who serves as the head of the administrative staff to whom the Attorney General designated the authority to act upon any company police agency commission or company police agency certification pursuant to the provisions of G.S. 74E and the rules promulgated thereunder. Said administrator is responsible for the individual officer's or agency's compliance with the Company Police Act.
- (8) "Company Police Agency" means any public or private entity, association, corporation or company as defined by G.S. 74E-2(b).
- (9) "Conviction or convicted" means and includes, for the purposes of this Chapter, the entry of:
  - (a) a plea of guilty;
  - (b) a verdict or finding of guilty by a jury, judge, magistrate, or other duly constituted, established, and recognized adjudicating body, tribunal, or official, either civilian or military; or
  - (c) a plea of no contest, nolo contendere, or the equivalent.
- (10) "Department Head" means the chief administrator of any company police agency. The Department Head is to include the Company Police Chief or a designee formally appointed in writing as the Department Head, and who shall hold and maintain a commission as a company police officer.
- (11) "Felony" means any offense designated a felony by the laws, statutes, or ordinances of the jurisdiction in which the offense occurred.
- (12) "High School" means a school accredited as a high school by:
  - (a) the Department or Board of Education of the state in which the high school is located; or
  - (b) the recognized regional accrediting body; or
  - (c) the state university of the state in which the high school is located.
- (13) "In-Service Training" means any and all training as prescribed in 12 NCAC 2I .0202 which must be satisfactorily completed by company police officers, in accordance with the standards established therein, during each full calendar year of commissioning as a company police officer.
- (14) "Insurance Carrier" means any entity, corporation, company or professional association as defined in G.S. 58 and who is authorized by the North Carolina Commissioner of Insurance to do business in North Carolina as an insurance carrier or underwriter.
- (15) "Misdemeanor" means those criminal offenses not classified under the laws, statutes, or ordinances as felonies. Misdemeanor offenses are classified by the Criminal Justice Education and Training Standards Commission.
  - (a) "Class A Misdemeanor" is defined in 12 NCAC 9A .0103(20)(a).
  - (b) "Class B Misdemeanor" is defined in 12 NCAC 9A .0103(20)(b).

- (16) "On Duty" means that period of time which the commissioned company police officer is being compensated for his or her services by the officer's employer and ending once the officer's compensation for his duties terminates.

*History Note:* Authority G.S. 74E;  
Eff. August 2, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## SECTION .0200 - COMMISSIONING

### 12 NCAC 02I .0201 ELIGIBILITY

*History Note:* Authority G.S. 74A-1; 143A-54;  
Eff. February 1, 1976;  
Readopted Eff. January 5, 1978;  
Repealed Eff. November 1, 1984.

### 12 NCAC 02I .0202 MINIMUM STANDARDS FOR COMPANY POLICE OFFICERS

(a) Every company police officer must meet the following requirements to obtain and maintain a company police commission:

- (1) be a citizen of the United States;
- (2) be a high school graduate (means graduation from a high school that meets the compulsory attendance requirements in the jurisdiction in which the school is located), or have passed the General Educational Development Test indicating high school equivalency; A specific exception to this educational requirement is granted to:
  - (A) an applicant who was the holder of a valid company police commission on June 30, 1972; or
  - (B) an applicant certified as a law enforcement officer by the Criminal Justice Education and Training Standards Commission on March 14, 1973.In either case, the exception is not applicable if the applicant has had more than a 12 month break in service;
- (3) have attained a score of not less than 80 percent on a written examination of basic knowledge of laws of arrest, search, and investigation, and of the rules in this Subchapter to be administered by a representative of the North Carolina Department of Justice. The Company Police Administrator shall advise in writing of test dates and sites at least five days prior to the examination. In the event an applicant fails to successfully complete the examination, only one re-test is allowed. Upon an applicant's failure to successfully complete the second test, the applicant must successfully complete certified Basic Law Enforcement Training coursework prior to re-testing, pursuant to 12 NCAC 09C .0402;
- (4) meet the minimum standards for criminal justice officers established by the North Carolina Criminal Justice Education and Training Standards Commission, appearing in Title 12, Chapter 09 of the North Carolina Administrative Code; which Standards are hereby incorporated by reference, and shall automatically include any later amendments and editions of the referenced material;
- (5) applicants who do not hold general certification as a law enforcement officer issued by the Criminal Justice Education and Training Standards Commission or the North Carolina Sheriff's Education and Training Standards Commission, must submit to and successfully complete a polygraph examination administered by the State Bureau of Investigation;
- (6) be at least 20 years of age;
- (7) have produced a negative result on a drug screen administered according to the following specifications:
  - (A) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay method and a confirmatory test on an initial positive test result using a gas chromatography mass spectrometry (GC/MS) or other initial and confirmatory tests as may, from time to time, be authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs;

- (B) a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen;
  - (C) the drugs whose use shall be tested for shall include cannabis, cocaine, phencyclidine (PCP), opiates and amphetamines or their metabolites;
  - (D) the test threshold values established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs are hereby incorporated by reference, and shall automatically include any later amendments and editions of the referenced material;
  - (E) the test conducted shall be not more than 60 days old, calculated from the time when the laboratory reports the results to the date of employment;
  - (F) the laboratory conducting the test must be nationally certified for federal workplace drug testing programs by the Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Prevention, Division of Workplace Programs, and must adhere to applicable federal rules, regulations and guidelines pertaining to the handling, testing, storage and preservation of samples, except that individual agencies may specify other drugs to be tested for in addition to those drugs set out in Part (C) of this Subparagraph; and
  - (G) every agency head shall arrange for a licensed physician to review drug tests reported by the laboratory;
- (8) notify the Company Police Administrator in writing of all criminal offenses for which the officer is arrested for or charged with, pleads no contest, pleads guilty, or is found guilty of, as well as all Domestic Violence Orders (50B) which are issued by a judicial official. This includes all criminal offenses except minor traffic infraction offenses and specifically includes any offense of Driving Under the Influence (DUI) or Driving While Impaired (DWI). A minor traffic offense is defined, for purposes of this Subparagraph as an offense where the maximum punishment allowable is 60 days or less. The notifications required for an arrest or charge must specify the nature of the offense and date of arrest or charge. Further notifications required must specify the nature of the offense, the court in which the case was handled and the date of the conviction or adjudication. All notifications must be received by the Company Police Administrator within five days of the date of the arrest or charge and case disposition. Applicants and officers required to notify the Company Police Administrator under this Subparagraph shall also make the same notification to their Department Head within five days of the date the case was disposed of in court. However, the notification to the Company Police Administrator does not excuse the officer from making an independent notification otherwise required by either the Criminal Justice Education and Training Standards Commission or the Sheriffs' Education and Training Standards Commission. The notifications required by this Subparagraph are required while the application is pending as well as, subsequent to a commission being issued;
- (9) be of good moral character within the meaning of: *In re Willis*, 288 N.C. 1, 215 S.E.2d 771 appeal dismissed 423 U.S. 076 (1975); *State v. Harris*, 216 N.C. 746, 6 S.E.2d 854 (1940); *In re Legg*, 325 N.C. 658, 386 S.E.2d 174 (1989); *In re Applicants for License*, 143 N.C. 1, 55 S.E. 635 (1906); *In re Dillingham*, 188 N.C. 162, 124 S.E. 130 (1924); *State v. Benbow*, 309 N.C. 538, 308 S.E.2d 647 (1983); and their progeny;
- (10) not have committed or been convicted of a crime or crimes as specified in 12 NCAC 02I .0212(a) or (b), such that the applicant would be ineligible for commissioning as a Company Police officer; and
- (11) submit to a background investigation as specified in 12 NCAC 02I .0205.
- (b) The requirements of this Rule shall apply to all applications for commission and shall also be applicable at all times during which the officer holds commission with the company police program.

*History Note:* Authority G.S. 74E-4;  
 Eff. February 1, 1976;  
 Amended Eff. September 9, 1976;  
 Readopted Eff. January 5, 1978;  
 Amended Eff. November 1, 1984; September 1, 1981;  
 Temporary Amendment Eff. March 23, 1990 for a Period of 180 Days to Expire on September 20, 1990;  
 Amended Eff. January 1, 2008; August 2, 1993; September 1, 1990;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

**12 NCAC 02I .0203 APPLICATION FOR COMPANY POLICE AGENCY**

(a) Each company police agency shall complete and submit to the Company Police Administrator the following items and documentation:

- (1) an application form;
- (2) articles of incorporation or other agency originating documentation, which specifies the agency's law enforcement functions;
- (3) names and addresses for all corporate officers and directors;
- (4) a copy of the company police agency's insurance policy, or if self insured, the certificate of self insurance (applicable to non-public entities only);
- (5) a criminal history record check on each corporate officer and director of the corporation through the clerk of superior court in each county where the individual resided, maintained a residence and place of business over a five year period prior to such application. However, this Subparagraph does not require the agency to submit a criminal history record check on currently commissioned company police officers;
- (6) the appropriate fees as required by 12 NCAC 02I .0206;
- (7) a listing of the names and addresses of all employing businesses and institutions for which the company police agency has contracted with to provide services;
- (8) notification form signed by the local District Attorney, Sheriff and if applicable, local Police Chief, for the location where the primary business will be conducted stating the agency's intent to operate as a company police agency;
- (9) at least two affidavits signed by other individuals within the community who have personal knowledge stating that the corporate officers and directors of the corporation are of good moral character as defined in 12 NCAC 02I .0202(a)(9).

(b) Upon submission of the information required in Paragraph (a) of this Rule, the Company Police Administrator may issue a probationary agency certification which will remain in effect for six months, during which time the agency must obtain certification of at least one company police officer and secure a contract for police services with at least one entity.

If the company police agency has not otherwise violated the provisions of the rules in this Subchapter or of G.S. 74E, the agency shall be awarded agency certification at the end of the six month period. Should the agency fail to employ at least one company police officer and at least one contract for services, the probationary certification shall automatically expire at the end of the six month period. Upon re-application, the agency shall resubmit all materials required pursuant to this Rule.

*History Note: Authority G.S. 74E-4;  
Eff. August 2, 1993;  
Amended Eff. February 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

**12 NCAC 02I .0204 APPLICATION FOR COMPANY POLICE OFFICER**

The application for a company police officer must contain:

- (1) a written request from the Department Head of the company, agency or institution requesting that a company police commission be issued to the applicant. An oral request will not satisfy this requirement; and
- (2) if the applicant holds general certification issued by the North Carolina Criminal Justice Education and Training Standards Commission or the North Carolina Sheriff's Education and Training Standards Commission, the application must contain the following:
  - (a) Medical History Statement (Form F-1);
  - (b) Medical Examination Report (Form F-2);
  - (c) Two complete fingerprint cards;
  - (d) Two 1" x 1-1/4" (non-polaroid) close-up color photographs not more than three months old;
  - (e) Proof of a negative drug screen as specified in 12 NCAC 2I .0202(7);
  - (f) Proof of successful completion of all in-service training requirements specified by the North Carolina Criminal Justice Education and Training Standards Commission, which standards

are hereby incorporated by reference and shall automatically include any later amendments and editions of the referenced material;

- (g) Authorization for release of records (CP-1);
  - (h) Drug Screen Consent Form (CP-2);
  - (i) Appropriate fees as specified in 12 NCAC 2I .0206;
  - (j) An appropriate background investigation as specified in 12 NCAC 2I .0205 (Form F-8); and
  - (k) Personal History Statement (Form F-3) not more than three months old; or
- (3) if the applicant does not hold general certification, the application must contain the following:
- (a) Medical History Statement (Form F-1);
  - (b) Medical Examination Report (Form F-2);
  - (c) Personal History Statement not more than three months old, (Form F-3);
  - (d) Report of Qualification Appraisal Interview (Form F-4);
  - (e) Proof of High School graduation or GED;
  - (f) Two complete fingerprint cards;
  - (g) Two 1" x 1-1/4" (non-polaroid) close-up color photographs not more than three months old;
  - (h) Proof of satisfactory completion of a Criminal Justice Education and Training Standards Commission accredited basic law enforcement training course;
  - (i) Proof of a negative drug screen;
  - (j) Authorization for Release of Records (CP-1);
  - (k) Drug Screen Consent Form (CP-2);
  - (l) Appropriate fees as specified in 12 NCAC 2I .0206; and
  - (m) Background investigation as specified in 12 NCAC 2I .0205 (Form F-8); or
- (4) if the applicant is currently a commissioned officer under G.S. 74A at the time these rules are adopted, the applicant shall only be required to submit the following documentation to the Company Police Administrator to be postmarked no later than August 31, 1993:
- (a) Application Form;
  - (b) Two Photo Identification Cards;
  - (c) Initial Application Fee.

All other documentation currently valid in the commissioned officer's file will be transferred to a new file for the officer under Chapter 74E.

*History Note: Authority G.S. 74E;  
Eff. February 1, 1976;  
Amended Eff. September 9, 1976;  
Readopted Eff. January 5, 1978;  
Amended Eff. August 2, 1993; September 1, 1990; November 1, 1984; September 1, 1981;  
Recodified from 12 NCAC 2I .0203 Eff. August 2, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

## **12 NCAC 02I .0205 BACKGROUND INVESTIGATION**

(a) Any company police agency contemplating the commissioning of an applicant as a company police officer shall, prior to employment, complete a background investigation on such applicant. The investigation shall examine the applicant's character traits and habits relevant to performance as a company police officer and shall determine whether the applicant is of good moral character as referred to in G.S. 17C-10(c). The investigation shall be submitted to the Company Police Administrator utilizing the Commission-approved Form F-8 (Summary of Background Investigation).

(b) Prior to the investigation, the applicant shall complete a Personal History Statement (Form F-3) to provide a basis for the investigation.

(c) The Department Head shall conduct the applicant's background investigation. The Department Head shall document the results of the investigation and shall include in the report of investigation:

- (1) biographical data;
- (2) family data;
- (3) scholastic data;
- (4) employment data;
- (5) interviews with the applicant's references; and

- (6) a summary of the Department Head's findings and conclusions regarding the applicant's moral character as referred to in G.S. 17C-10(c).
- (d) The agency may use the method of documenting the results of the background investigation it deems most appropriate to its needs. However, the company police program's "Summary of Background Investigation" form shall be used as a guide for minimum information collected and recorded by the investigator.
- (e) In the event that an individual applying for commission as a company police officer is the Department Head, he shall not conduct his own background investigation. The investigation must be performed by a city or county agency in the county where the company police agency has residency, or contract with a private investigator.

*History Note: Authority G.S. 74E-4;  
Eff. February 1, 1976;  
Readopted Eff. January 5, 1978;  
Amended Eff. August 2, 1993; November 1, 1984;  
Recodified from 12 NCAC 2I .0204 Eff. August 2, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

#### **12 NCAC 02I .0206 FEE**

(a) Upon notification that an application for a company police agency certification or a company police officer commission has been approved, the applicant shall forward a certified check or money order made out to the North Carolina Department of Justice to the:

Company Police Administrator  
Company Police Program  
Post Office Drawer 310  
Raleigh, North Carolina 27602-0310  
Telephone: (919) 733-2530

(b) The following fees shall be due and payable prior to the issuance of company police agency certification or a company police officer commission.

- (1) Application for certification as a company police agency - \$250.00.
- (2) Annual renewal of certification as a company police agency - \$200.00.
- (3) Application for reinstatement of certification as a company police agency - \$1,000.00.
- (4) Application for commission as a company police officer - \$100.00.
- (5) Annual renewal of commission as a company police officer - \$50.00.
- (6) Application for reinstatement of commission as a company police officer - \$150.00.

(c) Currently commissioned company police officers will be required to submit the Application for Commission as a company police officer fee as set forth in Subparagraph (b)(4) of this Rule.

*History Note: Authority G.S. 74E-12;  
Eff. February 1, 1976;  
Amended Eff. September 9, 1976;  
Readopted Eff. January 5, 1978;  
Amended Eff. August 2, 1993; September 1, 1981;  
Recodified from 12 NCAC 2I .0205 Eff. August 2, 1993;  
Amended Eff. August 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

#### **12 NCAC 02I .0207 BOND**

*History Note: Authority G.S. 74A-2; 143A-54;  
Eff. February 1, 1976;  
Amended Eff. September 9, 1976;  
Readopted Eff. January 5, 1978;  
Amended Eff. September 1, 1981;  
Repealed Eff. November 1, 1984;*

*Recodified from 12 NCAC 2I .0206 Eff. August 2, 1993.*

**12 NCAC 02I .0208 OATH**

Every company police officer so appointed shall, before entering upon the duties of his office, take and subscribe to the oath provided for in G.S. 11-11 before an officer authorized by G.S. 11-7.1 to administer oaths, and shall forward a copy of the executed oath within 10 days of the day on which the oath is subscribed to the Company Police Administrator.

*History Note: Authority G.S. 11-11; 74E-4;  
Eff. February 1, 1976;  
Amended Eff. September 9, 1976;  
Readopted Eff. January 5, 1978;  
Amended Eff. August 2, 1993; November 1, 1984; September 1, 1981;  
Recodified from 12 NCAC 2I .0207 Eff. August 2, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

**12 NCAC 02I .0209 SPECIFICATIONS FOR THE USE OF REQUIRED FORMS**

*History Note: Authority G.S. 74A-1;  
Eff. January 5, 1978;  
Amended Eff. September 1, 1981;  
Repealed Eff. November 1, 1984;  
Recodified from 12 NCAC 2I .0208 Eff. August 2, 1993.*

**12 NCAC 02I .0210 LIABILITY INSURANCE**

(a) Any applicant for a non-public company police agency certification must file with the Company Police Administrator, either a copy of the liability insurance policy or a certificate of self insurance, at the following address:

Company Police Administrator  
Company Police Program  
Post Office Drawer 310  
Raleigh, North Carolina 27602-0310  
Telephone: (919) 716-6472

(b) The insurance carrier shall deliver any notice of cancellation of liability insurance by certified mail, return receipt requested, to the following address:

Company Police Administrator  
Company Police Program  
Post Office Drawer 310  
Raleigh, North Carolina 27602-0310  
Telephone: (919) 716-6472

(c) The insurance carrier shall deliver a declaration of insurance statement by certified mail, return receipt requested, at the beginning of each new insurance coverage period, to the following address:

Company Police Administrator  
Company Police Program  
Post Office Drawer 310  
Raleigh, North Carolina 27602-0310

*History Note: Authority G.S. 74E-3; 74E-4;  
Eff. August 2, 1993;  
Amended Eff. January 1, 2008; August 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

**12 NCAC 02I .0211 SUSPENSION, REVOCATION OR DENIAL OF AGENCY CERTIFICATION**

(a) A company police agency certification may be suspended, revoked or denied upon a finding that the agency has:  
(1) failed to pay any required fees;



- (2) failed to produce or maintain a copy of a liability insurance policy or a certificate of self insurance;
- (3) failed to meet any of the requirements for certification provided in 12 NCAC 02I .0203;
- (4) failed to provide any of the required documentation pursuant to 12 NCAC 02I .0203;
- (5) failed to allow for the reasonable inspection of the Company Police agency records pursuant to G.S. 74E-4(3);
- (6) failed to ensure compliance by the agency's company police officers of any and all in-service training requirements as specified by 12 NCAC 09E .0100;
- (7) failed to submit the required in-service training compliance reports as required by 12 NCAC 09E .0100;
- (8) failed to submit any and all reports, notification or other information required by the rules in this Subchapter;
- (9) knowingly made a material misrepresentation of any information required for certification or commissioning from the Company Police Administrator or the North Carolina Criminal Justice Education and Training Standards Commission or the North Carolina Sheriff's Education and Training Standards Commission;
- (10) knowingly and willfully by any means of false pretense, deception, defraudation, misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training, certification or commissioning from the Company Police Administrator, the North Carolina Criminal Justice Education and Training Standards Commission or the North Carolina Sheriff's Education and Training Standards Commission;
- (11) aided another in obtaining or attempting to obtain credit, training, or certification from the Company Police Administrator, the North Carolina Criminal Justice Education and Training Standards Commission or the North Carolina Sheriff's Education and Training Standards Commission by means of deceit, fraud or misrepresentation or cheating;
- (12) failed to ensure that any employee not commissioned as a company police officer is not violating a prohibition set forth in 12 NCAC 02I .0304; or
- (13) fails to maintain at least one employee who is commissioned, pursuant to 12 NCAC 02I .0203(b), and to maintain at least one contract for services.

(b) An agency whose certification has been suspended, revoked, or denied may appeal the action in accordance with the provisions of G.S. 150B.

*History Note:* Authority G.S. 74E-4;  
 Eff. August 2, 1993;  
 Amended Eff. January 1, 2008;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **12 NCAC 02I .0212 SUSPENSION, REVOCATION, OR DENIAL OF OFFICER COMMISSION**

(a) A company police commission shall be revoked or denied upon a finding that the officer has committed or been convicted of:

- (1) any felony unless granted an unconditional pardon of innocence; or
- (2) any crime for which the authorized punishment could have been imprisonment for more than two years.

(b) The Attorney General, or his designee, may revoke, suspend, or deny the commission of a company police officer when the Company Police Administrator finds that the applicant for commission or the commissioned company police officer has committed or been convicted of:

- (1) a crime or unlawful act as defined in 12 NCAC 09A .0103(23)(b) as a Class B misdemeanor and which occurred after the date of initial certification;
- (2) a crime or unlawful act as defined in 12 NCAC 09A .0103(23)(b) as a Class B misdemeanor within a five-year period prior to the date of certification;
- (3) four or more crimes or unlawful acts as defined in 12 NCAC 09A .0103(23)(b) as Class B misdemeanors regardless of the date of commission or conviction;
- (4) four or more crimes or unlawful acts as defined in 12 NCAC 09A .0103(23)(a) as a Class A misdemeanor, each of which occurred after the date of initial certification; or

- (5) any combination of four or more crimes or unlawful acts defined in 12 NCAC 09A .0103(23)(a) as a Class A misdemeanor or defined in 12 NCAC 09A .0103(23)(b) as a Class B misdemeanor regardless of the date of commission or conviction.
- (c) A company police commission shall be revoked or denied upon a finding that:
- (1) the officer lacks good moral character as referred to in G.S. 17C-10(c) and 12 NCAC 02I .0202(a)(9);
  - (2) the officer fails to meet any of the required standards as specified in 12 NCAC 02I .0202;
  - (3) the officer has been terminated from employment with the company police agency for which the officer is commissioned or is no longer employed with such company police agency;
  - (4) the officer has committed any act prohibited by 12 NCAC 02I .0304;
  - (5) the certification of the company police agency with which the officer is commissioned is terminated, suspended or revoked.
  - (6) knowingly made a material misrepresentation of any information required for commissioning or certification from the Company Police Administrator, the North Carolina Criminal Justice Education and Training Standards Commission or the North Carolina Sheriffs' Education and Training Standards Commission; or
  - (7) has been denied certification or had such certification suspended or revoked by the North Carolina Criminal Justice Education and Training Standards Commission, the North Carolina Sheriff's Education and Training Standards Commission or a similar North Carolina, out of state or federal approving, certifying or licensing agency.
- (d) An officer whose certification has been suspended, revoked, or denied may appeal the action in accordance with the provisions of G.S. 150B.

*History Note:* Authority G.S. 74E-4;  
 Eff. August 2, 1993;  
 Amended Eff. January 1, 2008;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

**12 NCAC 02I .0213 PERIOD OF SUSPENSION, REVOCATION OR DENIAL**

- (a) When the Attorney General, or his designee, suspends or denies the commission of a company police officer, the period of sanction shall not be less than three years. However, the Attorney General, or his designee, may either reduce or suspend the period of sanction under 12 NCAC 2I .0212(b) or substitute a period of probation in lieu of suspension of a commission following an administrative hearing, where the cause of sanction is:
- (1) commission or conviction of a crime other than those listed in Paragraph (a) of Rule .0212;
  - (2) refusal to submit to the applicant or lateral transferee drug screen required by 12 NCAC 2I .0202(7);
  - (3) production of a positive result on a drug screen reported to the Company Police Administrator where the positive result cannot be explained to the Company Police Administrator's satisfaction;
  - (4) material misrepresentation of any information required for company police commissioning;
  - (5) obtaining, attempting to obtain, aiding another person to obtain, or aiding another person attempting to obtain credit, training or commissioning as a company police officer by any means of false pretense, deception, defraudation, misrepresentation or cheating; or
  - (6) failure to make either of the notifications as required by 12 NCAC 2I .0202(8).
- (b) When the Attorney General, or his designee, suspends or denies the commission of a company police officer, the period of sanction shall be continued so long as the stated deficiency, infraction, or impairment continues to exist, where the cause of sanction is:
- (1) failure to meet or satisfy all basic training requirements;
  - (2) failure to meet or maintain the minimum standards of employment specified in 12 NCAC 2I .0202(4);
  - (3) discharge from a criminal justice agency for impairment of physical or mental capabilities; or
  - (4) failure to meet the in-service training requirements as prescribed by the North Carolina Criminal Justice Education and Training Standards Commission.

*History Note:* Authority G.S. 74E-4;  
 Eff. August 2, 1993;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **12 NCAC 02I .0214 SUMMARY SUSPENSIONS**

(a) The Company Police Administrator, through designation by the Attorney General, may summarily suspend the commission of the company police officer before the commencement of proceedings for suspension or revocation of the certification when, in the opinion of the Company Police Administrator, the public health, safety, or welfare requires this emergency action of summary suspension. The Attorney General has determined that the following conditions specifically affect the public health, safety, or welfare, and therefore, the Company Police Administrator may utilize summary suspension when:

- (1) the person has committed or been convicted of a violation of the criminal code which would require a revocation or denial of certification;
- (2) the person has been convicted of any felony (unless granted an unconditional pardon of innocence) or any crime for which the authorized punishment could have been imprisonment for more than two years;
- (3) the commissioned company police officer fails to complete the minimum in-service training requirements as prescribed in Title 12, Chapter 09 of the North Carolina Administrative Code; or
- (4) the commissioned company police officer produces a positive result on a drug screening administered as set out in 12 NCAC 02I .0202(7).

(b) A summary suspension is effective on the date specified in the order of the summary suspension or upon the service of the certified copy of the order at the last known address of the person, whichever is later. The summary suspension shall remain in effect during the proceedings.

(c) Upon verbal notification by the Company Police Administrator that the company police commission of any officer is being summarily suspended by written order, the Department Head of the company police agency shall take such steps as are necessary to ensure that the officer does not perform duties requiring a company police commission through the Attorney General.

*History Note: Authority G.S. 74E-4; 74E-10; 150B-3;  
Eff. August 2, 1993;  
Amended Eff. January 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

## **SECTION .0300 - CONDUCT OF COMMISSIONED POLICEMEN**

### **12 NCAC 02I .0301 TENURE**

(a) A company police agency certification shall remain in effect until:

- (1) The Attorney General directs termination; or
- (2) The required liability insurance is terminated or suspended by the agency's insurance carrier.

(b) A company police officer commission shall remain in effect until:

- (1) The Attorney General directs termination;
- (2) The company police officer ceases to be employed by a company police agency;
- (3) The agency by which the officer is employed no longer exists;
- (4) Evidence is presented that the person has committed an act which would have originally caused denial of the application or an act prohibited by Rule .0304 of this Section; or
- (5) Either the Criminal Justice Education and Training Standards Commission or the North Carolina Sheriffs' Education and Training Standards Commission suspends or revokes an officer's certification for cause.

*History Note: Authority G.S. 74E-4; 74E-6; 74E-10;  
Eff. February 1, 1976;  
Readopted Eff. January 5, 1978;  
Amended Eff. January 1, 2008; August 2, 1993; September 1, 1990; November 1, 1984; September 1, 1981;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

**12 NCAC 02I .0302      CIVIL LIABILITY**  
**12 NCAC 02I .0303      AUTHORITY**

*History Note:*      *Filed as an Emergency Amendment [(a)(3)] Eff. September 1, 1979, for a Period of 120 Days to Expire on December 30, 1979;*  
*Statutory Authority G.S. 74A-2; 143A-54;*  
*Eff. February 1, 1976;*  
*Readopted Eff. January 5, 1978;*  
*Made Permanent Eff. December 28, 1979;*  
*Repealed Eff. November 1, 1984.*

**12 NCAC 02I .0304      PROHIBITED ACTS**

In addition to the prohibited acts set forth elsewhere in the rules in this Subchapter and in G.S. Chapter 74E, a company police officer shall not commit the following acts:

- (1) use of excess force while in the performance of his official duties;
- (2) carrying a concealed weapon except:
  - (a) when on his own business property or at home;
  - (b) when employed as a company police officer, while on duty and in compliance with G.S. 14-269(b)(4) and G.S. 74E-6; or
  - (c) when off duty and in compliance with G.S. 14-269(b)(5).
- (3) activating or operating a red light in or on any vehicle in this State unless such vehicle is exempted from the provisions of G.S. 20-130.1(b);
- (4) activating or operating a blue light in or on any vehicle in this State except when operating a motor vehicle used primarily by company or railroad police in the performance of his official duties:
  - (a) when in property jurisdiction limitations specifically described under G.S. 74E-6;
  - (b) when in continuous or immediate pursuit of a person for an offense committed upon real property owned by or in the possession or control of his employer or real property or in the possession and control of a person who has contracted with the employer to provide on-site police security personnel services for the property; or
  - (c) during the transportation of an arrestee, which the company police agency has taken into custody;
- (5) activating or operating a siren when operating any motor vehicle used primarily by any company police agency in the performance of his official duties when outside of the property jurisdiction limitations specifically described under G.S. 74E-6 unless in immediate and continuous pursuit;
- (6) representing in any manner at any time that he is a federal, state, county, or municipal law enforcement officer, while in performance of official duties as a company police officer within his territorial jurisdiction.
- (7) impeding traffic, stopping motorists or pedestrians, or in any manner imposing or attempting to impose his will upon another person as police authority unless:
  - (a) he is on the property specifically described under G.S. 74E-6; or
  - (b) when in immediate and continuous pursuit of any person for an offense which occurred within the property jurisdiction limitations specifically described under G.S. 74E-6;
- (8) using or attempting to use authority granted under a company police commission pursuant to this Subchapter outside the political boundaries of North Carolina; or
- (9) violating Rule .0306 of this Section.

*History Note:*      *Authority G.S. 74E-4; 74E-6; 74E-8;*  
*Eff. February 1, 1976;*  
*Readopted Eff. January 5, 1978;*  
*Amended Eff. January 1, 2008; August 2, 1993; November 1, 1984; April 9, 1980; December 28, 1979;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

**12 NCAC 02I .0305      TRANSFERS**

- (a) No individual commissioned as a company police officer may transfer his company police commission from one employing company police agency to another.
- (b) Prior to receiving a company police commission, a person who has been previously commissioned as a company police officer shall meet all those requirements for transfer set out in 12 NCAC 09C .0306(b).
- (c) Officers previously commissioned who were not previously required to meet the educational or basic training requirements are not required to meet such requirements when applying for commission to another agency with less than a 12-month break in law enforcement service. If an individual has been separated from a company police agency for greater than 12 months, that individual must comply with the rules for application for company police commission.

*History Note:* Authority G.S. 74E-4; 74E-6;  
Eff. February 1, 1976;  
Amended Eff. September 9, 1976;  
Readopted Eff. January 5, 1978;  
Amended Eff. February 1, 2008; August 2, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **12 NCAC 02I .0306 BADGES, UNIFORMS, VEHICLES AND OFFICER IDENTIFICATION**

*History Note:* Authority G.S. 74E-4; 74E-7;  
Eff. August 2, 1993;  
Amended Eff. February 1, 2008;  
Agency did not readopt rule pursuant to G.S. 150B-21.3A by RRC established deadline of January 31, 2018.

### **SECTION .0400 - PROCEDURAL RULES**

#### **12 NCAC 02I .0401 ADMINISTRATIVE HEARING PROCEDURES**

*History Note:* Authority G.S. 150B-14(a)(4); 150B-38(h);  
Eff. February 1, 1976;  
Readopted Eff. January 5, 1978;  
Amended Eff. August 1, 1988; November 1, 1984; September 1, 1981;  
Repealed Eff. September 1, 1990.

#### **12 NCAC 02I .0402 CONTESTED CASES**

*History Note:* Authority G.S. 74A; 150A;  
Eff. February 1, 1976;  
Readopted Eff. January 5, 1978;  
Amended Eff. September 1, 1981;  
Repealed Eff. November 1, 1984.

### **SECTION .0500 – AGENCY RECORD RETENTION**

#### **12 NCAC 02I .0501 AGENCY RETENTION OF RECORDS OF COMMISSION**

Each company police agency shall place in personnel files the official notification from the Company Police Administrator of either probationary or general certification for each company police officer employed or appointed by the agency. The personnel files shall contain the following documents:

- (1) Commission certificate;
- (2) Probationary or general certification;
- (3) Oath of office;
- (4) Firearms qualification (annual F-9A forms);
- (5) Annual state mandated in-service verification (ex: certificates, transcripts, etc.);
- (6) Notice of appointment (form F-5A); and

(7) Notice of separation (form F-5B).

*History Note:* Authority G.S. 74E-4;  
Eff. February 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,  
2016.