

San José Police Department



Carrying a Concealed Weapon Policy

Permits Unit – Firearms Detail

CARRYING A CONCEALED WEAPON (CCW) LICENSE:

The Chief of Police shall issue a license to carry a firearm to residents within the City of San José (Penal Code § 26155) when the requirements listed below are met. This policy will provide a written process for the application and issuance of such licenses. Pursuant to Penal Code § 26160, this policy shall be made accessible to the public.

The San José Police Department will fairly and impartially consider all applications to carry firearms in accordance with applicable law and this policy.

In accordance with California Penal Code Sections for a License to Carry a Pistol, Revolver, or Other Firearm Capable of Being Concealed Upon the Person, Penal Code Sections 26150 - 26255, qualified applicants must complete the steps outlined in the San José Police Department CCW Policy.

QUALIFIED APPLICANTS:

In order to qualify for a license to carry a firearm, the applicant must meet certain requirements, including:

1. Be a resident of the City of San José (Penal Code § 26155).
2. Be at least 21 years of age (Penal Code § 29610).
3. Fully complete an application that will include substantial personal information. Much of the information in the application may be subject to public access under the Public Records Act.
4. Be free from criminal convictions that would disqualify the applicant from carrying a firearm (see #5 below). Fingerprints will be required, and a complete criminal background check will be conducted.
5. An applicant shall be deemed to be a disqualified person and cannot receive or renew a license pursuant if the applicant:
 - a. Is reasonably likely to be a danger to self, others, or the community at large, or as shown by the results of any psychological assessment or has been convicted of contempt of court under section 166.
 - b. Has been subject to any restraining order, protective order, or other type of court order issued pursuant to the following statutory provisions, unless that order expired or was vacated or otherwise canceled more than five years prior to the licensing authority receiving the completed application:
 - i. Section 646.91 or Part 3 (commencing with Section 6240) of the Division 10 of the Family Code.
 - ii. Part 4 (commencing with Section 6300) of the Division 10 of the Family Code.

- iii. Sections 136.2 and 18100.
 - iv. Section 527.6, 527.8, or 527.85 of the Code of Civil Procedure.
 - v. Section 213.5, 304, 362.4, 726.5, or 15657.03 of the Welfare and Institutions Code.
- c. Has been convicted of an offense listed in Section 422.6, 422.7, 422.75, or 29805 in the last 10 years.
 - d. Has engaged in an unlawful or reckless use, display, or brandishing of a firearm.
 - e. Has been charged with any offense listed in Section 290, 667.5, 1192.7, 1192.8, or 29805 that was dismissed pursuant to a plea or dismissed with a waiver pursuant to *People v. Harvey* (1979) in the last 10 years.
 - f. Has been committed to or incarcerated in county jail or state prison for, or on probation, parole, post release community supervision, or mandatory supervision as a result of, a conviction of an offense, an element of which involves controlled substances, as described in Sections 11053 to 11058, inclusive, of the Health and Safety Code, or alcohol in the last 5 years.
 - g. Is currently abusing controlled substances, as described in Sections 11053 to 11058.
 - h. Has experienced the loss or theft of multiple firearms due to the applicant's lack of compliance with the federal, state, or local law in the last 10 years.
 - i. Failed to report a loss of a firearm.
- 6. Pay all associated application fees. These fees are set by statute and may not be refunded if the application is denied.
 - 7. Provide proof of ownership or registration of any firearm to be licensed.
 - 8. Complete required training (Penal Code § 26165).

APPLICATION PROCESS:

The application process for a license to carry a firearm shall consist of three phases. Upon the successful completion of each phase, the applicant will advance to the next phase until the process is completed and the license is either issued or denied. The application can be obtained and submitted online at the Department's website.

PHASE ONE (TO BE COMPLETED BY ALL APPLICANTS)

- 1. Any individual applying for a license to carry a firearm shall first fully complete a California Department of Justice (DOJ) application to be signed under penalty of perjury. Any applicant who provides false information or statements on the application will be removed from further consideration and may be prosecuted for a criminal offense (Penal Code § 26180).

- a. If an incomplete application package is received, the Chief of Police or the authorized designee may do any of the following:
 - i. Require the applicant to complete the package before any further processing. If the package is not complete within 30 days of notification, the application will be denied, and the applicant will have to reapply.
 - ii. Issue a denial if the materials submitted at that time demonstrate that the applicant would not qualify for a license to carry a firearm even if the package was completed (e.g., not a resident, disqualifying criminal conviction).
2. At the time the completed application is submitted, the applicant shall submit a check made payable to the California Department of Justice for the required California DOJ application fee, along with a separate check made payable to the City of San José for a nonrefundable 50 percent of the application fee to cover the cost of processing the application (Penal Code § 26190).
 - a. Additional fees are required for fingerprinting, psychological testing, and training, in addition to the application fee.
 - b. Full payment of the remainder of the application fee will be required upon issuance of a license.
 - c. Payment of related fees may be waived if the applicant is a duly appointed reserve peace officer as defined in Penal Code § 830.6 (a) or (b) (Penal Code § 26170).
3. The applicant shall be required to submit to fingerprinting and a complete criminal background check by the California DOJ. No person determined to fall within a prohibited class described in Penal Code § 29800, Penal Code § 29900, Welfare and Institutions Code § 8100, or Welfare and Institutions Code § 8103 will be issued a license to carry a firearm. A license shall not be issued if the California DOJ determines that the applicant is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm (Penal Code § 26195).
4. A recent passport-style photo of the applicant shall be submitted digitally for Department use.
5. The applicant shall submit contact information for at least three individuals for a character reference.
 - a. At least one adult cohabitant of the applicant, if applicable, and at least two adults, not living with the applicant and not relatives.
 - b. Each individual shall provide contact information by which the Chief of Police or authorized designee may contact the character reference. Each character reference must agree to be interviewed on the record. The Chief of Police or authorized designee may conduct an in-person, virtual, or telephonic interview with any character reference to discuss the information in the application.

6. The Chief of Police may conduct a review of publicly available information about the applicant, such as publicly available statements published or posted by the applicant. Accordingly, the Chief of Police shall only consider publicly available information about the applicant that tends to prove or disprove a factor established by this Policy that could indicate an applicant is not qualified to be licensed to carry a firearm.
7. The applicant shall submit proof of ownership or registration of each firearm to be licensed.
8. The applicant shall be scheduled for a personal interview with the Chief of Police or the authorized designee. During this stage, there will be a review of all information provided in the application and discussion of any potential restrictions or conditions that might be placed on the license.

Once the Chief of Police or authorized designee has reviewed the completed application package and relevant background information, the application will either be advanced to phase two or denied.

In the event that an application is denied at the conclusion of, or during, phase one, the applicant shall be notified within 120 days of receiving the completed application for a new license, or 30 days after receipt of the information and report from the Department of Justice, whichever is later. The licensing authority shall give this notice within 120 days of receiving the completed application for a license renewal. (Penal Code 26205)

PHASE TWO

This phase is to be completed only by those applicants who have successfully completed phase one.

1. Upon successful completion of phase one, the applicant shall be referred to an authorized psychologist used by the Department for psychological testing. The cost of such psychological testing shall be paid by the applicant. The purpose of any such psychological testing is intended only to identify any outward indications or history of psychological problems that might render the applicant unfit to carry a firearm.
 - a. This testing is not intended to certify in any other respect that the applicant is psychologically fit. If it is determined that the applicant is not a suitable candidate for carrying a firearm, the applicant shall be removed from further consideration.
2. The completed background check and psychological results will be reviewed by the Chief of Police or authorized designee.

In the event that an application is denied at the conclusion of, or during, phase two, the applicant shall be notified in writing. If the license is denied, the notice shall state which requirement was not satisfied (Penal Code § 26205).

PHASE THREE

This phase is to be completed only by those applicants who have successfully completed phase one and phase two.

1. The applicant shall complete a 16-hour CCW course of training by a Department approved instructor, which complies with Penal Code § 26165.
 - a. The applicant shall successfully complete a firearms safety and proficiency examination with the firearm(s) to be licensed (two firearms maximum). The applicant shall provide proof of successful completion of a Department-approved firearms safety and proficiency examination administered by certified range instructor, including completion of all releases and other forms. The cost of any outside inspection / examination shall be the responsibility of the applicant.

Once the Chief of Police or authorized designee has verified the successful completion of phase three, the license to carry a firearm will either be granted or denied. The final payment of fees must be paid before the license will be issued.

ISSUED FIREARMS LICENSE:

In the event a license to carry a firearm is issued by the Chief of Police, the following shall apply:

1. The license will be subject to any and all reasonable restrictions or conditions the Chief of Police has deemed warranted, including restrictions as to the time, place, manner, and circumstances under which the person may carry the firearm.
 - a. All such restrictions or conditions shall be conspicuously noted on any license issued (Penal Code § 26200).
 - b. Any violation of any of the restrictions and conditions may result in the immediate revocation of the license.
2. The license shall be laminated, bearing a photograph of the licensee with the expiration date, type of firearm, restrictions, and other pertinent information clearly visible.
 - a. Each license shall be numbered and clearly identify the licensee.
 - b. All licenses shall be subjected to inspection by the Chief of Police or any law enforcement officer.
3. The license will be valid for a period not to exceed two years from the date of issuance (Penal Code § 26220).
 - a. A license issued to a state or federal magistrate, court commissioner, or judge will be valid for a period not to exceed three years.
 - b. A license issued to any reserve peace officer as defined in Penal Code § 830.6(a) or (b), or a custodial officer employed by the Sheriff as provided in Penal Code § 831.5 will be valid for a period not to exceed four years, except that such license shall be invalid upon the individual's conclusion of service as a reserve officer.

4. If the licensee's place of residence was the basis for issuance of a license and the licensee moves out of the county of issuance, the license shall expire 90 days after the licensee has moved (Penal Code § 26210).
5. The licensee shall notify the Department in writing within 10 days of any change of place of residency.

RESTRICTIONS ON POSSESSION:

The Chief of Police may place special restrictions limiting time, place, manner, and circumstances under which any license shall be valid. The following general restrictions, applicable to all licensees, prohibit the licensee from:

1. Consuming any alcoholic beverage or controlled substances as described in Sections 11053 to 11058, inclusive of the Health and Safety Code while armed.
2. Falsely representing him/herself as a peace officer.
3. Carry a firearm not listed on the license or a firearm for which they are not the recorded owner.
4. Unjustified or unreasonable displaying of a firearm.
5. Committing any crime.
6. Being under the influence of any medication or drug while armed.
7. Interfering with any law enforcement officer's duties.
8. Refusing to display his/her license or firearm for inspection upon demand of any peace officer.
9. Fail to carry the license on their person.
10. Loading the permitted firearm with illegal ammunition.
11. No permitted weapon is allowed where weapons are prohibited by law.
12. No permitted weapon is allowed at any City of San José operated building, facility, or workplace.
13. CCW Permit shall NOT be copied or altered in any manner or form.
14. A licensee shall not carry more than two firearms under the licensee's control at one time.
15. "*Sensitive Places.*" Penal Code Section 26230 limits places where a CCW licensee is authorized to carry a firearm in public. Although many of the areas enumerated in Subdivision (a) of Penal Code Section 26230 are subject to a temporary restraining order, the following lists only the areas enumerated under Subdivision (a) that are not subject to the temporary restraining order. (Please note that the restraining order applies to all parking areas referenced in Subdivision (a), so the following list does not name parking areas for those sensitive areas to which the temporary restraining order does not otherwise apply):

- a. Buildings, and real property under the control of a public or private school providing instruction in kindergarten or grades 1 to 12. [Subdivision (a)(1) of Penal Code Section 26230 references Penal Code Section 626.9. The Gun-Free School Zone Act. Please see subdivision (c)(5) of Penal Code Section 626.9 for further details regarding the restrictions that apply to persons with a CCW license.]
- b. A building, real property, or parking area under the control of a preschool or childcare facility, including a room or portion of a building under the control of a preschool or childcare facility. Nothing in this paragraph shall prevent the operator of a childcare facility in a family home from owning or possessing a firearm in the home if no child under child care at the home is present in the home or the firearm in the home is unloaded, stored in a locked container, and stored separately from ammunition when a child under child care at the home is present in the home so long as the childcare provider notifies clients that there is a firearm in the home. [Penal Code Section 26230 (a)(20)]
- c. A building, parking area, or portion of a building under the control of an officer of the executive or legislative branch of the state government, except as allowed pursuant to paragraph (2) of subdivision (b) of Section 171c. [Penal code Section 26230(a)(3)]d. A building designated for a court proceeding, including matters before a superior court, district court of appeal, or the California Supreme Court, parking area under the control of the owner or operator of that building, or a building or portion of a building under the control of the Supreme Court, unless the person is a justice, judge, or commissioner of that court. [Penal Code Section 26230(a)(4)]9e. A building, parking area, or portion of a building under the control of a unit of local government, unless the firearm is being carried for purposes of training pursuant to Section 26165. [Penal Code Section 26230(a)(5)]f. A building, real property, and parking area under the control of an adult or juvenile detention or correctional institution, prison, or jail. [penal Code Section 26230(a)(6)]g. Any area under the control of a public or private community college, college, or university, including, but not limited to, buildings, classrooms, laboratories, medical clinics, hospitals, artistic venues, athletic fields or venues, entertainment venues, officially recognized university-related organization properties, whether owned or leased, and any real property, including sidewalks and common areas. [Penal Code Section 26230(a)(14)]h. A building, real property, or parking area under the control of an airport or passenger vessel terminal, as those terms are defined in subdivision (a) of Section 171.5. [Penal Code Section 26230(a)(18)]i. A street, driveway, parking area, property, building, or facility, owned, leased, controlled, or used by a nuclear energy, storage, weapons, or development site or facility regulated by the federal Nuclear Regulatory Commission. [Penal Code Section 26230(a)(21)]j. A police, sheriff, or highway patrol station or parking area under control of a law enforcement agency. [Penal Code Section 26230(a)(24)]k. A

polling place, voting center, precinct, or other area or location where votes are being cast or cast ballots are being returned or counted, or the streets or sidewalks immediately adjacent to any of these places. [Penal Code Section 26230(a)(25)]. Any other place or areas prohibited by other provisions of state law, federal law, or local law other than California Penal Code § 26230(a)(7), (8), (9), (10), (11), (12), (13), (15), (16), (17), (19), (20), (22), (23), and (26) which are subject to a TRO [Penal Code Section 26230(a)(27), (28), and (29)]

The Chief of Police or authorized designee reserves the right to inspect any license or licensed firearm at any time.

The alteration of any previously approved firearm including, but not limited to adjusting the trigger pull, adding laser sights or modifications shall void any license and serve as grounds for revocation.

AMENDMENTS TO LICENSES:

Any licensee may apply to amend a license at any time during the period of validity by completing and submitting a written Application for License Amendment along with the current processing fee to the Department in order to (Penal Code § 26215):

1. Add or delete authority to carry a firearm listed on the license.
2. Change restrictions or conditions previously placed on the license.
3. Change the address or other personal information of the licensee (Penal Code § 26210).

In the event that any amendment to a valid license is approved by the Chief of Police, a new license will be issued reflecting the amendment. An amendment to any license will not serve to extend the original expiration date and an application for an amendment will not constitute an application for renewal of the license.

LICENSE DENIAL OR REVOCATION:

Any license issued pursuant to this policy may be immediately seized by any police officer and returned to the San José Police Department, Office of the Chief of Police, for any of the following reasons:

1. The licensee has violated any of the restrictions or conditions placed upon the license.
2. The licensee becomes psychologically unsuitable to carry a firearm.
3. The licensee is determined to be within a prohibited class described in Penal Code § 29800, Penal Code § 29900, Welfare and Institutions Code § 8100, Welfare and Institutions Code § 8103, or any other state or federal law prohibiting a person from owning or possessing a firearm.
4. If the license is one to carry "loaded and exposed," the license shall be revoked immediately upon a change of the licensee's place of residence to another county (Penal Code § 26210).

The issuance of a license by the Chief of Police shall not entitle the holder to either a property or liberty interest as the issuance, amendment, or revocation of such license remains exclusively within the discretion of the Chief of Police as set forth herein.

If any license is denied or revoked, the Department will immediately notify the applicant or licensee in writing (Penal Code § 26206) and the California DOJ (Penal Code § 26225) and to seek a writ of mandate from the superior court within 30 days of receipt of notice of denial or revocation. The notice of denial or revocation shall state the reason as to why the determination was made and inform the applicant that they may request a hearing from a court, as provided in Penal Code § 26206, to review the denial or revocation. The Department shall provide the applicant with a copy of the most recent “Request for hearing to Challenge Disqualified Person Determination” form prescribed by the California Department of Justice under Penal Code § 26206.

LICENSE RENEWAL:

Renewal applications will be accepted no sooner than 90 days prior to the expiration of any valid license to carry a firearm. The licensee may apply to the Chief of Police for a renewal by:

1. Fully completing a California Department of Justice (DOJ) application to be signed under penalty of perjury. Any applicant who provides false information or statements on the application will be removed from further consideration and may be prosecuted for a criminal offense (Penal Code § 26180).
2. Completing an eight-hour CCW refresher training course by a Department approved instructor pursuant to Penal Code § 26165.
3. Paying a non-refundable renewal application fee.

Once the Chief of Police or the authorized designee has verified the successful completion of the renewal process, the renewal of the license to carry a firearm will either be granted or denied. Prior issuance of a license shall not entitle any licensee to any property or liberty right to renewal.

Whether an application for renewal is approved or denied, the applicant shall be notified within 120 days of receiving the completed application for a new license, or 30 days after receipt of the information and report from the Department of Justice, whichever is later. The licensing authority shall give this notice within 120 days of receiving the completed application for a license renewal. (Penal Code 26205)

An applicant who fails to apply prior to the expiration of the license will have to apply for a new license.

DEPARTMENT REPORTING AND RECORDS:

Pursuant to Penal Code § 26225, the Chief of Police shall maintain a record of the following and immediately provide copies of each to the California DOJ:

1. The denial of a license

2. The denial of an amendment to a license
3. The issuance of a license
4. The amendment of a license
5. The revocation of a license

The Chief of Police shall annually submit to the State Attorney General the total number of licenses to carry firearms issued to reserve peace officers and judges.

CONFIDENTIAL RECORDS:

The home address and telephone numbers of any peace officer, public defender, prosecutor, magistrate, court commissioner or judge contained in an application shall not be considered public record (Government Code § 6254(u)(2)).

Any information in an application for a license to carry a firearm that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of his/her family shall not be considered public record (Government Code § 6254(u)(1)).