

Council Member Konev introduced the following:

Ordinance Number 59.42.10

AN ORDINANCE REPEALING CHAPTER 193 (FIREARMS AND AMMUNITION) OF THE CODE OF THE CITY OF ALBANY, IN ITS ENTIRETY, AND ADDING A NEW CHAPTER 193 (FIREARMS, AMMUNITION AND WEAPONS)

The City of Albany in Common Council convened, does hereby ordain and enact:

Section 1. Chapter 193 is hereby repealed, and a new Chapter 193 is hereby added to read as follows:

CHAPTER 193: FIREARMS, AMMUNITION AND WEAPONS

ARTICLE I. DEADLY WEAPONS

193-1 License - Required.

It shall be unlawful for any person to engage in the business of selling, or to sell or give away, any firearm or other dangerous weapon, as defined in Article 265 of the Penal Law of the State of New York, or other deadly weapon which can be carried or concealed on the person, without securing a weapons dealer license. The license required by this chapter shall be in addition to any other license required by law.

193-2 License - Application.

An application for a weapons dealer license shall be made in conformity with the general requirements of this Code relating to applications for licenses. The Chief of Police shall approve said application before a license shall be issued.

193-3 License - Fee.

The annual fee for a weapons dealer license shall be promulgated by the Chief of Police.

193-4 Daily report required - Sales or gifts.

Every person dealing in the aforementioned deadly weapons shall make out and deliver to the Chief of Police every day before the hour of twelve noon, a legible and correct report of every sale or gift made under authority of his license during the preceding 24 hours, which report shall contain the date of such sale or gift, the name of the purchaser or donee with his or her address and age, the number, kind, description and price of such weapon, the number of the purchaser's permit, and the purpose given by such person for the purchase of such weapon, which report shall be substantially in the following form:

Number of permit
Number of weapon
Name of purchaser
Address of purchaser
Age of purchaser
Kind or description of weapon
For what purpose purchased
Price

193-5 Register required.

Every person dealing in the aforementioned deadly weapons or ammunition at retail, within the city, shall keep a register of all such weapons and ammunition sold, loaned, rented or given away by him. Such register shall contain the date of the sale, loaning, renting or gift, the number of the permit, the number of the weapon, the name and age of the person to whom the weapon or ammunition is sold, loaned, rented or given, the quantity of ammunition, the price of each item, and the purpose for which it is purchased or obtained. Such register shall be kept open for the inspection of the police at all reasonable times during business hours.

193-6 Restrictions on sales or gifts.

It shall be unlawful for any person to sell, barter or give away to any person within the city, any deadly weapon mentioned in Section 193-1, except to licensed dealers and to persons who have secured a permit for the purchase of such articles from the Chief of Police as hereinafter required.

193-7 Sale of certain handgun ammunition prohibited.

Except as allowed by subsection (e) of Section 193-45 of this Code, it shall be unlawful for any person to sell, offer for sale, expose for sale, barter or give away to any person within the city, any ammunition of the following calibers and types:

.45 automatic
.380 automatic
.38 special
.357 magnum
.25 caliber
.22 caliber, including .22 long
9 millimeter

Any other ammunition, regardless of the designation by the manufacturer, distributor or seller, that is capable of being used as a substitute for any of the foregoing.

193-8 Sale of handguns without childproofing or safety devices prohibited.

Except as allowed by subsection (e) of Section 193-44 of this Code, it shall be unlawful for any person to sell, barter or give away to any person any handgun which does not contain:

A safety mechanism to hinder the use of the handgun by unauthorized users. Such devices shall include, but shall not be limited to, trigger locks, combination handle locks, and solenoid use-limitation devices, and

A load indicator device that provides reasonable warning to potential users such that users even unfamiliar with the weapon would be forewarned and would understand the nature of the warning.

Safety mechanism means a design adaptation or non-detachable accessory that lessens the likelihood of unanticipated use of the handgun by other than the owner of the handgun and those specifically authorized by the owner to use the handgun.

A trigger lock means a device that when locked in place by means of a key, prevents a potential user from pulling the trigger of the handgun without first removing the trigger lock by use of the trigger lock's key.

A combination handle lock means a device that is part of the handgun, which precludes the use of the handgun unless the combination tumblers are properly aligned.

A solenoid use-limitation device means a device, which precludes, by use of a solenoid, the firing of the handgun unless a magnet of the appropriate strength is placed in proximity to the handle of the weapon.

A load indicator means a device, which plainly indicates that a bullet is placed in the handgun in a way that pulling the trigger or otherwise handling the handgun may result in detonation.

193-9 Permit required when - Issuance conditions.

It shall be unlawful for any person to purchase any deadly weapon mentioned in Section 193-1, which can be concealed, on the person, without first securing from the Chief of Police a permit so to do. Before any such permit is granted, an application in writing shall be made therefor, setting forth in such application the name, address, age, height, weight, complexion, nationality and other elements of identification of the person desiring such permit, and the applicant shall present such evidence of good character as the Chief of Police at his discretion may require.

The Chief of Police shall refuse such permit to any person under 18 years of age, any narcotic addict, any person who has been convicted of a felony under the laws of this state or any other jurisdiction within five years from release from penitentiary or within five years of conviction if penitentiary sentence has not been imposed, and any person

who has been released from a mental institution within the last five years, or is mentally disabled. Otherwise, in case he shall be satisfied that the applicant is of good moral character, it shall be the duty of the Chief of Police to grant such permit.

193-10 Sales display restrictions.

It shall be unlawful for any person to exhibit for sale in showcases or show windows, on counters or in any other public manner, any deadly weapon mentioned in Section 193-1, or to display any signs, posters, cartoons, or display cards suggesting the sale of any such deadly weapons, or any ammunition whose sale is prohibited pursuant to Section 193-7 of this Code.

193-11 License - Revocation.

In case the Chief of Police or the issuing authority shall determine that such applicant has violated any provision of this chapter, he shall revoke the license to such person for the selling of such weapons, and the money paid for such license shall be forfeited to the city. No other such license shall be issued to such licensee for a period of three years thereafter.

193-12 Violation - Penalties.

Any person violating Section 193-1, Section 193-6 or Section 193-7 of this chapter shall be fined not less than \$500.00 nor more than \$1,000.00 for a first offense and \$1,000.00 for each subsequent offense. Any person violating any other provision of this chapter shall be fined not less than \$250.00 nor more than \$500.00 for a first offense and not less than \$500.00 nor more than \$1,000.00 for each subsequent offense. Each purchase, sale or gift of any weapon or article mentioned in this chapter shall be deemed a separate offense.

ARTICLE II. AIR RIFLES AND AIR GUNS

193-13 License required when.

It shall be unlawful for any person to engage in the business of selling or to sell or to give away any air rifle or air gun, without securing a weapons dealer license, and no person having secured such license shall sell or give away any such weapon to any person within the city who has not secured a permit from the Chief of Police to purchase such weapon in the manner hereinafter provided.

193-14 License - Application.

An application for said license shall be made in conformity with the general requirements of this Code. The Chief of Police shall approve said application before a license shall be issued.

193-15 License - Fee.

The annual license fee for said license shall be promulgated by the Chief of Police.

193-16 Daily report required.

Every person licensed under this chapter shall make out and deliver to the Chief of Police every day, before the hour of twelve noon, a legible and correct report of every sale or gift made under authority of said license to sell the kind of weapons or other articles named in Section 193-13 during the preceding 24 hours, which report shall contain the date of such sale or gift, the name of the purchaser or donee with his or her address and age, the number, kind, description and price of such weapon or other article, the number of the purchaser's permit, and the purpose for the purchase of such weapon or other article, which report shall be substantially in the following form:

Number of permit
Number of weapon or article
Name of purchaser
Address of purchaser
Age of purchaser
Kind or description of weapon or other article
For what purpose purchased
Price

193-17 Permit - Required.

It shall be unlawful for any person to purchase any air rifle or air gun, without first securing from the Chief of Police a permit so to do. Before any such permit is granted, an application in writing shall be made therefor, setting forth in such application, the name, address, age, height, weight, complexion, nationality and other elements of identification of such person desiring such permit. Such application shall also contain a recommendation from two persons who shall appear to be taxpayers residing within the city that the permit shall issue.

193-18 Replica firearms and pellet guns.

(a) It shall be unlawful for any person to purchase, possess, use, sell, give away or otherwise transfer, or to engage in the business of selling or to exhibit for sale, a replica firearm, paint pellet or paint pellet gun in the City of Albany, except as provided in subsection (c) of this section.

(b) For the purposes of this chapter, the following terms shall have the following meanings:

(1) "Paint pellet" means a pellet or projectile of paint that explodes upon impact.

(2) “Paint pellet gun” means any firearm, toy firearm or toy in the nature of a firearm which is powered by compressed gas and which fires paint pellets.

(3) “Replica firearm” means any device, object or facsimile made of plastic, wood, metal or any other material, that a person could reasonably perceive as an actual firearm but that is incapable of being fired or discharged, except that the term shall not include any replica of an antique firearm, as defined in Section 193-28(b) of this Code. Each such replica firearm shall have as an integral part, permanently affixed, a blaze orange plug inserted in the barrel of such replica firearm. Such plug shall be recessed no more than six millimeters from the muzzle end of the barrel of such firearm.

(4) “Disguised gun” means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive and is designed and intended to appear to be something other than a gun.

(c) The manufacture, marketing, distribution, sale and possession of replica firearms are permitted if the devices are manufactured, marketed, distributed, sold or held (1) solely for subsequent transportation in intrastate, interstate or foreign commerce, or (2) solely for use in theatrical productions, including motion picture, television and stage productions. Such devices shall not be displayed to the general public or sold for other use in the city. The use or possession of a paint pellet or paint pellet gun is permitted if the use or possession is solely within premises licensed as a public place of amusement; or if the use or possession is solely for the purpose of transporting the paint pellet or paint pellet gun to or from those premises by the licensee or agent or employee of the licensee, or by a common carrier, for purposes of initial delivery, repair or disposal of the paint pellet or paint pellet gun.

(d) Any person who violates the provisions of this section, upon conviction thereof, shall be fined not less than \$100.00 nor more than \$500.00 for each offense. Any such violation may also be punishable as a misdemeanor by incarceration in a penal institution other than a penitentiary for up to one year under the procedures set forth in the Penal Law of the State of New York and in the New York Code of Criminal Procedure. All actions seeking the imposition of fines only shall be filed as quasi-criminal actions subject to the provisions of the New York Code of Criminal Procedure. Each purchase, use, sale, gift or transfer of any such replica firearm, paint pellet or paint pellet gun shall be deemed a separate and distinct offense, and each day a person unlawfully engages in the business of selling or exhibits for sale any such replica firearm, paint pellet or paint pellet gun shall be deemed a separate and distinct offense.

193-19 Replica military style weapons.

It shall be unlawful for any person to purchase, possess, use, sell, give away or otherwise transfer, or to engage in the business of selling or to exhibit for sale, any replica rocket

propelled grenade launcher, bazooka, artillery piece, grenade, mine, bomb or items similar to weapons designed and manufactured for military purposes or replicas thereof, in the City of Albany.

Any person who violates this section shall be fined not less than \$100.00 nor more than \$500.00 for each offense.

193-20 Granting of permit - Conditions.

It shall be the duty of the Chief of Police to refuse such permit to any person having been convicted of any crime, and any minor. Otherwise, if the applicant is of good moral character, the Chief of Police shall grant such permit upon the payment of a fee of \$1.00.

193-21 Sale or transfer to minors prohibited.

It is unlawful for any dealer to sell, lend, rent, give or otherwise transfer an air rifle to any person under the age of 18 years where the dealer knows the person to be under 18 years of age, or where such dealer has failed to make reasonable inquiry relative to the age of such person and such person is under 18 years of age.

It is unlawful for any person to sell, lend or otherwise transfer any air rifle to any person under 18 years of age.

193-22 Sales display restrictions.

It shall be unlawful for any person to exhibit for sale in show cases, or show windows, on counters, or in any public manner, any air rifle or air gun, or to display any signs, posters, cartoons or display cards suggesting the sale of any such weapon or firearm.

193-23 Alteration restricted.

No person shall alter any air rifle or air gun in such a way that it can fire any type of projectile other than that which it was designed by its manufacturer to fire.

193-24 License - Revocation.

In case the Chief of Police or the issuing authority shall determine that a licensee has violated any provision of this chapter, he shall revoke the weapons dealer license issued to such person, and the money paid for such license shall be forfeited to the City. No other such license shall be issued to such licensee for a period of three years thereafter.

193-25 License - Revocation conditions.

When the license of any said licensee shall be revoked, no other such license shall be issued to such licensee for a period of three years thereafter.

ARTICLE III. POSSESSION OF FIREARMS

193-26 Unlawful to carry - Exceptions.

It shall be unlawful for any person to carry or maintain in any vehicle or about his or her person except when on his or her property or in his or her residence or fixed place of business, any firearm; provided, that this section shall not apply to:

- (1) Peace officers or any person summoned by any such officers to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer;
- (2) Wardens, Chief of Polices and keepers of prisons, penitentiaries, jails, and other institutions for the detention of persons accused or convicted of an offense, while in the performance of their official duty or commuting between their homes and places of employment;
- (3) Members of the Armed Services or Reserve Forces of the United States or the New York National Guard or the Reserve Officers Training Corps, while in the performance of their official duty;
- (4) Special agents employed by a railroad to perform police functions, or employees of a detective agency, watchman-guard or patrolman agency, licensed by the State of New York, while actually engaged in the performance of the duties of their employment or commuting between their homes and places of employment;
- (5) Manufacture, transportation when the weapons are not immediately accessible to any person, or sale of weapons to persons authorized under law to possess them;
- (6) Members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while such members are using their firearms on such target ranges;
- (7) Duly authorized military or civil organizations while parading, with the special permission of the Governor;
- (8) Licensed hunters or fishermen while engaged in hunting or fishing;
- (9) Transportation of weapons broken down in a nonfunctioning state.
- (10) A person acting in accordance with Section 193-29(b)(5) of this chapter.
- (11) A person licensed to possess a concealed weapon under the New York State Penal Law.

193-27 Violation - Penalty.

Any person violating the provisions of Section 193-26 shall be fined \$500.00.

ARTICLE IV. REGISTRATION OF FIREARMS

193-28 Definitions.

(a) “Ammunition” means cartridge cases, shells, projectiles (including shot), primers, bullets, propellant powder, or other devices or materials designed, or intended for use in a firearm or destructive device.

(b) “Antique firearms” means any firearm, including, but not limited to, any firearm with a matchlock, flintlock, percussion cap or similar type of ignition system, which is incapable of being fired or discharged; or any firearm manufactured before 1898 for which cartridge ammunition is not commercially available and is possessed as a curiosity or ornament or for its historical significance or value.

(c) “Corrections officer” means wardens, Chief of Polices and keepers of prisons, penitentiaries, jails or other institutions for the detention of persons accused or convicted of an offense.

(d) “Duty-related firearm” shall mean any weapon that is authorized by any law enforcement agency to be utilized by their personnel in the performance of their official duties.

(e) **“Firearm” as defined in Article 265 of the New York Penal Law. Provided that such term shall not include:**

(1) antique firearm;

(2) any device used exclusively for line-throwing, signaling, or safety and required or recommended by the United States Coast Guard or Interstate Commerce Commission; or

(3) any device used exclusively for firing explosives, rivets, stud cartridges or any similar industrial ammunition incapable of use as a weapon.

(f) “Fragmenting bullet” means a bullet that is designed or modified to shatter on impact, or any other bullet that is designed or modified so that more than 50 percent of the mass of the bullet is likely to fragment inside a human or animal target.

(g) “Assault weapon” means any of the following weapons:

(1) Assault Rifles TABLE INSET:

AK74 type	87S type
AKS type	Gaul type
AKM type	Type 56 type
AKMS type	Type 565 type
84S1 type	Valmet M76 type
Arm type	Valmet M78 type
84S1 type	M76 counter sniper type
84S3 type	FAL type
HK91 type	L1A1A type
HK93 type	SAR 48 type
HK94 type	AUG type
G3SA type	FNC type
Ki type	Uzi carbine
K2 type	AlgimecAGMI type
AR100 type	AR180 type
M24S type	MAS 223 type
SIG 550SP type	Beretta BM59 type
SIG 551SP type	Beretta AR70 type
Australian Automatic Arms	CIS SR88 type
SAR type	
SKS type with detachable magazine	
Colt AR-15	
Springfield Armory SAR-48	
Springfield Armory BM-59	
Bushmaster Auto Rifle	
Auto-Ordinance Thompson M1	
Ruger Mini 14/5F	
Federal XC-900 and XC-450	
Feather AT-9 Auto Carbine	
Goncz High Tech Carbine	
Auto-Ordinance Thompson 1927A1	
Iver Johnson PM30 P Paratrooper	

(2) Assault Pistols

Uzi type
Heckler & Koch Sp-89 type
Australian Automatic Arms SAP type
Spectre Auto type
Sterling Mark 7 type; and

(3) Any weapon that the Chief of Police defines by regulation as an assault weapon because the design or operation of such weapon is inappropriate for lawful use.

(h) "Assault ammunition" means any ammunition magazine having a capacity of more than twelve (12) rounds of ammunition.

(i) "Disc projectile ammunition" means any ammunition which is composed of multiple disc shaped objects stacked together to form a single round of ammunition, including but not limited to the following types of ammunition: (i) Magdisc type; and (ii) Shatterdisc type.

(j) "Handgun" means a firearm designed to be held and fired by the use of a single hand, and includes a combination of parts from which such firearm can be assembled.

(k) "Machine gun" means any firearm from which eight or more shots or bullets may be discharged by a single function of the firing device.

(l) "Mayor" means the mayor of the City of Albany or his or her designee.

(m) "Metal piercing bullet" means any bullet that is manufactured with other than a lead or lead alloy core, or ammunition of which the bullet itself is wholly composed of, or machined from, a metal or metal alloy other than lead, or any other bullet that is manufactured to defeat or penetrate bullet resistant properties of soft body armor or any other type of bullet resistant clothing which meets the minimum requirements of the current National Institute for Justice Standards for "Ballistic Resistance of Police Body Armor".

(n) "Organization" means partnership, company, corporation or other business entity, or any group or association of two or more persons united for a common purpose.

(o) "Peace officer" means any person who by virtue of his office or public employment is vested by law with a duty to maintain public order or make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses.

(p) "Person" shall mean any individual, corporation, company, association, firm, partnership, society, joint stock company or organization of any kind.

(q) "Sawed-off shotgun" means a shotgun having a barrel of less than 18 inches in length or a firearm made from a shotgun if such firearm is modified and has an overall length of less than 26 inches or a barrel of less than 18 inches in length.

(r) "Security personnel" means special agents employed by a railroad or public utility to perform police functions: guards of armored car companies, watchmen, security guards and persons regularly employed in a commercial or industrial operation for the protection of persons employed by or property related to such commercial or industrial operation.

(s) "Serious offense" as defined under Section 264.00(17) of the New York State Penal Law.

(t) “Short-barreled rifle” means a rifle having any barrel less than 16 inches in length, or a modified firearm if such firearm as modified has an overall length of less than 26 inches or any barrel of less than 16 inches.

(u) “Chief of Police” means the Chief of Police of the Albany Police Department or his designated representative.

(v) “Safety mechanism” means a design adaptation or non-detachable accessory that lessens the likelihood of unanticipated use of the handgun by other than the owner of the handgun and those specifically authorized by the owner to use the handgun.

(w) “Trigger lock” means a device that when locked in place by means of a key, prevents a potential user from pulling the trigger of the handgun without first removing the trigger lock by use of the trigger lock’s key.

(x) “Combination handle lock” means a device that is part of the handgun, which precludes the use of the handgun unless the combination tumblers are properly aligned.

(y) “Solenoid use-limitation device” means a device, which precludes, by use of solenoid, the firing of the handgun unless a magnet of the appropriate strength is placed in proximity to the handle of the weapon.

(z) “Load indicator” means a device, which plainly indicates that a bullet is placed in the handgun in a way that pulling the trigger or otherwise handling the handgun may result in detonation.

(aa) “Laser sight accessory” means a laser-sighting device, which is either integrated into a firearm or capable of being attached to a firearm.

193-29 Registration of firearms.

(a) All firearms in the City of Albany shall be registered in accordance with the provisions of this chapter. It shall be the duty of a person owning or possessing a firearm to cause such firearm to be registered. No person shall within the City of Albany, possess, harbor, have under his control, transfer, offer for sale, sell, give, deliver, or accept any firearm unless such person is the holder of a valid registration certificate for such firearm. No person shall, within the City of Albany, possess, harbor, have under his control, transfer, offer for sale, sell, give, deliver, or accept any firearm which is incapable of being registered under the provisions of this chapter.

(b) This section shall not apply to:

(1) Firearms owned or under the direct control or custody of any federal, state or local governmental authority maintained in the course of its official duties;

- (2) Duty-related firearms owned and possessed by peace officers that are not residents of the City of Albany;
- (3) Duty-related firearms owned or possessed by corrections officers; provided, that such corrections officers are not residents of the City of Albany;
- (4) Firearms owned, manufactured or processed by licensed manufacturers of firearms, bulk transporters or licensed sellers of firearms at wholesale or retail, provided that such persons have, in addition to any other license required by law, a valid deadly weapons dealer license;
- (5) Any nonresident of the City of Albany participating in any lawful recreational firearm-related activity in the city, or on his way to or from such activity in another jurisdiction; provided, that such weapon shall be unloaded and securely wrapped and that his possession or control of such firearm is lawful in the jurisdiction in which he resides;
- (6) Peace officers, while in the course of their official duties, who possess and control any firearm or ammunition issued by their department, bureau or agency in the normal course of business;
- (7) Private security personnel who possess or control any firearm or ammunition within the City of Albany; provided, that such firearms shall be owned and maintained by the security firm employing such personnel and shall be registered by the security firm in accordance with this chapter;
- (8) Those persons summoned by a peace officer to assist in making an arrest or preserving the peace while actually engaged in assisting the peace officer.

193-30 Unregisterable firearms.

No registration certificate shall be issued for any of the following types of firearms:

- (a) Sawed-off shotgun, machine gun, or short-barreled rifle;
- (b) Firearms, other than handguns, owned or possessed by any person in the City of Albany prior to the effective date of this chapter, which are not validly registered prior to the effective date of this chapter;
- (c) Handguns, except:
 - (1) Those validly registered to a current owner in the City of Albany prior to the effective date of this chapter, and which contain each of the following:
 - (i) A safety mechanism to hinder the use of the handgun by unauthorized users. Such devices shall include, but shall not be limited to,

trigger locks, combination handle locks, and solenoid use-limitation devices; and

(ii) A load indicator device that provides reasonable warning to potential users such that even users unfamiliar with the weapon would be forewarned and would understand the nature of the warning;

(2) Those owned by peace officers who are residents of the City of Albany,

(3) Those owned by security personnel,

(d) Firearm muffler or silencer;

(e) Assault weapons, as defined in Section 193-28, unless they are owned by a person who is entitled to own them under Section 193-60.

Any person who receives through inheritance any firearm validly registered pursuant to this chapter will be eligible to reregister such firearm within 60 days after obtaining possession or title, provided such person shall be qualified to do so in accordance with this chapter.

193-31 Prerequisites to registration--Application for registration.

(a) No registration certificate shall be issued to any person unless such person:

(1) Shall possess a valid New York Firearm Permit in accordance with all applicable State and local laws;

(2) Has not been convicted of a felony or other serious offense, as defined by the New York Penal Law, or a violation of this chapter; and

(3) Has not been convicted within the five years prior to the application of any:

(i) Violation of any law relating to the use, possession or sale of any narcotic drug or controlled substance, or

(4) Is not otherwise ineligible to possess a firearm under any federal, state or local law, statute or ordinance.

(b) All applicants for a registration certificate under this chapter shall file with the Chief of Police on a form provided, a sworn application in writing. The application shall include the following:

(1) Name, social security number, residential and business address and telephone number of the applicant;

- (2) The applicant's age, sex and citizenship;
 - (5) The name of manufacturer, the caliber or gauge, the model, type and the serial number identification of the firearm to be registered;
 - (6) The source from which the firearm was obtained;
 - (7) Evidence that the applicant meets the criteria of Section 193-33(a) of this chapter;
 - (8) Two photographs of the applicant taken within 30 days immediately prior to the date of filing the application equivalent to passport size showing the full face, head and shoulders of the applicant in a clear and distinguishing manner;
 - (9) Such other information as the Chief of Police shall find reasonably necessary to effectuate the purpose of this chapter and to arrive at a fair determination whether the terms of this ordinance have been complied with.
- (c) The Chief of Police shall be the custodian of all applications for registration under this chapter.

193-32 Fingerprints.

When necessary to establish the identity of any applicant or registrant, such applicant or registrant shall be required to submit to fingerprinting in accordance with procedures and regulations prescribed by the Chief of Police.

193-33 Application fees.

- (a) A nonrefundable fee in the amount indicated in subsection (d) of this section shall accompany each initial registration.
- (b) A nonrefundable fee in the amount indicated in subsection (d) of this section shall accompany each re-registration application.
- (c) The registration fee shall not be applicable to (1) any duty-related handgun of a peace officer domiciled in the City of Albany, or (2) to any duty-related handgun(s) owned by a resident of the City of Albany who retired from the Albany Police Department in good standing and without any disciplinary charges pending.
- (d) Registration fees for firearms shall be as follows:
 - 1 firearm. . . \$20.00
 - 2 - 10 firearms. . . \$25.00
 - More than ten firearms. . . \$35.00

193-34 Filing time.

- (a) A registration certificate shall be obtained prior to any person taking possession of a firearm from any source.
- (b) Any firearm currently registered must be reregistered pursuant to this chapter and in accordance with rules, regulations and procedures prescribed by the Chief of Police. An application to reregister such firearm shall be filed within 180 days from the effective date of this chapter; provided, however, that this section shall not apply to law enforcement officers during their tenure of continuous active duty.

193-35 Investigations.

Upon receipt of an application for registration of a firearm, the Chief of Police shall investigate the information contained in said application to determine whether the application and firearm meet the requirements for registration under this chapter. Failure by the applicant or registrant to respond to investigation inquiries shall be sufficient grounds for denial or revocation.

193-36 Issuance of registration certificate.

- (a) Upon receipt of a properly executed application for a registration certificate and the report of the Chief of Police, the issuing authority, upon determining that the applicant has complied with the provisions of this chapter, shall authorize the issuance of the registration certificate. Each registration certificate shall be in triplicate and bear a unique registration certificate number and contain such other information as may be necessary to identify the applicant and the firearm registered. The original of the registration certificate shall be retained by the issuing authority; the Chief of Police, the Mayor and applicant shall each receive a copy.
- (b) The issuing authority shall approve or deny any application for a registration certificate within a 120-day period beginning on the date the Chief of Police receives the application unless good cause is shown. In the case of an application to reregister a firearm currently registered, the Chief of Police or the issuing authority shall have 365 days after receipt of such application to approve or deny such application unless good cause is shown.
- (c) Any application for registration or renewal shall be held in abeyance when there is a criminal proceeding for a serious offense, or an offense involving a weapon, or a proceeding to revoke firearm registration pending against the applicant until such proceeding has terminated. In the case of a renewal of registration the then-current registration shall be deemed continuing until the termination of such proceedings.
- (d) Upon receipt of a registration certificate, each applicant shall examine the same to insure that the information thereon is correct. If the registration certificate is incorrect in

any respect, the registrant thereon shall return it to the Chief of Police with a signed statement showing the nature of the error. The Chief of Police shall correct the error, if it occurred through administrative error.

In the event that the error resulted from incorrect information contained in the application, the applicant shall be required to file an amended application setting forth the correct information and a statement explaining the error in the original application. Each amended application shall be accompanied by a fee of \$2.00.

(e) Each registration certificate authorized to be issued shall be accompanied by a statement setting forth the registrant's duties under this chapter.

193-37 Revocation—Denial.

A registration certificate shall be revoked or an application for registration or re-registration shall be denied by the Chief of Police or the issuing authority when he finds that:

- (a) Any of the criteria in Section 193-33(a) of this chapter are not currently met; or
- (b) The registered firearm is or has become a firearm that is incapable of being registered under the terms of Section 193-32 of this chapter; or
- (c) The information furnished to the Chief of Police or the issuing authority on the application for registration certificate proves to be false; or
- (d) The applicant or registrant has violated any of the provisions of this chapter.

193-38 Procedures for denial or revocation.

(a) If it is determined that an application for registration or re-registration should be denied or that a registration certificate should be revoked, the Chief of Police or the issuing authority shall notify the applicant or registrant in writing of the proposed denial or revocation, briefly stating the reason or reasons therefore.

(b) The applicant or registrant, within ten days after receiving notice of the proposed denial or revocation, may file with the Chief of Police a written request for a hearing before the Chief of Police.

(c) Within ten days of receipt of a request for hearing, the Chief of Police shall give notice of a hearing to be held not less than five days after service of the notice on the person requesting the hearing.

At the hearing, the applicant or registrant may submit further evidence in support of the application for initial registration or to continue to hold a registration certificate as the case may be.

The Chief of Police shall issue a written finding stating the reasons for denial or revocation thereof and shall serve a copy of said findings upon the applicant or registrant and all parties appearing or represented at the hearing.

(d) If the applicant or registrant does not request a hearing or submit further evidence within ten days after receiving notification of the proposed denial or revocation, it shall be deemed that the applicant or registrant has conceded the validity of the reason or reasons stated in the notice and the denial or revocation shall become final.

(e) Within three days after notification of a decision unfavorable to the applicant or registrant and all time for appeal in accordance with paragraph 193-40(a) through (d) having expired, the applicant or registrant shall:

(1) Peaceably surrender to the Albany Police Department the firearm for which the applicant was denied or the registration certificate was revoked; or

(2) Remove such firearm from the City of Albany; or

(3) Otherwise lawfully dispose of his interest in such firearm.

(f) The applicant or registrant shall submit to the Chief of Police evidence of the disposition of nonregisterable firearms in accordance with paragraph 193-40(e)(2) and (3). Such evidence shall be submitted on forms and in the manner prescribed by the Chief of Police.

193-39 Additional duties of registrant.

Each person holding a registration certificate shall:

(a) Immediately notify the Albany Police Department on a form prescribed by the Chief of Police of:

(1) The loss, theft or destruction of the registration certificate or of a registered firearm immediately upon discovery of such loss, theft, or destruction;

(2) A change in any of the information appearing on the registration certificate;

(3) The sale, transfer or other disposition of the firearm not less than 48 hours prior to delivery.

(b) Immediately return to the Chief of Police his copy of the registration certificate for any firearm that is lost, stolen, destroyed or otherwise disposed of.

(c) Except those persons licensed to possess a concealed weapon under New York State Penal Law, each registrant shall keep any firearm in his possession unloaded and

disassembled or bound by a trigger lock or similar device, unless such firearm is in his possession at his place of residence or business or while being used for lawful recreational purposes within the City of Albany; provided, this paragraph shall not apply to law enforcement personnel as defined in paragraph 193-28(k) and provided further this paragraph shall not apply to security personnel as defined in paragraph 193-28(n), while in the course of their employment.

193-40 Exhibition of registration.

Any person carrying or having in his possession or under his custody or control any firearm, shall have on his person or within his immediate custody a valid registration certificate for such firearm issued hereunder, which shall be exhibited for inspection to any peace officer upon demand. Failure of any such person to so exhibit his registration certificate shall be presumptive evidence that he is not authorized to possess such firearm.

Failure of any person to exhibit a registration certificate for any firearm in his possession, custody or control shall also be cause for the confiscation of such firearms and revocation of any registration certificates issued therefore under this chapter.

193-41 Possession of ammunition.

No person shall possess ammunition in the City of Albany unless:

- (a) He is a person exempted pursuant to Section 193-31 of this chapter; or
- (b) He is the holder of a valid registration certificate for a firearm of the same gauge or caliber as the ammunition possessed, and has the registration certificate in his possession while in possession of the ammunition; or
- (c) He is a licensed weapons dealer pursuant to this Chapter.

193-42 Possession of laser sight accessories.

No person shall sell, offer, or display for sale, give, lend, transfer ownership of, acquire or possess any laser sight accessory in the City of Albany provided, that this section shall not apply to any members of the armed forces of the United States, or the organized militia of this or any other state, and peace officers as defined in this Code to the extent that any such person is otherwise authorized to acquire or possess a laser sight accessory and is acting within the scope of his or her duties.

193-43 Permissible sales and transfers of firearms and ammunition.

- (a) No firearm may be sold or otherwise transferred within the City of Albany except through a licensed weapons dealer as defined in Chapter 193 of this Code.

(b) No ammunition may be sold or otherwise transferred within the City of Albany except through a licensed weapons dealer as defined in Chapter 193 or as otherwise allowed by the Code of the City of Albany.

(c) No firearm or ammunition shall be security for, or be taken or received by way of any mortgage, deposit, pledge or pawn.

(d) No person may loan, borrow, give or rent to or from another person, any firearm or ammunition except in accordance with this chapter.

(e) A peace officer may additionally sell or transfer any lawfully held firearm or ammunition to another peace officer in accordance with the other provisions of this chapter.

(f) Except as allowed by subsection (e) of this section, no person may sell, offer for sale, barter or transfer within the city any ammunition listed in Section 193-7 of this Code.

193-44 Assault weapons or ammunition - Sale prohibited - Exceptions.

(a) No person shall sell, offer or display for sale, give, lend, transfer ownership of, acquire or possess any assault weapon or assault ammunition, as those terms are defined in this Chapter. This section shall not apply to any officer, agent, or employee of this or any other municipality or state or of the United States, members of the armed forces of the United States, or the organized militia of this or any other state, and peace officers as defined in this Code to the extent that any such person is otherwise authorized to acquire or possess an assault weapon or assault ammunition and is acting within the scope of his or her duties. In addition, this section shall not apply to the acquisition or possession of assault ammunition by persons employed to provide security for armored carriers or mobile check cashing services while in the course of such duties, while commuting directly to or from the person's place of employment, and while at the person's home.

(b) Any assault weapon or assault ammunition possessed, sold or transferred in violation of subsection (a) is hereby declared to be contraband and shall be seized and disposed of in accordance with the provisions of Section 193-51.

(c) Any person found in violation of this section shall be sentenced to not more than six months imprisonment or fined not less than \$500.00 and not more than \$1,000.00 or both.

(d) Any person who, prior to the effective date of the ordinance codified in this section, was legally in possession of an assault weapon or assault ammunition prohibited by this section shall have 14 days from the effective date of the ordinance codified in this section to do any of the following without being subject to prosecution hereunder:

- (1) To remove the assault weapon or ammunition from within the limits of the City of Albany; or
- (2) To modify the assault weapon either to render it permanently inoperable or to permanently make it a device no longer defined as an assault weapon; or
- (3) To surrender the assault weapon or ammunition to the Chief of Police or his designee for disposal in accordance with Section 193-51.

193-45 Fragmenting bullets and metal piercing bullets - Sale prohibited - Exceptions.

- (a) No person shall manufacture, sell, offer or display for sale, give, lend, transfer ownership of, acquire or possess any fragmenting bullets, metal piercing bullets, or disc projectile ammunition. This section shall not apply to any officer, agent, or employee of this or any other municipality or state or of the United States, members of the armed forces of the United States, or the organized militia of this or any other state, and peace officers as defined in this Code to the extent that any such person is otherwise authorized to acquire or possess fragmenting bullets, metal piercing bullets, or disc projectile ammunition and is acting within the scope of his or her duties.
- (b) Any fragmenting bullets, metal piercing bullets, or disc projectile ammunition manufactured, possessed, sold or transferred in violation of subsection (a) are hereby declared to be contraband and shall be seized and disposed of in accordance with the provisions of Section 193-51.
- (c) Any person found in violation of this section shall be sentenced to not more than six months imprisonment or fined \$500.00, or both.

193-46 False information – Forgery - Alteration.

- (a) It shall be unlawful for any person purchasing any firearm or ammunition, or applying for any registration certificate under this chapter, or, in giving any information pursuant to the requirements of this chapter, to knowingly give false information or offer false evidence of identity.
- (b) It shall be unlawful for anyone to forge or alter any application or registration certificate submitted, retained or issued under this chapter.

193-47 Voluntary surrender—Immunity.

- (a) Within 90 days from the effective date of this ordinance, a person within the City of Albany may voluntarily and peaceably deliver and abandon to the Chief of Police any firearm or ammunition prior to any arrest and prosecution of such person on a charge of violating any provisions of this chapter with respect to the firearm or ammunition voluntarily delivered.

(b) Delivery under this section may be made at any police district, area or central headquarters or by summoning a police officer to the person's residence or place of business. Any firearm or ammunition to be delivered and abandoned to the Chief of Police under this section shall be unloaded and securely wrapped in a package carried in open view.

(c) The voluntary delivery or abandonment of any firearm or ammunition after an arrest or charge for violation of any provision of this chapter shall not moot or in any manner invalidate said arrest or charge.

(d) This section does not confirm any relief from prosecutions from any other State laws, rules or regulations.

193-48 Voluntary surrender of laser sight accessory - Immunity.

(a) Within 14 days of the effective date of this ordinance, a person within the City of Albany may voluntarily and peaceably deliver and abandon to the Chief of Police any laser sight accessory prior to any arrest and prosecution of such person on a charge of violating any provision of this chapter with respect to the laser sight accessory voluntarily delivered.

(b) Delivery under this section may be made at any police district, area or central headquarters or by summoning a police officer to the person's residence or place of business.

(c) The voluntary delivery or abandonment of any laser sight accessory after an arrest or charge for violation of any provision of this chapter shall not moot or in any manner invalidate said arrest or charge.

193-49 Renewal of registration.

(a) Every registrant must renew his registration certificate annually. Such registrants shall make applications for renewal 60 days prior to the expiration of the current registration certificate.

(b) The application for renewal shall include the payment of a renewal fee as follows:

- 1 firearm ... \$10.00
- 2-10 firearms ... \$15.00
- More than ten firearms ... \$20.00

(c) Failure to comply with the requirement for renewal of registration of a firearm shall cause that firearm to become unregistrable.

(d) All terms, conditions and requirements of this chapter for registration of firearms shall be applicable to renewal or registration of such firearms.

(e) The renewal fee shall not be applicable to duty-related handguns of peace officers domiciled in the City of Albany.

193-50 Notice.

For the purposes of this chapter, service of any notice, finding or decision upon an applicant or registrant shall be completed by any of the following methods:

- (1) Personal delivery of a copy of such notice, finding or decision to the applicant or registrant; or
- (2) By leaving a copy of such notice, finding or decision at the address identified on the application for registration or renewal; or
- (3) By mailing a copy of the notice, finding or decision by certified mail with return receipt to the address identified on the application for registration or renewal; in which case service shall be complete as of the date the return receipt was signed.

193-51 Destruction of weapons confiscated.

Whenever any firearm or ammunition is surrendered or confiscated pursuant to the terms of this chapter, the Chief of Police shall ascertain whether such firearm or ammunition is needed as evidence in any matter. If such firearm or ammunition is not required for evidence it shall be destroyed at the direction of the Chief of Police. A record of the date and method of destruction and an inventory of the firearm or ammunition so destroyed shall be maintained.

193-52 Acquisition or possession prohibited by law.

Nothing in this chapter shall make lawful the acquisition or possession of firearms or firearm ammunition which is otherwise prohibited by law.

193-53 Firearm used illegally - Penalty.

The owner of an unregistered firearm that is used in any criminal act shall be subject to a fine of \$500.00 for each such use, regardless of whether the owner participated in, aided or abetted the criminal act. A fine under this section shall be in addition to any other penalty imposed on the criminal act or use of the firearm.

193-54 Violation - Penalty.

Any person who violates any provision of Sections 193-29 or 193-39 through 193-44, where no other penalty is specifically provided, shall upon conviction for the first time, be fined not less than \$300.00, nor more than \$500.00; or be incarcerated for not less than ten days nor more than 90 days or both. Any subsequent conviction for a violation of this

chapter shall be punishable by a fine of \$500.00 and by incarceration for a term of not less than 90 days, nor more than six months.

193-55 Authority of the Chief of Police.

The Chief of Police shall have the authority to promulgate rules and regulations for the implementation of this chapter and to prescribe all forms and the information required thereon.

ARTICLE V. DISCHARGE, USE OR SALE OF WEAPONS

193-56 Discharging firearms.

No person shall fire or discharge any rifle, shotgun, gun, pistol, or other firearm within the City, except upon premises used by a duly licensed shooting gallery, gun club, or rifle club.

No cannon or piece of artillery shall be discharged or fired off in any public way or other public place within the city, except upon the express permission of the city council.

Any person violating any of the provisions of this section shall be fined not less than \$250.00 nor more than \$500.00 for each offense.

The provisions of this section shall not apply to sheriffs, constables, members of the police force, or other peace officers engaged in the discharge of their official duties, or to any person summoned by any of such officers to assist in making arrests or preserving the peace while such person so summoned is engaged in assisting such officer.

193-57 Carrying dangerous weapons.

(a) No person shall sell, offer for sale, keep, possess, loan or give to any person any electronic dart gun, electronic stun gun, gravity knife, switchblade knife, pilum ballistic knife, metal knuckle knife, cane sword, billy, blackjack, bludgeon, metal knuckles, chuka stick, sand bag, sandclub, wrist-brace type slingshot or slungshot, shirken or "Kung Fu star. No person shall sell, offer for sale, loan or give to any person under 18 years of age any type or kind of knife, any blade of which is two inches in length or longer.

(b) No person shall carry or possess with intent to use same unlawfully against another any dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, or any other dangerous or deadly instrument or weapon.

(c) No person shall sell, manufacture, purchase, possess or carry any weapon from which eight or more shots or bullets may be discharged by a single function of the firing device.

(d) No person shall carry concealed on or about his person any dangerous weapon defined by this chapter. This provision shall not apply, however, to the following officers while engaged in the discharge of their official duties: sheriffs, coroners, constables, policemen or other duly constituted police officers and wardens, Chief of Polices and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime; nor to the following employees or agents while engaged in the discharge of the duties of their employment: conductors, baggage men, messengers, drivers, watchmen, special agents and policemen employed by railroads or express companies; nor to persons lawfully summoned by an officer to assist in making arrests or preserving the peace, while so engaged in assisting such officer.

(e) Any person violating the provisions of this section shall be fined \$200.00 for each offense, or shall be punished by imprisonment for a period of six months, or by both such fine and imprisonment.

(f) In addition to all other penalties, weapons used in violation of this section shall be forfeited to, and confiscated by, the Chief of Police.

193-58 Sale, display and use of utility knives.

(a) As used in this section, a “utility knife” is a knife consisting of a grip and single-edged sharp blade of the type typically used to cut such resistant surfaces as rugs, cardboard boxes, linoleum flooring and the like.

(b) No person shall display or offer for sale any utility knife except by placing the knife either:

(1) in an area immediately accessible only to an employee of the establishment, and beyond the reach of any customer less than seven feet tall; or

(2) in a locked display cabinet, which can only be opened by an employee of the establishment.

(c) No person under the age of 18 shall carry a utility knife on his person, or in the passenger compartment of a motor vehicle. This prohibition shall not apply to a minor using a utility knife for a lawful purpose in:

(1) his residence, under the immediate supervision of his parent or legal guardian; or

(2) a classroom, at the direction and under the immediate supervision of his teacher; or

(3) his place of lawful employment, at the direction and under the immediate supervision

of his adult employer or an adult supervisor. For purpose of clause (3) of this subsection, “place of employment” includes an employer’s motor vehicle used to transport the

employer's tools and equipment, as well as a site where the employer is performing any lawful work.

(d) No person shall sell, offer to sell, give, deliver or offer a utility knife to a person under the age of 18. The prohibition on giving, offering or delivery of a utility knife shall not apply to:

(1) a parent or legal guardian who gives a utility knife to his minor or ward in the family residence for a lawful use, to be performed within the residence at the direction and under the immediate supervision of parent or legal guardian; or

(2) a teacher who gives a utility knife to a minor student, or who allows or directs a minor student to take possession of a utility knife, in a classroom for a lawful use, to be performed in the classroom at the direction and under the immediate supervision of the teacher; or

(3) an adult employer, who gives a utility knife to a minor employee, or who allows or directs a minor employee to take possession of a utility knife, in the place of lawful employment, at the direction and under the immediate supervision of the adult employer or an adult supervisor. For purposes of clause (3) of this subsection, "place of employment" includes an employer's motor vehicle used to transport the employer's tools and equipment, as well as a site where the employer is performing any lawful work.

(e) Any person who violates any provision of this section shall be subject to a fine of not less than \$500.00 and not more than \$1,000.00.

193-59 Disguised firearms prohibited.

(a) No person shall purchase, acquire, sell, offer or expose for sale, or possess any firearm that is designed, constructed, modified or disguised to resemble any other object.

(b) Any person who violates subsection (a) of this section shall be guilty of a misdemeanor, and shall be subject to incarceration for not less than 30 days and not more than 180 days for each offense. Each day of a continuing violation, and each purchase, acquisition, sale, offering or exposing for sale, or possession of a different firearm described in subsection (a) shall constitute a separate and distinct offense.

(c) Nothing in this section suspends, repeals or alters any other provision of this Code which limits, restricts or prohibits the purchase, acquisition, sale, offering or exposure for sale, or possession of a firearm.

193-60 Sale prohibited - Confiscation.

No person shall sell, offer for sale, manufacture, purchase, possess or carry within the city any weapon or instrument associated with martial arts combat, including but not limited to throwing darts, bolts, Chinese stars, chuka sticks, and wristbands or belts with

sharpened or abrasive studs. Any person found violating the provisions of this section shall be fined \$200.00 for each offense, or shall be punished by imprisonment for a period of six months, or shall receive both such fine and imprisonment.

In addition to all other penalties, weapons and instruments used in violation of this section shall be forfeited to and confiscated by the Chief of Police.

193-61 Violation - Penalty.

Any person violating any of the provisions of this chapter, where no other penalty is specifically provided, shall be fined not more than \$200.00 for each offense.

Section 2. This ordinance shall take effect sixty (60) days after passage.

**APPROVED AS TO FORM
April 9, 2010**

Corporation Counsel

To: John Marsolais, City Clerk
From: Anton Konev, Council Member
Re: Request for Common Council Legislation
Supporting Memorandum
Date: April 18, 2010

ORDINANCE NUMBER 59.42.10

TITLE

AN ORDINANCE REPEALING CHAPTER 193 (FIREARMS AND AMMUNITION) OF THE CODE OF THE CITY OF ALBANY, IN ITS ENTIRETY, AND ADDING A NEW CHAPTER 193 (FIREARMS, AMMUNITION AND WEAPONS).

GENERAL PURPOSE OF LEGISLATION

The new legislation establishes stricter criteria and sale restrictions for the legal sale and possession of firearms, ammunition and weapons. Enables the Chief of Police to track the sales and possession of firearms in the City. It will require every person involved in the sale of a weapon to report the sale to the Chief of Police within 24 hours of that sale. Anyone who currently and legally possesses a firearm in the City will have to report all relative information regarding the weapon to the Chief. Air gun and rifle sales will also be reported to the Chief. Under the new law, handguns sold in the City will be required to have childproof or safety devises. Replica guns will not be sold unless they have a blaze orange plug that is easily discernable, identifying it as a replica and therefore incapable of being discharged. Creates civil penalties for those who disobey the ordinance in addition to criminal penalties that will apply to violations of New York State Penal Law.

NECESSITY FOR LEGISLATION AND ANY CHANGE TO EXISTING LAW

This legislation adds to current State law that gives little control to the City or the Police Department. Currently only the ATF is made aware of gun sales within the City. This will allow the Police Department the opportunity to track those sales and gain information about firearms that are currently possessed in Albany. This will aid the department in the investigation of crimes committed with handguns.

EXPLANATION OF DEADLINE OR REQUESTED TIME FRAME FOR PASSAGE

N/A

SPECIFICS OF BIDDING OR OTHER PROCUREMENT PROCESS (if applicable)

N/A

SPECIFICS OF REAL PROPERTY SALE OR ACQUISITION (if applicable)

N/A

FISCAL IMPACT(S)

N/A