

**G.S. 150B-21.3A Report for 12 NCAC 02, OFFICE OF THE ATTORNEY GENERAL**

Agency - Department of Justice

Comment Period - May 2, 2016-July 1, 2016

Date Submitted to APO - September 16, 2016

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps	
SUBCHAPTER 2A - OFFICE RULES	SECTION .0200 - DUTIES	12 NCAC 02A .0201	GENERAL	Readopted Eff. January 5, 1978	Unnecessary	No		No	Unnecessary	No comments with merit	Unnecessary and should expire on the first day of the month following the consultation	Rule expired - remove from Code	
		12 NCAC 02A .0202	SPECIFIC	Readopted Eff. January 5, 1978	Unnecessary	No		No	Unnecessary	No comments with merit	Unnecessary and should expire on the first day of the month following the consultation	Rule expired - remove from Code	
		12 NCAC 02A .0203	CONSENT JUDGMENTS	Amended Eff. July 1, 1993	Unnecessary	No		No	Unnecessary	No comments with merit	Unnecessary and should expire on the first day of the month following the consultation	Rule expired - remove from Code	
		SECTION .0400 - OPINIONS OF THE ATTORNEY GENERAL	12 NCAC 02A .0401	WHEN RENDERED: FORM	Readopted Eff. January 5, 1978	Unnecessary	No		No	Unnecessary	No comments with merit	Unnecessary and should expire on the first day of the month following the consultation	Rule expired - remove from Code
			12 NCAC 02A .0402	WHEN DENIED: REASONS	Readopted Eff. January 5, 1978	Unnecessary	No		No	Unnecessary	No comments with merit	Unnecessary and should expire on the first day of the month following the consultation	Rule expired - remove from Code
			12 NCAC 02A .0403	WHEN PUBLISHED: SUBSCRIPTION	Readopted Eff. January 5, 1978	Unnecessary	No		No	Unnecessary	No comments with merit	Unnecessary and should expire on the first day of the month following the consultation	Rule expired - remove from Code
SUBCHAPTER 2H - TORRENS ACT RULES AND FORMS	SECTION .0100 - RULES	12 NCAC 02H .0101	NOTICE TO BE FILED WITH CLERK OF COURT	Readopted Eff. January 5, 1978	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note	
		12 NCAC 02H .0102	DEPOSIT AND SURETY REQUIREMENTS	Readopted Eff. January 5, 1978	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note	
		12 NCAC 02H .0103	DUTIES OF EXAMINER OF TITLES	Readopted Eff. January 5, 1978	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note	
		12 NCAC 02H .0104	CHANGE OF ATTORNEYS	Readopted Eff. January 5, 1978	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note	
		12 NCAC 02H .0105	APPOINTMENT OF GUARDIAN AD LITEM	Readopted Eff. January 5, 1978	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note	
		12 NCAC 02H .0106	CUSTODY OF DEPOSITIONS	Readopted Eff. January 5, 1978	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note	
		12 NCAC 02H .0107	NOTICE REQUIREMENTS		Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note	
		12 NCAC 02H .0108	AMENDMENT OF PLEADINGS AND SURVEY OF PROPERTY	Readopted Eff. January 5, 1978	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note	
		12 NCAC 02H .0109	HEARING BEFORE EXAMINER OF TITLES	Readopted Eff. January 5, 1978	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note	
		12 NCAC 02H .0110	PRELIMINARY REPORT OF EXAMINER	Readopted Eff. January 5, 1978	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note	
		12 NCAC 02H .0111	FILING OF EXCEPTIONS TO REPORT	Readopted Eff. January 5, 1978	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note	
		12 NCAC 02H .0112	NOTICE OF AND ARGUMENT PURSUANT TO EXCEPTIONS	Readopted Eff. January 5, 1978	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note	
		12 NCAC 02H .0113	DATE OF TRANSCRIPTION OF DECREE	Readopted Eff. January 5, 1978	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note	

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		12 NCAC 02H .0114	METHOD OF CONVEYANCE	Readopted Eff. January 5, 1978	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02H .0115	PARTIAL CONVEYANCE OF REGISTERED LAND	Readopted Eff. January 5, 1978	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02H .0116	NOTATION OF TERMINATION OF LEASES	Readopted Eff. January 5, 1978	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02H .0117	OATH PURSUANT TO LETTERS OF ATTORNEY	Readopted Eff. January 5, 1978	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02H .0118	CORRECTION OF NAME ON CERTIFICATE	Readopted Eff. January 5, 1978	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	<b>SECTION .0200 - FORMS</b>	12 NCAC 02H .0201	AVAILABILITY OF FORMS	Readopted Eff. January 5, 1978	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
<b>SUBCHAPTER 21 - COMPANY AND RAILROAD POLICE</b>	<b>SECTION .0100 - GENERAL PROVISIONS</b>	12 NCAC 02I .0101	LOCATION	Amended Eff. August 1, 1996	Necessary without substantive public interest	No		Yes	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02I .0102	PURPOSES	Amended Eff. August 2, 1993	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02I .0103	ADMINISTRATIVE STAFF	Amended Eff. August 2, 1993	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02I .0104	DEFINITIONS	Eff. August 2, 1993	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	<b>SECTION .0200 - COMMISSIONING</b>	12 NCAC 02I .0202	MINIMUM STANDARDS FOR COMPANY POLICE OFFICERS	Amended Eff. January 1, 2008	Necessary without substantive public interest	No		Yes	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02I .0203	APPLICATION FOR COMPANY POLICE AGENCY	Amended Eff. February 1, 2008	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02I .0204	APPLICATION FOR COMPANY POLICE OFFICER	Recodified from 12 NCAC 2I .0203 Eff. August 2, 1993	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02I .0205	BACKGROUND INVESTIGATION	Recodified from 12 NCAC 2I .0204 Eff. August 2, 1993	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02I .0206	FEE	Amended Eff. August 1, 1996	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02I .0208	OATH	Recodified from 12 NCAC 2I .0207 Eff. August 2, 1993	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02I .0210	LIABILITY INSURANCE	Amended Eff. January 1, 2008	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02I .0211	SUSPENSION, REVOCATION OR DENIAL OF AGENCY CERTIFICATION	Amended Eff. January 1, 2008	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note

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		12 NCAC 021 .0212	SUSPENSION, REVOCATION, OR DENIAL OF OFFICER COMMISSION	Amended Eff. January 1, 2008	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 021 .0213	PERIOD OF SUSPENSION, REVOCATION OR DENIAL	Eff. August 2, 1993	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 021 .0214	SUMMARY SUSPENSIONS	Amended Eff. January 1, 2008	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	<b>SECTION .0300 - CONDUCT OF COMMISSIONED POLICEMEN</b>	12 NCAC 021 .0301	TENURE	Amended Eff. January 1, 2008	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 021 .0304	PROHIBITED ACTS	Amended Eff. January 1, 2008	Necessary without substantive public interest	No		Yes	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 021 .0305	TRANSFERS	Amended Eff. February 1, 2008	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 021 .0306	BADGES, UNIFORMS, VEHICLES AND OFFICER IDENTIFICATION	Amended Eff. February 1, 2008	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	<b>SECTION .0500 - AGENCY RECORD RETENTION</b>	12 NCAC 021 .0501	AGENCY RETENTION OF RECORDS OF COMMISSION	Eff. February 1, 2008	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
<b>SUBCHAPTER 02J - CAMPUS POLICE</b>	<b>SECTION .0100 - GENERAL PROVISIONS</b>	12 NCAC 02J .0101	LOCATION	Eff. April 1, 2006	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02J .0102	PURPOSES	Eff. April 1, 2006	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02J .0103	ADMINISTRATIVE STAFF	Eff. April 1, 2006	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02J .0104	DEFINITIONS	Eff. April 1, 2006	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	<b>SECTION .0200 - COMMISSIONING</b>	12 NCAC 02J .0201	MINIMUM STANDARDS FOR CAMPUS POLICE OFFICERS	Eff. April 1, 2006	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02J .0202	APPLICATION FOR CAMPUS POLICE AGENCY	Eff. April 1, 2006	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02J .0203	APPLICATION FOR CAMPUS POLICE OFFICER	Eff. April 1, 2006	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02J .0204	BACKGROUND INVESTIGATION	Eff. April 1, 2006	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02J .0205	FEE	Eff. April 1, 2006	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02J .0206	OATH	Eff. April 1, 2006	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note

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		12 NCAC 02J .0207	LIABILITY INSURANCE	Eff. April 1, 2006	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02J .0208	SUSPENSION, REVOCATION OR DENIAL OF AGENCY CERTIFICATION	Eff. April 1, 2006	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02J .0209	SUSPENSION, REVOCATION, OR DENIAL OF OFFICER COMMISSION	Eff. April 1, 2006	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02J .0210	PERIOD OF SUSPENSION, REVOCATION OR DENIAL	Eff. April 1, 2006	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02J .0211	SUMMARY SUSPENSIONS	Eff. April 1, 2006	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	<b>SECTION .0300 - CONDUCT OF COMMISSIONED POLICEMEN</b>	12 NCAC 02J .0301	TENURE	Eff. April 1, 2006	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02J .0302	PROHIBITED ACTS	Eff. April 1, 2006	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02J .0303	TRANSFERS	Eff. April 1, 2006	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		12 NCAC 02J .0304	BADGES, UNIFORMS, VEHICLES AND OFFICER IDENTIFICATION	Eff. April 1, 2006	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note

**VERBATIM TEXT OF COMMENTS RECEIVED FROM KEITH WILLIAMS ON JULY 1, 2016, FOR COMPANY POLICE RULES. AGENCY RESPONSE FOLLOWS EACH COMMENT:**

*74E-6(c) All Company Police. – Company police officers, while in the performance of their duties of employment, have the same powers as municipal and county police officers*

*All law enforcement officers regardless of tax support or not, swear an oath to the state. The state authorizes Company Police officers law enforcement authority to carry out their official duties as is given to municipal or county police this authority should not be diminish by code.*

*1. Administrative code 12 NCAC 02I .0101 should be changed to so the term “POLICE” may be used prominently on badges, patches and vehicles.*

*●Problem: The current code confuses and leads the public and other law enforcement officers to believe that these officers are security guards. This does not embody the spirit of the law. Police is the universal term used by Municipal Corporations, University, College, State, Federal, Park Rangers Police etc... in a prominent way. This term when used prominently confers authority and helps gains compliance so the officer can execute their official duties.*

*●Changing this helps the public, regardless of the native spoken language i.e.; French, Spanish, Italian, English etc... or the area of country in which the public derive, to identify these officers as law enforcement officers and their authority as such.*

**RESPONSE:** The Agency determined this rule was necessary without substantive public interest. Based on the comment, the Agency will not change the categorization. Requiring the badges, uniforms and vehicles used by company police agencies to use the term ‘Company Police’ is mandated in 12 NCAC 02I .0306 (as opposed to 12 NCAC 02I .0101 as indicated in the comment). This mandate is intended to provide the public with clear notice of the jurisdiction for which that agency is responsible. If company police agencies used only the word “Police,” the general public may become confused and believe that the officer could provide service or respond to an urgent law enforcement need anywhere in that municipality. Since company police agencies have jurisdiction only in the properties for which they have contracts, we believe it is necessary to differentiate the markings on their badges, vehicles and uniforms by adding the word ‘Company’.

2. Administrative code 12 NCAC 02I .0304 should be changed to allow the use of emergency equipment consistent with G.S. 20-125(b)

●*Problem: The current code does not fully support the official duties of these officers and does not equate the safety of the officer as municipal and county counterparts.*

●*Statement: All law enforcement officers have their jurisdiction. All North Carolina certified officers are trained by the state in Emergency Vehicle Operation and responsible to its citizens in their respective jurisdictions. North Carolina law G.S. 20-125(b) allows all law enforcement officers to operate their blue lights and sirens in connection with their jurisdiction regardless if the officers in their jurisdiction or beyond. This law does not extend the jurisdiction of the officer but is intended to increase the overall effectiveness of the officer's official duties.*

●*Solution: This restriction should be removed. This restriction removal would allow communities these officers serve to receive additional resources and will increase officer safety for the officer(s) serving the jurisdictions by allowing them to receive adequate and timely backup.*

**RESPONSE:** The Agency determined this rule was necessary without substantive public interest. Based on the comment, the Agency will not change the categorization. For much the same reasoning as detailed in #1 (above), a company police agency's jurisdiction is limited to the property for which it is contracted. Unlike state and municipal law enforcement agencies, company police agencies, by statute, do not have jurisdiction on the public streets and highways. Amending the rule as suggested by the comment would unlawfully extend the jurisdictional limits created by statute.

3. Administrative code 12 NCAC 02I .0202 should be changed so the rules for initial certification and transferring a certification are consistent with municipal and county police applicants.

●*This will allow a consistent process for applicants regardless if the Police Department in which they are applying is tax supported or non tax supported.*

**RESPONSE:** The Agency determined this rule was necessary without substantive public interest. Based on the comment, the Agency will not change the categorization. The revisions suggested by the comments to 12 NCAC 02I .0202 would exceed the underlying statutory authority for the rule. The certification standards are

**materially the same for both company police and criminal justice officers, however, the certification for each group is separate by statute. See §§ G.S. 17C-10 and G.S. 74E-8. make less stringent the requirements for background checks on those seeking company police commissions. The Company/Campus Police program strives to ensure that high quality officers are commissioned under the program. Lowering these standards would compromise the quality of those officers.**