

New York Consolidated Law

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**General Business Law
Article 26 Miscellaneous**

§ 396-ee. Sale of certain weapons; locking devices therefor

(1) No person, firm or corporation engaged in the retail business of selling rifles, shotguns or firearms, as such terms are defined in § 265.00 of the penal law, shall sell, deliver or transfer any such rifle, shotgun or firearm to another person unless the transferee is provided at the time of sale, delivery or transfer with a gun locking device and a label containing the quoted language specified in subdivision 2 of this section is either affixed to such rifle, shotgun or firearm or placed in the container in which such rifle, shotgun or firearm is sold, delivered or transferred. For the purposes of this section, the term "gun locking device" shall mean an integrated design feature or an attachable accessory that is resistant to tampering and is effective in preventing the discharge of such rifle, shotgun or firearm by a person who does not have access to the key, combination or other mechanism used to disengage the device. The division of state police shall develop and promulgate rules and regulations setting forth the specific devices or the minimum standards and criteria therefor which constitute an effective gun locking device.

(2) Every person, firm or corporation engaged in the retail business of selling rifles, shotguns or firearms, as such terms are defined in § 265.00 of the penal law, shall, in the place where such rifles, shotguns or firearms are displayed or transferred to the purchaser, post a notice conspicuously stating in bold print that: "The use of a locking device or safety lock is only one aspect of responsible firearm storage. For increased safety firearms should be stored unloaded and locked in a location that is both separate from their ammunition and inaccessible to children and any other unauthorized person."

(3) Any person, firm or corporation who fails to comply with the provisions of this section shall be guilty of a violation punishable as provided in the penal law. Any person, firm, or corporation who fails to comply with the provisions of this section after having been previously convicted of a violation of this section shall be guilty of a class A misdemeanor, punishable as provided in the penal law.

Article 39-B Imitation Weapons

§ 871. Definitions

1. "**Firearm**" as used in this section shall have the same meaning as that term is defined by subdivision 3 of § 265.00 of the penal law and shall include machine guns, rifles and shotguns as those terms are defined by subdivisions one, 11 and 12, respectively, of § 265.00 of the penal law.

2. "**Imitation weapon**" means any device or object made of plastic, wood, metal or any other material which substantially duplicates or can reasonably be perceived to be an actual firearm, air rifle, pellet gun, or "B-B" gun; unless such imitation weapon (a) is colored other than black, blue, silver or aluminum, (b) is marked with a non-removable orange stripe which is at least 1 inch in width and runs the entire length of the barrel on each side and the front end of the barrel, and (c) has a barrel at least 1 inch in diameter that is closed for a distance of not less than 1/2 inch from the front-end of its barrel with the same material of which the imitation weapon is made. "Imitation weapon" does not include any nonfiring replica of an antique firearm, the original of which was designed, manufactured and produced prior to 1898.

§ 872. Prohibitions. No person, firm, corporation or agent or employee thereof shall import, manufacture, sell, hold for sale or distribute within the state any imitation weapon unless such device is imported, manufactured, sold, held for sale and distributed:

1. solely for subsequent transportation in interstate commerce; or
2. solely for lawful use in a theatrical production, including a motion picture, television or stage production.

§ 873. Enforcement. Whenever the attorney general shall believe from evidence satisfactory to him that any person, firm, corporation or association or agent or employee thereof has violated any provision of this article, he may bring an action or special proceeding in the supreme court for a judgment enjoining the continuance of such violation and for a civil penalty of not more than \$1,000 for each violation. If it shall appear to the satisfaction of the court or justice that the defendant has violated any provision of this article, no proof shall be required that any person has been injured thereby nor that the defendant knowingly or intentionally violated such provision. In such action preliminary relief may be granted under article 63 of the civil practice law and rules. In connection with any such proposed application, the attorney general is authorized to take proof, issue subpoenas and administer oaths in the manner provided in the civil practice law and rules.

Article 39-DD Sale of Firearms, Rifles or Shotguns at Gun Shows

§ 895. Definitions. For the purposes of this article:

1. "**Gun show**" means an event sponsored, whether for profit or not, by an individual, national, state or local organization, association or other entity devoted to the collection, competitive use, sporting use, or any other legal use of firearms, rifles or shotguns, or an event at which (a) 20% or more of the total number of exhibitors are firearm exhibitors or (b) 10 or more firearm exhibitors are participating or (c) a total of 25 or more pistols or revolvers are offered for sale or transfer or (d) a total of 50 or more firearms, rifles or shotguns are offered for sale or transfer. The term gun show shall include any building, structure or facility where firearms, rifles or shotguns are offered for sale or transfer and any grounds used in connection with the event.
2. "**Firearm exhibitor**" means any person, firm, partnership, corporation or company that exhibits, sells, offers for sale, transfers, or exchanges firearms, rifles or shotguns at a gun show.
3. "**Gun show operator**" means any person, firm, partnership, corporation or company that organizes, produces, sponsors or operates a gun show.
4. "**Firearm**" has the same meaning as that term is defined in 18 U.S.C. 921(a)(3), but shall not include an "antique firearm" as that term is defined in 18 U.S.C. 921(a)(16).
5. "**Rifle**" has the same meaning as that term is defined in 18 U.S.C. 921(a)(7).
6. "**Shotgun**" has the same meaning as that term is defined in 18 U.S.C. 921(a)(5).

§ 896. Operation of a gun show

1. A gun show operator shall:

(a) at all times during such show conspicuously post and maintain signs stating "A National Instant Criminal Background Check must be completed prior to all firearm sales or transfers, including sales or transfers of rifles or shotguns". Signs must be posted at all entrances to the gun show, at all places where admission tickets to the gun show are sold and not less than 4 additional locations within the grounds of the gun show;

(b) notify all firearm exhibitors in writing that a national instant criminal background check must be completed prior to all firearm sales or transfers, including sales or transfers of rifles or shotguns; and

(c) provide access at the gun show to a firearm dealer licensed under federal law who is authorized to perform a national instant criminal background check where the seller or transferor of a firearm, rifle or shotgun is not authorized to conduct such a check by (i) requiring firearm exhibitors who are firearm dealers licensed under federal law and who are authorized to conduct a national instant criminal background check to provide such a check at cost or (ii) designating a specific location at the gun show where a firearm dealer licensed under federal law who is authorized to conduct a national instant criminal background check will be present to perform such a check at cost. Any firearm dealer licensed under federal law who performs a national instant criminal background check pursuant to this paragraph shall provide the seller or transferor of the firearm, rifle or shotgun with a copy of the United States Department of Treasury, Bureau of Alcohol, Tobacco and Firearms Form ATF F 4473 and such dealer shall maintain such form and make such form available for inspection by law enforcement agencies for a period of 10 years thereafter.

2. Whenever the attorney general shall believe from evidence satisfactory to him or her that a gun show operator has violated any of the provisions of this section, the attorney general may bring an action or special proceeding in the supreme court for a judgment enjoining the continuance of such violation and for a civil penalty in an amount not to exceed \$10,000. If it shall appear to the satisfaction of the court or justice that the defendant has violated any provisions of this section, no proof shall be required that any person has been injured thereby nor that the defendant intentionally violated such provision. In such action preliminary relief may be granted under article 63 of the civil practice law and rules. In connection with any such proposed application, the attorney general is authorized to take proof, issue subpoenas and administer oaths in the manner provided in the civil practice law and rules.

§ 897. Sale of a firearm, rifle or shotgun at a gun show

1. A national instant criminal background check shall be conducted and no person shall sell or transfer a firearm, rifle or shotgun at a gun show, except in accordance with the provisions of 18 U.S.C. 922(t).

2. No person shall offer or agree to sell or transfer a firearm, rifle or shotgun to another person at a gun show and transfer or deliver such firearm, rifle or shotgun to such person or person acting on his or her behalf thereafter at a location other than the gun show for the purpose of evading or avoiding compliance with 18 U.S.C. 922(t).

3. Any person who knowingly violates any of the provisions of this section shall be guilty of a class A misdemeanor punishable as provided for in the penal law.

Article 39-DDD Private Sale or Disposal of Firearms, Rifles and Shotguns

§ 898. Private sale or disposal of firearms, rifles and shotguns

1. In addition to any other requirements pursuant to state and federal law, all sales, exchanges or disposals of firearms, rifles or shotguns shall be conducted in accordance with this section unless such sale, exchange or disposal is conducted by a licensed importer, licensed manufacturer or licensed dealer, as those terms are defined in 18 USC § 922, when such sale, exchange or disposal is conducted pursuant to that person's federal firearms license or such sale, exchange or disposal is between members of an immediate family. For purposes of this section, "immediate family" shall mean spouses, domestic partners, children and step-children.

2. Before any sale, exchange or disposal pursuant to this article, a national instant criminal background check must be completed by a dealer who consents to conduct such check, and upon completion of such background check, shall complete a document, the form of which shall be approved by the superintendent of state police, that identifies and confirms that such check was performed.
3. All dealers shall maintain a record of such transactions conducted pursuant to this section and such record shall be maintained on the premises mentioned and described in the license and shall be open at all reasonable hours for inspection by any peace officer, acting pursuant to his or her special duties, or police officer.
4. A dealer may require that any sale or transfer conducted pursuant to this section be subject to a fee of not to exceed \$10 per transaction.
5. Any record produced pursuant to this section and any transmission thereof to any government agency shall not be considered a public record for purposes of article 6 of the public officers law.
6. Any person who knowingly violates the provisions of this article shall be guilty of a class A misdemeanor punishable as provided for in the penal law.

Penal Law
Part 3 Specific Offenses
Title P Offenses against Public Safety
Article 265 Firearms and Other Dangerous Weapons

§ 265.00. Definitions. As used in this article and in article 400, the following terms shall mean and include:

1. "**Machine-gun**" means a weapon of any description, irrespective of size, by whatever name known, loaded or unloaded, from which a number of shots or bullets may be rapidly or automatically discharged from a magazine with 1 continuous pull of the trigger and includes a sub-machine gun.
2. "**Firearm silencer**" means any instrument, attachment, weapon or appliance for causing the firing of any gun, revolver, pistol or other firearms to be silent, or intended to lessen or muffle the noise of the firing of any gun, revolver, pistol or other firearms.
3. "**Firearm**" means **(a)** any pistol or revolver; or **(b)** a shotgun having 1 or more barrels less than 18 inches in length; or **(c)** a rifle having 1 or more barrels less than 16 inches in length; or **(d)** any weapon made from a shotgun or rifle whether by alteration, modification, or otherwise if such weapon as altered, modified, or otherwise has an overall length of less than 26 inches; or **(e)** an assault weapon. For the purpose of this subdivision the length of the barrel on a shotgun or rifle shall be determined by measuring the distance between the muzzle and the face of the bolt, breech, or breechlock when closed and when the shotgun or rifle is cocked; the overall length of a weapon made from a shotgun or rifle is the distance between the extreme ends of the weapon measured along a line parallel to the center line of the bore. Firearm does not include an antique firearm.
6. "**Dispose of**" means to dispose of, give, give away, lease-loan, keep for sale, offer, offer for sale, sell, transfer and otherwise dispose of.
7. "**Deface**" means to remove, deface, cover, alter or destroy the manufacturer's serial number or any other distinguishing number or identification mark.
8. "**Gunsmith**" means any person, firm, partnership, corporation or company who engages in the business of repairing, altering, assembling, manufacturing, cleaning, polishing, engraving or trueing, or who performs any mechanical operation on, any firearm, large capacity ammunition feeding device or machine-gun.
9. "**Dealer in firearms**" means any person, firm, partnership, corporation or company who engages in the business of purchasing, selling, keeping for sale, loaning, leasing, or in any manner disposing of, any assault weapon, large capacity ammunition feeding device, pistol or revolver.
10. "**Licensing officer**" means in the city of New York the police commissioner of that city; in the county of Nassau the commissioner of police of that county; in the county of Suffolk the sheriff of that county except in the towns of Babylon, Brookhaven, Huntington, Islip and Smithtown, the commissioner of police of that county; for the purposes of § 400.01 of this chapter the superintendent of state police; and elsewhere in the state a judge or justice of a court of record having his office in the county of issuance.
11. "**Rifle**" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.
12. "**Shotgun**" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.
14. "**Antique firearm**" means: Any unloaded muzzle loading pistol or revolver with a matchlock, flintlock, percussion cap, or similar type of ignition system, or a pistol or revolver which uses fixed cartridges which are no longer available in the ordinary channels of commercial trade.
15. "**Loaded firearm**" means any firearm loaded with ammunition or any firearm which is possessed by one who, at the same time, possesses a quantity of ammunition which may be used to discharge such firearm.
16. "**Certified not suitable to possess a self-defense spray device, a rifle or shotgun**" means that the director or physician in charge of any hospital or institution for mental illness, public or private, has certified to the superintendent of state police or to any organized police department of a county, city, town or village of this state, that a person who has

been judicially adjudicated incompetent, or who has been confined to such institution for mental illness pursuant to judicial authority, is not suitable to possess a self-defense spray device, as defined in § 265.20 of this article, or a rifle or shotgun.

17. "Serious offense" means

(a) any of the following offenses defined in the former penal law as in force and effect immediately prior to September 1, 1967: illegally using, carrying or possessing a pistol or other dangerous weapon; making or possessing burglar's instruments; buying or receiving stolen property; unlawful entry of a building; aiding escape from prison; that kind of disorderly conduct defined in subdivisions 6 and 8 of § 722 of such former penal law; violations of §§ 483, 483-b, 484-h and article 106 of such former penal law; that kind of criminal sexual act or rape which was designated as a misdemeanor; violation of § 1747-d and 1747-e of such former penal law; any violation of any provision of article 33 of the public health law relating to narcotic drugs which was defined as a misdemeanor by § 1751-a of such former penal law, and any violation of any provision of article 33-A of the public health law relating to depressant and stimulant drugs which was defined as a misdemeanor by § 1747-b of such former penal law.

(b) [As amended, L 2010, ch 232, § 2] any of the following offenses defined in the penal law: illegally using, carrying or possessing a pistol or other dangerous weapon; possession of burglar's tools; criminal possession of stolen property in the third degree; escape in the third degree; jostling; fraudulent accosting; endangering the welfare of a child; the offenses defined in article 235; issuing abortifacient articles; permitting prostitution; promoting prostitution in the third degree; stalking in the fourth degree; stalking in the third degree; the offenses defined in article 130; the offenses defined in article 220.

18. "Armor piercing ammunition" means any ammunition capable of being used in pistols or revolvers containing a projectile or projectile core, or a projectile or projectile core for use in such ammunition, that is constructed entirely (excluding the presence of traces of other substances) from one or a combination of any of the following: tungsten alloys, steel, iron, brass, bronze, beryllium copper, or uranium.

19. "Duly authorized instructor" means (a) a duly commissioned officer of the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York; or (b) a duly qualified adult citizen of the United States who has been granted a certificate as an instructor in small arms practice issued by the United States army, navy or marine corps, or by the adjutant general of this state, or by the national rifle association of America, a not-for-profit corporation duly organized under the laws of this state; or (c) by a person duly qualified and designated by the department of environmental conservation under paragraph d of subdivision 6 of § 11-0713 of the environmental conservation law as its agent in the giving of instruction and the making of certifications of qualification in responsible hunting practices.

20. "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.

21. "Semiautomatic" means any repeating rifle, shotgun or pistol, regardless of barrel or overall length, which utilizes a portion of the energy of a firing cartridge or shell to extract the fired cartridge case or spent shell and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge or shell.

22. "Assault weapon" means

(a) a semiautomatic rifle that has an ability to accept a detachable magazine and has at least one of the following characteristics:

(i) a folding or telescoping stock;

(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;

(iii) a thumbhole stock;

(iv) a second handgrip or a protruding grip that can be held by the non-trigger hand;

(v) a bayonet mount;

(vi) a flash suppressor, muzzle break, muzzle compensator, or threaded barrel designed to accommodate a flash suppressor, muzzle break, or muzzle compensator;

(vii) a grenade launcher; or

(b) a semiautomatic shotgun that has at least one of the following characteristics:

(i) a folding or telescoping stock;

(ii) a thumbhole stock;

(iii) a second handgrip or a protruding grip that can be held by the non-trigger hand;

(iv) a fixed magazine capacity in excess of 7 rounds;

(v) an ability to accept a detachable magazine; or

(c) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least one of the following characteristics:

(i) a folding or telescoping stock;

(ii) a thumbhole stock;

(iii) a second handgrip or a protruding grip that can be held by the non-trigger hand;

(iv) capacity to accept an ammunition magazine that attaches to the pistol outside of the pistol grip;

(v) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer;

(vi) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the non-trigger hand without being burned;

(vii) a manufactured weight of 50 ounces or more when the pistol is unloaded; or

(viii) a semiautomatic version of an automatic rifle, shotgun or firearm;

(d) a revolving cylinder shotgun;

(e) a semiautomatic rifle, a semiautomatic shotgun or a semiautomatic pistol or weapon defined in subparagraph (v) of paragraph (e) of subdivision 22 of § 265.00 of this chapter as added by chapter 189 of the laws of 2000 and otherwise lawfully possessed pursuant to such chapter of the laws of 2000 prior to September 14th, 1994;

(f) a semiautomatic rifle, a semiautomatic shotgun or a semiautomatic pistol or weapon defined in paragraph (a), (b) or (c) of this subdivision, possessed prior to the date of enactment of the chapter of the laws of 2013 which added this paragraph;

(g) provided, however, that such term does not include:

(i) any rifle, shotgun or pistol that (A) is manually operated by bolt, pump, lever or slide action; (B) has been rendered permanently inoperable; or (C) is an antique firearm as defined in 18 U.S.C. 921(a)(16);

(ii) a semiautomatic rifle that cannot accept a detachable magazine that holds more than 5 rounds of ammunition;

(iii) a semiautomatic shotgun that cannot hold more than 5 rounds of ammunition in a fixed or detachable magazine;

or

(iv) a rifle, shotgun or pistol, or a replica or a duplicate thereof, specified in Appendix A to 18 U.S.C. 922 as such weapon was manufactured on October 1st, 1993. The mere fact that a weapon is not listed in Appendix A shall not be construed to mean that such weapon is an assault weapon;

(v) any weapon validly registered pursuant to subdivision 16-a of § 400.00 of this chapter. Such weapons shall be subject to the provisions of paragraph (h) of this subdivision;

(vi) any firearm, rifle, or shotgun that was manufactured at least 50 years prior to the current date, but not including replicas thereof that is validly registered pursuant to subdivision 16-a of § 400.00 of this chapter;

(h) Any weapon defined in paragraph (e) or (f) of this subdivision and any large capacity ammunition feeding device that was legally possessed by an individual prior to the enactment of the chapter of the laws of 2013 which added this paragraph, may only be sold to, exchanged with or disposed of to a purchaser authorized to possess such weapons or to an individual or entity outside of the state provided that any such transfer to an individual or entity outside of the state must be reported to the entity wherein the weapon is registered within 72 hours of such transfer. An individual who transfers any such weapon or large capacity ammunition device to an individual inside New York state or without complying with the provisions of this paragraph shall be guilty of a class A misdemeanor unless such large capacity ammunition feeding device, the possession of which is made illegal by the chapter of the laws of 2013 which added this paragraph, is transferred within 1 year of the effective date of the chapter of the laws of 2013 which added this paragraph.

23. "Large capacity ammunition feeding device" means a magazine, belt, drum, feed strip, or similar device, that (a) has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition, or [pars (b) and (c) are suspended and not effective as stated in Laws 2013, ch 1, § 58, sub b note below] (b) contains more than 7 rounds of ammunition, or (c) is obtained after the effective date of the chapter of the laws of 2013 which amended this subdivision and has a capacity of, or that can be readily restored or converted to accept, more than 7 rounds of ammunition; provided, however, that such term does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition or a feeding device that is a curio or relic. A feeding device that is a curio or relic is defined as a device that (i) was manufactured at least 50 years prior to the current date, (ii) is only capable of being used exclusively in a firearm, rifle, or shotgun that was manufactured at least 50 years prior to the current date, but not including replicas thereof, (iii) is possessed by an individual who is not prohibited by state or federal law from possessing a firearm and (iv) is registered with the division of state police pursuant to subdivision 16-a of § 400.00 of this chapter, except such feeding devices transferred into the state may be registered at any time, provided they are registered within 30 days of their transfer into the state. Notwithstanding paragraph (h) of subdivision 22 of this section, such feeding devices may be transferred provided that such transfer shall be subject to the provisions of § 400.03 of this chapter including the check required to be conducted pursuant to such section.

24. "Seller of ammunition" means any person, firm, partnership, corporation or company who engages in the business of purchasing, selling or keeping ammunition.

25. "Qualified retired New York or federal law enforcement officer" means an individual who is a retired police officer as police officer is defined in subdivision 34 of § 1.20 of the criminal procedure law, a retired peace officer as peace officer is defined in § 2.10 of the criminal procedure law or a retired federal law enforcement officer as federal law enforcement officer is defined in § 2.15 of the criminal procedure law, who: (a) separated from service in good standing from a public agency located in New York state in which such person served as either a police officer, peace officer or federal law enforcement officer; and (b) before such separation, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest, pursuant to their official duties, under the criminal procedure law; and (c) (i) before such separation, served as either a police officer, peace officer or federal law enforcement officer for 5 years or more and at the time of separation, is such an officer; or (ii) separated from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency at or before the time of separation; and (d)(i) has not been found by a qualified medical professional employed by such agency to be unqualified for reasons relating to mental health; or (ii) has not entered into an agreement with such agency from which the individual is separating from service in which that individual acknowledges he or she is not qualified for reasons relating to mental health; and (e) is not otherwise prohibited by New York or federal law from possessing any firearm.

§ 265.01. Criminal possession of a weapon in the fourth degree. A person is guilty of criminal possession of a weapon in the fourth degree when:

- (1) He or she possesses any firearm, ...; or
 - (2) He or she possesses any ...imitation pistol, or any other dangerous or deadly instrument or weapon with intent to use the same unlawfully against another; or
 - (4) He possesses a rifle, shotgun, antique firearm, black powder rifle, black powder shotgun, or any muzzle-loading firearm, and has been convicted of a felony or serious offense; or
 - (5) He possesses any dangerous or deadly weapon and is not a citizen of the United States; or
 - (6) He is a person who has been certified not suitable to possess a rifle or shotgun, as defined in subdivision 16 of § 265.00, and refuses to yield possession of such rifle or shotgun upon the demand of a police officer. Whenever a person is certified not suitable to possess a rifle or shotgun, a member of the police department to which such certification is made, or of the state police, shall forthwith seize any rifle or shotgun possessed by such person. A rifle or shotgun seized as herein provided shall not be destroyed, but shall be delivered to the headquarters of such police department, or state police, and there retained until the aforesaid certificate has been rescinded by the director or physician in charge, or other disposition of such rifle or shotgun has been ordered or authorized by a court of competent jurisdiction.
 - (7) He knowingly possesses a bullet containing an explosive substance designed to detonate upon impact.
 - (8) He possesses any armor piercing ammunition with intent to use the same unlawfully against another.
- Criminal possession of a weapon in the fourth degree is a class A misdemeanor.

§ 265.01-a. Criminal possession of a weapon on school grounds. A person is guilty of criminal possession of a weapon on school grounds when he or she knowingly has in his or her possession a rifle, shotgun, or firearm in or upon a building or grounds, used for educational purposes, of any school, college, or university, except the forestry lands, wherever located, owned and maintained by the State University of New York college of environmental science and forestry, or upon a school bus as defined in § 142 of the vehicle and traffic law, without the written authorization of such educational institution.

Criminal possession of a weapon on school grounds is a class E felony.

§ 265.01-b. Criminal possession of a firearm. A person is guilty of criminal possession of a firearm when he or she: (1) possesses any firearm or; (2) lawfully possesses a firearm prior to the effective date of the chapter of the laws of 2013 which added this section subject to the registration requirements of subdivision 16-a of § 400.00 of this chapter and knowingly fails to register such firearm pursuant to such subdivision.

Criminal possession of a firearm is a class E felony.

§ 265.02. Criminal possession of a weapon in the third degree. A person is guilty of criminal possession of a weapon in the third degree when:

- (1) Such person commits the crime of criminal possession of a weapon in the fourth degree as defined in subdivision 1, 2, 3 or 5 of § 265.01, and has been previously convicted of any crime; or
 - (2) Such person possesses any explosive or incendiary bomb, bombshell, firearm silencer, machine-gun or any other firearm or weapon simulating a machine-gun and which is adaptable for such use; or
 - (3) Such person knowingly possesses a machine-gun, firearm, rifle or shotgun which has been defaced for the purpose of concealment or prevention of the detection of a crime or misrepresenting the identity of such machine-gun, firearm, rifle or shotgun; or
 - (5) (i) Such person possesses 3 or more firearms; or (ii) such person possesses a firearm and has been previously convicted of a felony or a class A misdemeanor defined in this chapter within the 5 years immediately preceding the commission of the offense and such possession did not take place in the person's home or place of business; or
 - (6) Such person knowingly possesses any disguised gun; or
 - (7) Such person possesses an assault weapon; or
 - (8) Such person possesses a large capacity ammunition feeding device. For purposes of this subdivision, a large capacity ammunition feeding device shall not include an ammunition feeding device lawfully possessed by such person before the effective date of the chapter of the laws of 2013 which amended this subdivision, that has a capacity of, or that can be readily restored or converted to accept more than 7 but less than 11 rounds of ammunition, or that was manufactured before September 13, 1994, that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition; or
 - (9) Such person possesses an unloaded firearm and also commits a drug trafficking felony as defined in subdivision 21 of § 10.00 of this chapter as part of the same criminal transaction; or
 - (10) Such person possesses an unloaded firearm and also commits any violent felony offense as defined in subdivision one of § 70.02 of this chapter as part of the same criminal transaction.
- Criminal possession of a weapon in the third degree is a class D felony.

§ 265.03. Criminal possession of a weapon in the second degree. A person is guilty of criminal possession of a weapon in the second degree when:

- (1) with intent to use the same unlawfully against another, such person:
 - (a) possesses a machine-gun; or
 - (b) possesses a loaded firearm; or
 - (c) possesses a disguised gun; or
- (2) such person possesses 5 or more firearms; or

(3) such person possesses any loaded firearm. Such possession shall not, except as provided in subdivision 1 or 7 of § 265.02 of this article, constitute a violation of this subdivision if such possession takes place in such person's home or place of business.

Criminal possession of a weapon in the second degree is a class C felony.

§ 265.04. Criminal possession of a weapon in the first degree. A person is guilty of criminal possession of a weapon in the first degree when such person:

(1) possesses any explosive substance with intent to use the same unlawfully against the person or property of another; or

(2) possesses 10 or more firearms.

Criminal possession of a weapon in the first degree is a class B felony.

§ 265.05. Unlawful possession of weapons by persons under sixteen. It shall be unlawful for any person under the age of 16 to possess any air-gun, spring-gun or other instrument or weapon in which the propelling force is a spring or air, or any gun or any instrument or weapon in or upon which any loaded or blank cartridges may be used, or any loaded or blank cartridges or ammunition therefor, or any dangerous knife; provided that the possession of rifle or shotgun or ammunition therefor by the holder of a hunting license or permit issued pursuant to article 11 of the environmental conservation law and used in accordance with said law shall not be governed by this section.

A person who violates the provisions of this section shall be adjudged a juvenile delinquent.

§ 265.06. Unlawful possession of a weapon upon school grounds. It shall be unlawful for any person age 16 or older to knowingly possess any air-gun, spring-gun or other instrument or weapon in which the propelling force is a spring, air, piston or CO₂ cartridge in or upon a building or grounds, used for educational purposes, of any school, college or university, without the written authorization of such educational institution. Unlawful possession of a weapon upon school grounds is a violation.

§ 265.08. Criminal use of a firearm in the second degree. A person is guilty of criminal use of a firearm in the second degree when he commits any class C violent felony offense as defined in paragraph (b) of subdivision 1 of § 70.02 and he either:

(1) possesses a deadly weapon, if the weapon is a loaded weapon from which a shot, readily capable of producing death or other serious injury may be discharged; or

(2) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm.

Criminal use of a firearm in the second degree is a class C felony.

§ 265.09. Criminal use of a firearm in the first degree

(1) A person is guilty of criminal use of a firearm in the first degree when he commits any class B violent felony offense as defined in paragraph (a) of subdivision one of § 70.02 and he either:

(a) possesses a deadly weapon, if the weapon is a loaded weapon from which a shot, readily capable of producing death or other serious injury may be discharged; or

(b) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm.

Criminal use of a firearm in the first degree is a class B felony.

(2) Sentencing. Notwithstanding any other provision of law to the contrary, when a person is convicted of criminal use of a firearm in the first degree as defined in subdivision 1 of this section, the court shall impose an additional consecutive sentence of 5 years to the sentence imposed on the underlying class B violent felony offense where the person convicted of such crime displays a loaded weapon from which a shot, readily capable of producing death or other serious injury may be discharged, in furtherance of the commission of such crime, provided, however, that such additional sentence shall not be imposed if the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, finds on the record that such additional consecutive sentence would be unduly harsh and that not imposing such sentence would be consistent with the public safety and would not deprecate the seriousness of the crime.

Notwithstanding any other provision of law to the contrary, the aggregate of the 5 year consecutive term imposed pursuant to this subdivision and the minimum term of the indeterminate sentence imposed on the underlying class B violent felony shall constitute the new aggregate minimum term of imprisonment, and a person subject to such term shall be required to serve the entire aggregate minimum term and shall not be eligible for release on parole or conditional release during such term. This subdivision shall not apply where the defendant's criminal liability for displaying a loaded weapon from which a shot, readily capable of producing death or other serious injury may be discharged, in furtherance of the commission of crime is based on the conduct of another pursuant to § 20.00 of this chapter.

§ 265.10. Manufacture, transport, disposition and defacement of weapons and dangerous instruments and appliances

1. Any person who manufactures or causes to be manufactured any machine-gun, assault weapon, large capacity ammunition feeding device or disguised gun is guilty of a class D felony....

2. Any person who transports or ships any machine-gun, firearm silencer, assault weapon or large capacity ammunition feeding device or disguised gun, or who transports or ships as merchandise 5 or more firearms, is guilty of a class D felony. Any person who transports or ships as merchandise any firearm, other than an assault weapon, ... is guilty of a class A misdemeanor.

3. Any person who disposes of any machine-gun, assault weapon, large capacity ammunition feeding device or firearm silencer is guilty of a class D felony. Any person who knowingly buys, receives, disposes of, or conceals a machine-gun, firearm, large capacity ammunition feeding device, rifle or shotgun which has been defaced for the purpose of concealment or prevention of the detection of a crime or misrepresenting the identity of such machine-gun, firearm, large capacity ammunition feeding device, rifle or shotgun is guilty of a class D felony.

4. Any person who disposes of any of the weapons, instruments or appliances specified in subdivision one of § 265.01, except a firearm, is guilty of a class A misdemeanor, and he is guilty of a class D felony if he has previously been convicted of any crime.

5. Any person who disposes of any of the weapons, instruments, appliances or substances specified in § 265.05 to any other person under the age of 16 years is guilty of a class A misdemeanor.

6. Any person who wilfully defaces any machine-gun, large capacity ammunition feeding device or firearm is guilty of a class D felony.

7. Any person, other than a wholesale dealer, or gunsmith or dealer in firearms duly licensed pursuant to § 400.00, lawfully in possession of a firearm, who disposes of the same without first notifying in writing the licensing officer in the city of New York and counties of Nassau and Suffolk and elsewhere in the state the executive department, division of state police, Albany, is guilty of a class A misdemeanor.

§ 265.11. Criminal sale of a firearm in the third degree. A person is guilty of criminal sale of a firearm in the third degree when such person is not authorized pursuant to law to possess a firearm and such person unlawfully either: (1) sells, exchanges, gives or disposes of a firearm or large capacity ammunition feeding device to another person; or (2) possesses a firearm with the intent to sell it.

Criminal sale of a firearm in the third degree is a class D felony.

§ 265.12. Criminal sale of a firearm in the second degree. A person is guilty of criminal sale of a firearm in the second degree when such person:

(1) unlawfully sells, exchanges, gives or disposes of to another 5 or more firearms; or

(2) unlawfully sells, exchanges, gives or disposes of to another person or persons a total of 5 or more firearms in a period of not more than 1 year.

Criminal sale of a firearm in the second degree is a class C felony.

§ 265.13. Criminal sale of a firearm in the first degree. A person is guilty of criminal sale of a firearm in the first degree when such person:

(1) unlawfully sells, exchanges, gives or disposes of to another 10 or more firearms; or

(2) unlawfully sells, exchanges, gives or disposes of to another person or persons a total of 10 or more firearms in a period of not more than 1 year.

Criminal sale of a firearm in the first degree is a class B felony.

§ 265.14. Criminal sale of a firearm with the aid of a minor. A person over the age of 18 years of age is guilty of criminal sale of a weapon with the aid of a minor when a person under 16 years of age knowingly and unlawfully sells, exchanges, gives or disposes of a firearm in violation of this article, and such person over the age of 18 years of age, acting with the mental culpability required for the commission thereof, solicits, requests, commands, importunes or intentionally aids such person under 16 years of age to engage in such conduct.

Criminal sale of a firearm with the aid of a minor is a class C felony.

§ 265.15. Presumptions of possession, unlawful intent and defacement

1. The presence in any room, dwelling, structure or vehicle of any machine-gun is presumptive evidence of its unlawful possession by all persons occupying the place where such machine-gun is found.

2. The presence in any stolen vehicle of any weapon, instrument, appliance or substance specified in §§ 265.01, 265.02, 265.03, 265.04 and 265.05 is presumptive evidence of its possession by all persons occupying such vehicle at the time such weapon, instrument, appliance or substance is found.

3. The presence in an automobile, other than a stolen one or a public omnibus, of any firearm, large capacity ammunition feeding device, defaced firearm, defaced rifle or shotgun, defaced large capacity ammunition feeding device, firearm silencer, explosive or incendiary bomb, bombshell, ... is presumptive evidence of its possession by all persons occupying such automobile at the time such weapon, instrument or appliance is found, except under the following circumstances: (a) if such weapon, instrument or appliance is found upon the person of one of the occupants therein; (b) if such weapon, instrument or appliance is found in an automobile which is being operated for hire by a duly licensed driver in the due, lawful and proper pursuit of his or her trade, then such presumption shall not apply to the driver; or (c) if the weapon so found is a pistol or revolver and one of the occupants, not present under duress, has in his or her possession a valid license to have and carry concealed the same.

4. The possession by any person of the substance as specified in § 265.04 is presumptive evidence of possessing such substance with intent to use the same unlawfully against the person or property of another if such person is not licensed or otherwise authorized to possess such substance.

5. The possession by any person of a defaced machine-gun, firearm, rifle or shotgun is presumptive evidence that such person defaced the same.

6. The possession of 5 or more firearms by any person is presumptive evidence that such person possessed the firearms with the intent to sell same.

§ 265.16. Criminal sale of a firearm to a minor. A person is guilty of criminal sale of a firearm to a minor when he is not authorized pursuant to law to possess a firearm and he unlawfully sells, exchanges, gives or disposes of a firearm to another person who is or reasonably appears to be less than 19 years of age who is not licensed pursuant to law to possess a firearm.

Criminal sale of a firearm to a minor is a class C felony.

§ 265.17. Criminal purchase or disposal of a weapon. A person is guilty of criminal purchase or disposal of a weapon when:

1. Knowing that he or she is prohibited by law from possessing a firearm, rifle or shotgun because of a prior conviction or because of some other disability which would render him or her ineligible to lawfully possess a firearm, rifle or shotgun in this state, such person purchases a firearm, rifle or shotgun from another person; or

2. Knowing that it would be unlawful for another person to possess a firearm, rifle or shotgun, he or she purchases a firearm, rifle or shotgun for, on behalf of, or for the use of such other person; or

3. Knowing that another person is prohibited by law from possessing a firearm, rifle or shotgun because of a prior conviction or because of some other disability which would render him or her ineligible to lawfully possess a firearm, rifle or shotgun in this state, a person disposes of a firearm, rifle or shotgun to such other person.

Criminal purchase or disposal of a weapon is a class D felony.

§ 265.19. Aggravated criminal possession of a weapon. A person is guilty of aggravated criminal possession of a weapon when he or she commits the crime of criminal possession of a weapon in the second degree as defined in subdivision 3 of § 265.03 of this article and also commits any violent felony offense as defined in subdivision one of § 70.02 of this chapter or a drug trafficking felony as defined in subdivision 21 of § 10.00 of this chapter arising out of the same criminal transaction.

Aggravated criminal possession of a weapon is a class C felony.

§ 265.20. Exemptions

a. Paragraph (h) of subdivision 22 of § 265.00 and §§ 265.01, 265.01-a, subdivision one of § 265.01-b, 265.02, 265.03, 265.04, 265.05, 265.10, 265.11, 265.12, 265.13, 265.15, 265.36, 265.37 and 270.05 shall not apply to:

1. Possession of any of the weapons, instruments, appliances or substances specified in §§ 265.01, 265.02, 265.03, 265.04, 265.05 and 270.05 by the following:

(a) Persons in the military service of the state of New York when duly authorized by regulations issued by the adjutant general to possess the same.

(b) Police officers as defined in subdivision 34 of § 1.20 of the criminal procedure law.

(c) Peace officers as defined by § 2.10 of the criminal procedure law.

(d) Persons in the military or other service of the United States, in pursuit of official duty or when duly authorized by federal law, regulation or order to possess the same.

(e) Persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the same is necessary for manufacture, transport, installation and testing under the requirements of such contract.

(f) A person voluntarily surrendering such weapon, instrument, appliance or substance, provided that such surrender shall be made to the superintendent of the division of state police or a member thereof designated by such superintendent, or to the sheriff of the county in which such person resides, or in the county of Nassau or in the towns of Babylon, Brookhaven, Huntington, Islip and Smithtown in the county of Suffolk to the commissioner of police or a member of the police department thereof designated by such commissioner, or if such person resides in a city, town other than one named in this subparagraph, or village to the police commissioner or head of the police force or department thereof or to a member of the force or department designated by such commissioner or head; and provided, further, that the same shall be surrendered by such person in accordance with such terms and conditions as may be established by such superintendent, sheriff, police force or department. Nothing in this paragraph shall be construed as granting immunity from prosecution for any crime or offense except that of unlawful possession of such weapons, instruments, appliances or substances surrendered as herein provided. A person who possesses any such weapon, instrument, appliance or substance as an executor or administrator or any other lawful possessor of such property of a decedent may continue to possess such property for a period not over 15 days. If such property is not lawfully disposed of within such period the possessor shall deliver it to an appropriate official described in this paragraph or such property may be delivered to the superintendent of state police. Such officer shall hold it and shall thereafter deliver it on the written request of such executor, administrator or other lawful possessor of such property to a named person, provided such named person is licensed to or is otherwise lawfully permitted to possess the same. If no request to deliver the property is received by such official within one year of the delivery of such property, such official shall dispose of it in accordance with the provisions of § 400.05 of this chapter.

2. Possession of a machine-gun, large capacity ammunition feeding device, firearm, switchblade knife, gravity knife, pilum ballistic knife, billy or blackjack by a warden, superintendent, headkeeper or deputy of a state prison, penitentiary,

workhouse, county jail or other institution for the detention of persons convicted or accused of crime or detained as witnesses in criminal cases, in pursuit of official duty or when duly authorized by regulation or order to possess the same.

3. Possession of a pistol or revolver by a person to whom a license therefor has been issued as provided under § 400.00 or 400.01 of this chapter or possession of a weapon as defined in paragraph (e) or (f) of subdivision 22 of § 265.00 of this article which is registered pursuant to paragraph (a) of subdivision 16-a of § 400.00 of this chapter or is included on an amended license issued pursuant to § 400.00 of this chapter. In the event such license is revoked, other than because such licensee is no longer permitted to possess a firearm, rifle or shotgun under federal or state law, information sufficient to satisfy the requirements of subdivision 16-a of § 400.00 of this chapter, shall be transmitted by the licensing officer to the state police, in a form as determined by the superintendent of state police. Such transmission shall constitute a valid registration under such section. Further provided, notwithstanding any other section of this title, a failure to register such weapon by an individual who possesses such weapon before the enactment of the chapter of the laws of 2013 which amended this paragraph and may so lawfully possess it thereafter upon registration, shall only be subject to punishment pursuant to paragraph (c) of subdivision 16-a of § 400.00 of this chapter; provided, that such a license or registration shall not preclude a conviction for the offense defined in subdivision 3 of § 265.01 of this article or § 265.01-a of this article.

4. Possession of a rifle, shotgun, crossbow or longbow for use while hunting, trapping or fishing, by a person, not a citizen of the United States, carrying a valid license issued pursuant to § 11-0713 of the environmental conservation law.

5. Possession of a rifle or shotgun by a person other than a person who has been convicted of a class A-I felony or a violent felony offense, as defined in subdivision 1 of § 70.02 of this chapter, who has been convicted as specified in subdivision 4 of § 265.01 to whom a certificate of good conduct has been issued pursuant to § 703-b of the correction law.

7. Possession, at an indoor or outdoor shooting range for the purpose of loading and firing, of a rifle or shotgun, the propelling force of which is gunpowder by a person under 16 years of age but not under 12, under the immediate supervision, guidance and instruction of **(a)** a duly commissioned officer of the United States army, navy, air force, marine corps or coast guard, or of the national guard of the state of New York; or **(b)** a duly qualified adult citizen of the United States who has been granted a certificate as an instructor in small arms practice issued by the United States army, navy, air force or marine corps, or by the adjutant general of this state, or by the national rifle association of America, a not-for-profit corporation duly organized under the laws of this state; or **(c)** a parent, guardian, or a person over the age of 18 designated in writing by such parent or guardian who shall have a certificate of qualification in responsible hunting, including safety, ethics, and landowner relations-hunter relations, issued or honored by the department of environmental conservation; or **(d)** an agent of the department of environmental conservation appointed to conduct courses in responsible hunting practices pursuant to article 11 of the environmental conservation law.

7-a. Possession and use, at an indoor or outdoor pistol range located in or on premises owned or occupied by a duly incorporated organization organized for conservation purposes or to foster proficiency in small arms or at a target pistol shooting competition under the auspices of or approved by the national rifle association for the purpose of loading and firing the same, by a person duly licensed to possess a pistol or revolver pursuant to § 400.00 or 400.01 of this chapter of a pistol or revolver duly so licensed to another person who is present at the time.

7-b. Possession and use, at an indoor or outdoor pistol range located in or on premises owned or occupied by a duly incorporated organization organized for conservation purposes or to foster proficiency in small arms or at a target pistol shooting competition under the auspices of or approved by the national rifle association for the purpose of loading and firing the same, by a person who has applied for a license to possess a pistol or revolver and pre-license possession of same pursuant to § 400.00 or 400.01 of this chapter, who has not been previously denied a license, been previously convicted of a felony or serious offense, and who does not appear to be, or pose a threat to be, a danger to himself or to others, and who has been approved for possession and use herein in accordance with § 400.00 or 400.01 of this chapter; provided however, that such possession shall be of a pistol or revolver duly licensed to and shall be used under the supervision, guidance and instruction of, a person specified in paragraph 7 of this subdivision and provided further that such possession and use be within the jurisdiction of the licensing officer with whom the person has made application therefor or within the jurisdiction of the superintendent of state police in the case of a retired sworn member of the division of state police who has opted to make an application pursuant to § 400.01 of this chapter.

7-c. Possession for the purpose of loading and firing, of a rifle, pistol or shotgun, the propelling force of which may be either air, compressed gas or springs, by a person under 16 years of age but not under 12, under the immediate supervision, guidance and instruction of (a) a duly commissioned officer of the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York; or (b) a duly qualified adult citizen of the United States who has been granted a certificate as an instructor in small arms practice issued by the United States army, navy or marine corps, or by the adjutant general of this state, or by the national rifle association of America, a not-for-profit corporation duly organized under the laws of this state; or (c) a parent, guardian, or a person over the age of 18 designated in writing by such parent or guardian who shall have a certificate of qualification in responsible hunting, including safety, ethics, and landowner relations-hunter relations, issued or honored by the department of environmental conservation.

7-d. Possession, at an indoor or outdoor shooting range for the purpose of loading and firing, of a rifle, pistol or shotgun, the propelling force of which may be either air, compressed gas or springs, by a person under 12 years of age, under the immediate supervision, guidance and instruction of (a) a duly commissioned officer of the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York; or (b) a duly qualified adult citizen of the United States who has been granted a certificate as an instructor in small arms practice issued by the United States army, navy or marine corps, or by the adjutant general of this state, or by the national rifle association of America, a not-for-profit

corporation duly organized under the laws of this state; or (c) a parent, guardian, or a person over the age of 18 designated in writing by such parent or guardian who shall have a certificate of qualification in responsible hunting, including safety, ethics, and landowner relations-hunter relations, issued or honored by the department of environmental conservation.

7-e. Possession and use of a pistol or revolver, at an indoor or outdoor pistol range located in or on premises owned or occupied by a duly incorporated organization organized for conservation purposes or to foster proficiency in small arms or at a target pistol shooting competition under the auspices of or approved by an association or organization described in paragraph 7-a of this subdivision for the purpose of loading and firing the same by a person at least 14 years of age but under the age of 21 who has not been previously convicted of a felony or serious offense, and who does not appear to be, or pose a threat to be, a danger to himself or to others; provided however, that such possession shall be of a pistol or revolver duly licensed to and shall be used under the immediate supervision, guidance and instruction of, a person specified in paragraph 7 of this subdivision

7-f. Possession and use of a magazine, belt, feed strip or similar device, that contains more than 7 rounds of ammunition, but that does not have a capacity of or can readily be restored or converted to accept more than 10 rounds of ammunition, at an indoor or outdoor firing range located in or on premises owned or occupied by a duly incorporated organization organized for conservation purposes or to foster proficiency in arms; at an indoor or outdoor firing range for the purpose of firing a rifle or shotgun; at a collegiate, olympic or target shooting competition under the auspices of or approved by the national rifle association; or at an organized match sanctioned by the International Handgun Metallic Silhouette Association.

8. The manufacturer of machine-guns, firearm silencers, assault weapons, large capacity ammunition feeding devices, disguised guns, pilum ballistic knives, switchblade or gravity knives, billies or blackjacks as merchandise, or as a transferee recipient of the same for repair, lawful distribution or research and development, and the disposal and shipment thereof direct to a regularly constituted or appointed state or municipal police department, sheriff, policeman or other peace officer, or to a state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted or accused of crime or held as witnesses in criminal cases, or to the military service of this state or of the United States; or for the repair and return of the same to the lawful possessor or for research and development.

9. The regular and ordinary transport of firearms as merchandise, provided that the person transporting such firearms, where he knows or has reasonable means of ascertaining what he is transporting, notifies in writing the police commissioner, police chief or other law enforcement officer performing such functions at the place of delivery, of the name and address of the consignee and the place of delivery, and withholds delivery to the consignee for such reasonable period of time designated in writing by such police commissioner, police chief or other law enforcement officer as such official may deem necessary for investigation as to whether the consignee may lawfully receive and possess such firearms.

9-a. a. Except as provided in subdivision b hereof, the regular and ordinary transport of pistols or revolvers by a manufacturer of firearms to whom a license as a dealer in firearms has been issued pursuant to § 400.00 of this chapter, or by an agent or employee of such manufacturer of firearms who is otherwise duly licensed to carry a pistol or revolver and who is duly authorized in writing by such manufacturer of firearms to transport pistols or revolvers on the date or dates specified, directly between places where the manufacturer of firearms regularly conducts business provided such pistols or revolvers are transported unloaded, in a locked opaque container. For purposes of this subdivision, places where the manufacturer of firearms regularly conducts business includes, but is not limited to places where the manufacturer of firearms regularly or customarily conducts development or design of pistols or revolvers, or regularly or customarily conducts tests on pistols or revolvers, or regularly or customarily participates in the exposition of firearms to the public.

b. The transportation of such pistols or revolvers into, out of or within the city of New York may be done only with the consent of the police commissioner of the city of New York. To obtain such consent, the manufacturer must notify the police commissioner in writing of the name and address of the transporting manufacturer, or agent or employee of the manufacturer who is authorized in writing by such manufacturer to transport pistols or revolvers, the number, make and model number of the firearms to be transported and the place where the manufacturer regularly conducts business within the city of New York and such other information as the commissioner may deem necessary. The manufacturer must not transport such pistols and revolvers between the designated places of business for such reasonable period of time designated in writing by the police commissioner as such official may deem necessary for investigation and to give consent. The police commissioner may not unreasonably withhold his consent.

10. Engaging in the business of gunsmith or dealer in firearms by a person to whom a valid license therefor has been issued pursuant to § 400.00.

11. Possession of a firearm or large capacity ammunition feeding device by a police officer or sworn peace officer of another state while conducting official business within the state of New York.

12. Possession of a pistol or revolver by a person who is a member or coach of an accredited college or university target pistol team while transporting the pistol or revolver into or through New York state to participate in a collegiate, olympic or target pistol shooting competition under the auspices of or approved by the national rifle association, provided such pistol or revolver is unloaded and carried in a locked carrying case and the ammunition therefor is carried in a separate locked container.

12-a. Possession and use of a pistol or revolver, at an indoor or outdoor shooting range, by a registered student of a higher education institution chartered by the state of New York, who is participating in a course in gun safety and proficiency offered by such institution, under the immediate supervision, guidance, and instruction of a person specified in paragraph 7 of this subdivision.

13. Possession of pistols and revolvers by a person who is a nonresident of this state while attending or traveling to or from, an organized competitive pistol match or league competition under auspices of, or approved by, the National Rifle Association and in which he is a competitor, within 48 hours of such event or by a person who is a non-resident of the state while attending or traveling to or from an organized match sanctioned by the International Handgun Metallic Silhouette Association and in which he is a competitor, within 48 hours of such event, provided that he has not been previously convicted of a felony or a crime which, if committed in New York, would constitute a felony, and further provided that the pistols or revolvers are transported unloaded in a locked opaque container together with a copy of the match program, match schedule or match registration card. Such documentation shall constitute prima facie evidence of exemption, providing that such person also has in his possession a pistol license or firearms registration card issued in accordance with the laws of his place of residence. For purposes of this subdivision, a person licensed in a jurisdiction which does not authorize such license by a person who has been previously convicted of a felony shall be presumed to have no prior conviction. The superintendent of state police shall annually review the laws of jurisdictions within the United States and Canada with respect to the applicable requirements for licensing or registration of firearms and shall publish a list of those jurisdictions which prohibit possession of a firearm by a person previously convicted of a felony or crimes which if committed in New York state would constitute a felony.

13-a. Except in cities not wholly contained within a single county of the state, possession of pistols and revolvers by a person who is a nonresident of this state while attending or traveling to or from, an organized convention or exhibition for the display of or education about firearms, which is conducted under auspices of, or approved by, the National Rifle Association and in which he is a registered participant, within 48 hours of such event, provided that he has not been previously convicted of a felony or a crime which, if committed in New York, would constitute a felony, and further provided that the pistols or revolvers are transported unloaded in a locked opaque container together with a copy of the convention or exhibition program, convention or exhibition schedule or convention or exhibition registration card. Such documentation shall constitute prima facie evidence of exemption, providing that such person also has in his possession a pistol license or firearms registration card issued in accordance with the laws of his place of residence. For purposes of this paragraph, a person licensed in a jurisdiction which does not authorize such license by a person who has been previously convicted of a felony shall be presumed to have no prior conviction. The superintendent of state police shall annually review the laws of jurisdictions within the United States and Canada with respect to the applicable requirements for licensing or registration of firearms and shall publish a list of those jurisdictions which prohibit possession of a firearm by a person previously convicted of a felony or crimes which if committed in New York state would constitute a felony.

16. The terms "rifle," "shotgun," "pistol," "revolver," and "firearm" as used in paragraphs 3, 4, 5, 7, 7-a, 7-b, 9, 9-a, 10, 12, 13 and 13-a of this subdivision shall not include a disguised gun or an assault weapon.

e. Subdivision 8 of § 265.02 and §§ 265.36 and 265.37 of this chapter shall not apply to a qualified retired New York or federal law enforcement officer as defined in subdivision 25 of § 265.00 of this article, with respect to large capacity ammunition feeding devices issued to such officer or purchased by such officer in the course of his or her official duties and owned by such officer at the time of his or her retirement or comparable replacements for such devices, if: **(i)** the agency that employed the officer qualified such officer in the use of the weapon which accepts such device in accordance with applicable state or federal standards for active duty law enforcement officers within 12 months prior to his or her retirement; and **(ii)** such retired officer meets, at his or her own expense, such applicable standards for such weapon at least once within 3 years after his or her retirement date and at least once every 3 years thereafter, provided, however, that any such qualified officer who has been retired for 18 months or more on the effective date of this subdivision shall have 18 months from such effective date to qualify in the use of the weapon which accepts such large capacity ammunition feeding device according to the provisions of this subdivision, notwithstanding that such officer did not qualify within 3 years after his or her retirement date, provided that such officer is otherwise qualified and maintains compliance with the provisions of this subdivision.

§ 265.35. Prohibited use of weapons

1. Any person hunting with a dangerous weapon in any county wholly embraced within the territorial limits of a city is guilty of a class A misdemeanor.

2. Any person who wilfully discharges a loaded firearm or any other gun, the propelling force of which is gunpowder, at an aircraft while such aircraft is in motion in the air or in motion or stationary upon the ground, or at any railway or street railroad train as defined by the public service law, or at a locomotive, car, bus or vehicle standing or moving upon such railway, railroad or public highway, is guilty of a class D felony if thereby the safety of any person is endangered, and in every other case, of a class E felony.

3. Any person who, otherwise than in self-defense or in the discharge of official duty, **(a)** wilfully discharges any species of firearms, air-gun or other weapon, or throws any other deadly missile, either in a public place, or in any place where there is any person to be endangered thereby, or, in Putnam county, within one-quarter mile of any occupied school building other than under supervised instruction by properly authorized instructors although no injury to any person ensues; **(b)** intentionally, without malice, points or aims any firearm or any other gun, the propelling force of which is gunpowder, at or toward any other person; **(c)** discharges, without injury to any other person, firearms or any other guns, the propelling

force of which is gunpowder, while intentionally without malice, aimed at or toward any person; or **(d)** maims or injures any other person by the discharge of any firearm or any other gun, the propelling force of which is gunpowder, pointed or aimed intentionally, but without malice, at any such person, is guilty of a class A misdemeanor.

§ 265.36. Unlawful possession of a large capacity ammunition feeding device. It shall be unlawful for a person to knowingly possess a large capacity ammunition feeding device manufactured before September 13, 1994, and if such person lawfully possessed such large capacity feeding device before the effective date of the chapter of the laws of 2013 which added this section, that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition.

An individual who has a reasonable belief that such device is of such a character that it may lawfully be possessed and who surrenders or lawfully disposes of such device within 30 days of being notified by law enforcement or county licensing officials that such possession is unlawful shall not be guilty of this offense. It shall be a rebuttable presumption that such person knows that such large capacity ammunition feeding device may not be lawfully possessed if he or she has been contacted by law enforcement or county licensing officials and informed that such device may not be lawfully possessed. Unlawful possession of a large capacity ammunition feeding device is a class A misdemeanor.

§ 265.37. Unlawful possession of certain ammunition feeding devices. It shall be unlawful for a person to knowingly possess an ammunition feeding device where such device contains more than 7 rounds of ammunition.

If such device containing more than 7 rounds of ammunition is possessed within the home of the possessor, the person so possessing the device shall, for a first offense, be guilty of a violation and subject to a fine of \$200, and for each subsequent offense, be guilty of a class B misdemeanor and subject to a fine of \$200 and a term of up to 3 months imprisonment.

If such device containing more than 7 rounds of ammunition is possessed in any location other than the home of the possessor, the person so possessing the device shall, for a first offense, be guilty of a class B misdemeanor and subject to a fine of \$200 and a term of up to 6 months imprisonment, and for each subsequent offense, be guilty of a class A misdemeanor.

§ 265.40. Purchase of rifles and/or shotguns in contiguous states. Definitions. As used in this act:

1. **"Contiguous state"** shall mean any state having any portion of its border in common with a portion of the border of the state of New York;

2. All other terms herein shall be given the meaning prescribed in Public Law 90-618 known as the "Gun Control Act of 1968" (18 U.S.C. 921).

It shall be lawful for a person or persons residing in this state, to purchase or otherwise obtain a rifle and/or shotgun in a contiguous state, and to receive or transport such rifle and/or shotgun into this state; provided, however, such person is otherwise eligible to possess a rifle and/or shotgun under the laws of this state.

§ 265.45. Safe storage of rifles, shotguns, and firearms. No person who owns or is custodian of a rifle, shotgun or firearm who resides with an individual who such person knows or has reason to know is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(g) (1), (4), (8) or (9) shall store or otherwise leave such rifle, shotgun or firearm out of his or her immediate possession or control without having first securely locked such rifle, shotgun or firearm in an appropriate safe storage depository or rendered it incapable of being fired by use of a gun locking device appropriate to that weapon. For purposes of this section "safe storage depository" shall mean a safe or other secure container which, when locked, is incapable of being opened without the key, combination or other unlocking mechanism and is capable of preventing an unauthorized person from obtaining access to and possession of the weapon contained therein. With respect to a person who is prohibited from possessing a firearm pursuant to 18 USC § 922(g)(9), for purposes of this section, this section applies only if such person has been convicted of a crime included in subdivision 1 of § 370.15 of the criminal procedure law and such gun is possessed within 5 years from the later of the date of conviction or completion of sentence. Nothing in this section shall be deemed to affect, impair or supersede any special or local act relating to the safe storage of rifles, shotguns or firearms which impose additional requirements on the owner or custodian of such weapons.

A violation of this section shall constitute a class A misdemeanor.

Part 4 Administrative Provisions

Title W Provisions Relating to Firearms, Fireworks, ...

Article 400 Licensing and Other Provisions Relating to Firearms

§ 400.00. Licenses to carry, possess, repair and dispose of firearms

1. **Eligibility.** No license shall be issued or renewed pursuant to this section except by the licensing officer, and then only after investigation and finding that all statements in a proper application for a license are true. No license shall be issued or renewed except for an applicant **(a)** 21 years of age or older, provided, however, that where such applicant has been honorably discharged from the United States army, navy, marine corps, air force or coast guard, or the national guard of the state of New York, no such age restriction shall apply; **(b)** of good moral character; **(c)** who has not been convicted anywhere of a felony or a serious offense; **(d)** who is not a fugitive from justice; **(e)** who is not an unlawful user of or addicted to any controlled substance as defined in § 21 U.S.C. 802; **(f)** who being an alien **(i)** is not illegally or unlawfully

in the United States or **(ii)** has not been admitted to the United States under a nonimmigrant visa subject to the exception in 18 U.S.C. 922(y)(2); **(g)** who has not been discharged from the Armed Forces under dishonorable conditions; **(h)** who, having been a citizen of the United States, has not renounced his or her citizenship; **(i)** who has stated whether he or she has ever suffered any mental illness; **(j)** who has not been involuntarily committed to a facility under the jurisdiction of an office of the department of mental hygiene pursuant to article 9 or 15 of the mental hygiene law, article 730 or § 330.20 of the criminal procedure law, § 402 or 508 of the correction law, § 322.2 or 353.4 of the family court act, or has not been civilly confined in a secure treatment facility pursuant to article 10 of the mental hygiene law; **(k)** who has not had a license revoked or who is not under a suspension or ineligibility order issued pursuant to the provisions of § 530.14 of the criminal procedure law or § 842-a of the family court act; **(l)** in the county of Westchester, who has successfully completed a firearms safety course and test as evidenced by a certificate of completion issued in his or her name and endorsed and affirmed under the penalties of perjury by a duly authorized instructor, except that: **(i)** persons who are honorably discharged from the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York, and produce evidence of official qualification in firearms during the term of service are not required to have completed those hours of a firearms safety course pertaining to the safe use, carrying, possession, maintenance and storage of a firearm; and **(ii)** persons who were licensed to possess a pistol or revolver prior to the effective date of this paragraph are not required to have completed a firearms safety course and test; **(m)** who has not had a guardian appointed for him or her pursuant to any provision of state law, based on a determination that as a result of marked subnormal intelligence, mental illness, incapacity, condition or disease, he or she lacks the mental capacity to contract or manage his or her own affairs; and **(n)** concerning whom no good cause exists for the denial of the license. No person shall engage in the business of gunsmith or dealer in firearms unless licensed pursuant to this section. An applicant to engage in such business shall also be a citizen of the United States, more than 21 years of age and maintain a place of business in the city or county where the license is issued. For such business, if the applicant is a firm or partnership, each member thereof shall comply with all of the requirements set forth in this subdivision and if the applicant is a corporation, each officer thereof shall so comply.

2. Types of licenses. A license for gunsmith or dealer in firearms shall be issued to engage in such business. A license for a pistol or revolver, other than an assault weapon or a disguised gun, shall be issued to **(a)** have and possess in his dwelling by a householder; **(b)** have and possess in his place of business by a merchant or storekeeper; **(c)** have and carry concealed while so employed by a messenger employed by a banking institution or express company; **(d)** have and carry concealed by a justice of the supreme court in the first or second judicial departments, or by a judge of the New York city civil court or the New York city criminal court; **(e)** have and carry concealed while so employed by a regular employee of an institution of the state, or of any county, city, town or village, under control of a commissioner of correction of the city or any warden, superintendent or head keeper of any state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted or accused of crime or held as witnesses in criminal cases, provided that application is made therefor by such commissioner, warden, superintendent or head keeper; **(f)** have and carry concealed, without regard to employment or place of possession, by any person when proper cause exists for the issuance thereof; and **(g)** have, possess, collect and carry antique pistols which are defined as follows: **(i)** any single shot, muzzle loading pistol with a matchlock, flintlock, percussion cap, or similar type of ignition system manufactured in or before 1898, which is not designed for using rimfire or conventional centerfire fixed ammunition; and **(ii)** any replica of any pistol described in clause (i) hereof if such replica—

- (1)** is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or
- (2)** uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

3. Applications.

(a) Applications shall be made and renewed, in the case of a license to carry or possess a pistol or revolver, to the licensing officer in the city or county, as the case may be, where the applicant resides, is principally employed or has his or her principal place of business as merchant or storekeeper; and, in the case of a license as gunsmith or dealer in firearms, to the licensing officer where such place of business is located. Blank applications shall, except in the city of New York, be approved as to form by the superintendent of state police. An application shall state the full name, date of birth, residence, present occupation of each person or individual signing the same, whether or not he or she is a citizen of the United States, whether or not he or she complies with each requirement for eligibility specified in subdivision 1 of this section and such other facts as may be required to show the good character, competency and integrity of each person or individual signing the application. An application shall be signed and verified by the applicant. Each individual signing an application shall submit 1 photograph of himself or herself and a duplicate for each required copy of the application. Such photographs shall have been taken within 30 days prior to filing the application. In case of a license as gunsmith or dealer in firearms, the photographs submitted shall be 2 inches square, and the application shall also state the previous occupation of each individual signing the same and the location of the place of such business, or of the bureau, agency, subagency, office or branch office for which the license is sought, specifying the name of the city, town or village, indicating the street and number and otherwise giving such apt description as to point out reasonably the location thereof. In such case, if the applicant is a firm, partnership or corporation, its name, date and place of formation, and principal place of business shall be stated. For such firm or partnership, the application shall be signed and verified by each individual composing or intending to compose the same, and for such corporation, by each officer thereof.

(b) Application for an exemption under paragraph 7-b of subdivision a of § 265.20 of this chapter. Each applicant desiring to obtain the exemption set forth in paragraph 7-b of subdivision a of § 265.20 of this chapter shall make such request in writing of the licensing officer with whom his application for a license is filed, at the time of filing such application. Such request shall include a signed and verified statement by the person authorized to instruct and supervise the applicant, that has met with the applicant and that he has determined that, in his judgment, said applicant does not appear to be or poses a threat to be, a danger to himself or to others. He shall include a copy of his certificate as an instructor in small arms, if he is required to be certified, and state his address and telephone number. He shall specify the exact location by name, address and telephone number where such instruction will take place. Such licensing officer shall, no later than 10 business days after such filing, request the duly constituted police authorities of the locality where such application is made to investigate and ascertain any previous criminal record of the applicant pursuant to subdivision 4 of this section. Upon completion of this investigation, the police authority shall report the results to the licensing officer without unnecessary delay. The licensing officer shall no later than 10 business days after the receipt of such investigation, determine if the applicant has been previously denied a license, been convicted of a felony, or been convicted of a serious offense, and either approve or disapprove the applicant for exemption purposes based upon such determinations. If the applicant is approved for the exemption, the licensing officer shall notify the appropriate duly constituted police authorities and the applicant. Such exemption shall terminate if the application for the license is denied, or at any earlier time based upon any information obtained by the licensing officer or the appropriate police authorities which would cause the license to be denied. The applicant and appropriate police authorities shall be notified of any such terminations.

4. Investigation. Before a license is issued or renewed, there shall be an investigation of all statements required in the application by the duly constituted police authorities of the locality where such application is made, including but not limited to such records as may be accessible to the division of state police or division of criminal justice services pursuant to § 400.02 of this article. For that purpose, the records of the appropriate office of the department of mental hygiene concerning previous or present mental illness of the applicant shall be available for inspection by the investigating officer of the police authority. In order to ascertain any previous criminal record, the investigating officer shall take the fingerprints and physical descriptive data in quadruplicate of each individual by whom the application is signed and verified. Two copies of such fingerprints shall be taken on standard fingerprint cards 8 inches square, and one copy may be taken on a card supplied for that purpose by the Federal Bureau of Investigation; provided, however, that in the case of a corporate applicant that has already been issued a dealer in firearms license and seeks to operate a firearm dealership at a second or subsequent location, the original fingerprints on file may be used to ascertain any criminal record in the second or subsequent application unless any of the corporate officers have changed since the prior application, in which case the new corporate officer shall comply with procedures governing an initial application for such license. When completed, one standard card shall be forwarded to and retained by the division of criminal justice services in the executive department, at Albany. A search of the files of such division and written notification of the results of the search to the investigating officer shall be made without unnecessary delay. Thereafter, such division shall notify the licensing officer and the executive department, division of state police, Albany, of any criminal record of the applicant filed therein subsequent to the search of its files. A second standard card, or the one supplied by the Federal Bureau of Investigation, as the case may be, shall be forwarded to that bureau at Washington with a request that the files of the bureau be searched and notification of the results of the search be made to the investigating police authority. Of the remaining 2 fingerprint cards, one shall be filed with the executive department, division of state police, Albany, within 10 days after issuance of the license, and the other remain on file with the investigating police authority. No such fingerprints may be inspected by any person other than a peace officer, who is acting pursuant to his special duties, or a police officer, except on order of a judge or justice of a court of record either upon notice to the licensee or without notice, as the judge or justice may deem appropriate. Upon completion of the investigation, the police authority shall report the results to the licensing officer without unnecessary delay.

4-a. Processing of license applications. Applications for licenses shall be accepted for processing by the licensing officer at the time of presentment. Except upon written notice to the applicant specifically stating the reasons for any delay, in each case the licensing officer shall act upon any application for a license pursuant to this section within 6 months of the date of presentment of such an application to the appropriate authority. Such delay may only be for good cause and with respect to the applicant. In acting upon an application, the licensing officer shall either deny the application for reasons specifically and concisely stated in writing or grant the application and issue the license applied for.

4-b. Westchester county firearms safety course certificate. In the county of Westchester, at the time of application, the licensing officer to which the license application is made shall provide a copy of the safety course booklet to each license applicant. Before such license is issued, such licensing officer shall require that the applicant submit a certificate of successful completion of a firearms safety course and test issued in his or her name and endorsed and affirmed under the penalties of perjury by a duly authorized instructor.

5. Filing of approved applications.

(a) The application for any license, if granted, shall be filed by the licensing officer with the clerk of the county of issuance, except that in the city of New York and, in the counties of Nassau and Suffolk, the licensing officer shall designate the place of filing in the appropriate division, bureau or unit of the police department thereof, and in the county of Suffolk the county clerk is hereby authorized to transfer all records or applications relating to firearms to the licensing authority of that county. Except as provided in paragraphs (b) through (f) of this subdivision, the name and address of any

person to whom an application for any license has been granted shall be a public record. Upon application by a licensee who has changed his place of residence such records or applications shall be transferred to the appropriate officer at the licensee's new place of residence. A duplicate copy of such application shall be filed by the licensing officer in the executive department, division of state police, Albany, within 10 days after issuance of the license. The superintendent of state police may designate that such application shall be transmitted to the division of state police electronically. In the event the superintendent of the division of state police determines that it lacks any of the records required to be filed with the division, it may request that such records be provided to it by the appropriate clerk, department or authority and such clerk, department or authority shall provide the division with such records. In the event such clerk, department or authority lacks such records, the division may request the license holder provide information sufficient to constitute such record and such license holder shall provide the division with such information. Such information shall be limited to the license holder's name, date of birth, gender, race, residential address, social security number and firearms possessed by said license holder. Nothing in this subdivision shall be construed to change the expiration date or term of such licenses if otherwise provided for in law. Records assembled or collected for purposes of inclusion in the database established by this section shall be released pursuant to a court order. Records assembled or collected for purposes of inclusion in the database created pursuant to § 400.02 of this chapter shall not be subject to disclosure pursuant to article 6 of the public officers law.

(b) Each application for a license pursuant to paragraph (a) of this subdivision shall include, on a separate written form prepared by the division of state police within 30 days of the effective date of the chapter of the laws of 2013, which amended this section, and provided to the applicant at the same time and in the same manner as the application for a license, an opportunity for the applicant to request an exception from his or her application information becoming public record pursuant to paragraph (a) of this subdivision. Such forms, which shall also be made available to individuals who had applied for or been granted a license prior to the effective date of the chapter of the laws of 2013 which amended this section, shall notify applicants that, upon discovery that an applicant knowingly provided false information, such applicant may be subject to penalties pursuant to § 175.30 of this chapter, and further, that his or her request for an exception shall be null and void, provided that written notice containing such determination is provided to the applicant. Further, such forms shall provide each applicant an opportunity to specify the grounds on which he or she believes his or her application information should not be publicly disclosed. These grounds, which shall be identified on the application with a box beside each for checking, as applicable, by the applicant, shall be as follows:

(i) the applicant's life or safety may be endangered by disclosure because:

(A) the applicant is an active or retired police officer, peace officer, probation officer, parole officer, or corrections officer;

(B) the applicant is a protected person under a currently valid order of protection;

(C) the applicant is or was a witness in a criminal proceeding involving a criminal charge;

(D) the applicant is participating or previously participated as a juror in a criminal proceeding, or is or was a member of a grand jury; or

(E) the applicant is a spouse, domestic partner or household member of a person identified in this subparagraph or subparagraph (ii) of this paragraph, specifying which subparagraph or subparagraphs and clauses apply.

(ii) the applicant has reason to believe his or her life or safety may be endangered by disclosure due to reasons stated by the applicant.

(iii) the applicant has reason to believe he or she may be subject to unwarranted harassment upon disclosure of such information.

(c) Each form provided for recertification pursuant to paragraph (b) of subdivision ten of this section shall include an opportunity for the applicant to request an exception from the information provided on such form becoming public record pursuant to paragraph (a) of this subdivision. Such forms shall notify applicants that, upon discovery that an applicant knowingly provided false information, such applicant may be subject to penalties pursuant to § 175.30 of this chapter, and further, that his or her request for an exception shall be null and void, provided that written notice containing such determination is provided to the applicant. Further, such forms shall provide each applicant an opportunity to either decline to request the grant or continuation of an exception, or specify the grounds on which he or she believes his or her information should not be publicly disclosed. These grounds, which shall be identified in the application with a box beside each for checking, as applicable, by the applicant, shall be the same as provided in paragraph (b) of this subdivision.

(d) Information submitted on the forms described in paragraph (b) of this subdivision shall be excepted from disclosure and maintained by the entity retaining such information separate and apart from all other records.

(e) (i) Upon receiving a request for exception from disclosure, the licensing officer shall grant such exception, unless the request is determined to be null and void, pursuant to paragraph (b) or (c) of this subdivision.

(ii) A request for an exception from disclosure may be submitted at any time, including after a license or recertification has been granted.

(iii) If an exception is sought and granted pursuant to paragraph (b) of this subdivision, the application information shall not be public record, unless the request is determined to be null and void. If an exception is sought and granted pursuant to paragraph (c) of this subdivision, the information concerning such recertification application shall not be public record, unless the request is determined to be null and void.

(f) The information of licensees or applicants for a license shall not be disclosed to the public during the first 120 days following the effective date of the chapter of the laws of 2013, which amended this section. After such period, the

information of those who had applied for or been granted a license prior to the preparation of the form for requesting an exception, pursuant to paragraph (b) of this subdivision, may be released only if such individuals did not file a request for such an exception during the first 60 days following such preparation; provided, however, that no information contained in an application for licensure or recertification shall be disclosed by an entity that has not completed processing any such requests received during such 60 days.

(g) If a request for an exception is determined to be null and void pursuant to paragraph (b) or (c) of this subdivision, an applicant may request review of such determination pursuant to article 78 of the civil practice laws [law] and rules. Such proceeding must commence within 30 days after service of the written notice containing the adverse determination. Notice of the right to commence such a petition, and the time period therefor, shall be included in the notice of the determination. Disclosure following such a petition shall not be made prior to the disposition of such review.

6. License: validity. Any license issued pursuant to this section shall be valid notwithstanding the provisions of any local law or ordinance. No license shall be transferable to any other person or premises. A license to carry or possess a pistol or revolver, not otherwise limited as to place or time of possession, shall be effective throughout the state, except that the same shall not be valid within the city of New York unless a special permit granting validity is issued by the police commissioner of that city. Such license to carry or possess shall be valid within the city of New York in the absence of a permit issued by the police commissioner of that city, provided that **(a)** the firearms covered by such license have been purchased from a licensed dealer within the city of New York and are being transported out of said city forthwith and immediately from said dealer by the licensee in a locked container during a continuous and uninterrupted trip; or provided that **(b)** the firearms covered by such license are being transported by the licensee in a locked container and the trip through the city of New York is continuous and uninterrupted; or provided that **(c)** the firearms covered by such license are carried by armored car security guards transporting money or other valuables, in, to, or from motor vehicles commonly known as armored cars, during the course of their employment; or provided that **(d)** the licensee is a retired police officer as police officer is defined pursuant to subdivision 34 of § 1.20 of the criminal procedure law or a retired federal law enforcement officer, as defined in § 2.15 of the criminal procedure law, who has been issued a license by an authorized licensing officer as defined in subdivision 10 of § 265.00 of this chapter; provided, further, however, that if such license was not issued in the city of New York it must be marked "Retired Police Officer" or "Retired Federal Law Enforcement Officer", as the case may be, and, in the case of a retired officer the license shall be deemed to permit only police or federal law enforcement regulations weapons; or provided that **(e)** the licensee is a peace officer described in subdivision 4 of § 2.10 of the criminal procedure law and the license, if issued by other than the city of New York, is marked "New York State Tax Department Peace Officer" and in such case the exemption shall apply only to the firearm issued to such licensee by the department of taxation and finance. A license as gunsmith or dealer in firearms shall not be valid outside the city or county, as the case may be, where issued.

7. License: form. Any license issued pursuant to this section shall, except in the city of New York, be approved as to form by the superintendent of state police. A license to carry or possess a pistol or revolver shall have attached the licensee's photograph, and a coupon which shall be removed and retained by any person disposing of a firearm to the licensee. Such license shall specify the weapon covered by calibre, make, model, manufacturer's name and serial number, or if none, by any other distinguishing number or identification mark, and shall indicate whether issued to carry on the person or possess on the premises, and if on the premises shall also specify the place where the licensee shall possess the same. If such license is issued to an alien, or to a person not a citizen of and usually a resident in the state, the licensing officer shall state in the license the particular reason for the issuance and the names of the persons certifying to the good character of the applicant. Any license as gunsmith or dealer in firearms shall mention and describe the premises for which it is issued and shall be valid only for such premises.

8. License: exhibition and display. Every licensee while carrying a pistol or revolver shall have on his or her person a license to carry the same. Every person licensed to possess a pistol or revolver on particular premises shall have the license for the same on such premises. Upon demand, the license shall be exhibited for inspection to any peace officer, who is acting pursuant to his or her special duties, or police officer. A license as gunsmith or dealer in firearms shall be prominently displayed on the licensed premises. A gunsmith or dealer of firearms may conduct business temporarily at a location other than the location specified on the license if such temporary location is the location for a gun show or event sponsored by any national, state, or local organization, or any affiliate of any such organization devoted to the collection, competitive use or other sporting use of firearms. Any sale or transfer at a gun show must also comply with the provisions of article 39-DD of the general business law. Records of receipt and disposition of firearms transactions conducted at such temporary location shall include the location of the sale or other disposition and shall be entered in the permanent records of the gunsmith or dealer of firearms and retained on the location specified on the license. Nothing in this section shall authorize any licensee to conduct business from any motorized or towed vehicle. A separate fee shall not be required of a licensee with respect to business conducted under this subdivision. Any inspection or examination of inventory or records under this section at such temporary location shall be limited to inventory consisting of, or records related to, firearms held or disposed at such temporary locations. Failure of any licensee to so exhibit or display his or her license, as the case may be, shall be presumptive evidence that he or she is not duly licensed.

9. License: amendment. Elsewhere than in the city of New York, a person licensed to carry or possess a pistol or revolver may apply at any time to his or her licensing officer for amendment of his or her license to include 1 or more such weapons or to cancel weapons held under license. If granted, a record of the amendment describing the weapons involved shall be filed by the licensing officer in the executive department, division of state police, Albany. The

superintendent of state police may authorize that such amendment be completed and transmitted to the state police in electronic form. Notification of any change of residence shall be made in writing by any licensee within 10 days after such change occurs, and a record of such change shall be inscribed by such licensee on the reverse side of his or her license. Elsewhere than in the city of New York, and in the counties of Nassau and Suffolk, such notification shall be made to the executive department, division of state police, Albany, and in the city of New York to the police commissioner of that city, and in the county of Nassau to the police commissioner of that county, and in the county of Suffolk to the licensing officer of that county, who shall, within 10 days after such notification shall be received by him or her, give notice in writing of such change to the executive department, division of state police, at Albany.

10. License: expiration, certification and renewal.

(a) Any license for gunsmith or dealer in firearms and, in the city of New York, any license to carry or possess a pistol or revolver, issued at any time pursuant to this section or prior to the first day of July, 1963 and not limited to expire on an earlier date fixed in the license, shall expire not more than 3 years after the date of issuance. In the counties of Nassau, Suffolk and Westchester, any license to carry or possess a pistol or revolver, issued at any time pursuant to this section or prior to the first day of July, 1963 and not limited to expire on an earlier date fixed in the license, shall expire not more than 5 years after the date of issuance; however, in the county of Westchester, any such license shall be certified prior to the first day of April, 2000, in accordance with a schedule to be contained in regulations promulgated by the commissioner of the division of criminal justice services, and every such license shall be recertified every 5 years thereafter. For purposes of this section certification shall mean that the licensee shall provide to the licensing officer the following information only: current name, date of birth, current address, and the make, model, caliber and serial number of all firearms currently possessed. Such certification information shall be filed by the licensing officer in the same manner as an amendment. Elsewhere than in the city of New York and the counties of Nassau, Suffolk and Westchester, any license to carry or possess a pistol or revolver, issued at any time pursuant to this section or prior to the first day of July, 1963 and not previously revoked or cancelled, shall be in force and effect until revoked as herein provided. Any license not previously cancelled or revoked shall remain in full force and effect for 30 days beyond the stated expiration date on such license. Any application to renew a license that has not previously expired, been revoked or cancelled shall thereby extend the term of the license until disposition of the application by the licensing officer. In the case of a license for gunsmith or dealer in firearms, in counties having a population of less than 200,000 inhabitants, photographs and fingerprints shall be submitted on original applications and upon renewal thereafter only at 6 year intervals. Upon satisfactory proof that a currently valid original license has been despoiled, lost or otherwise removed from the possession of the licensee and upon application containing an additional photograph of the licensee, the licensing officer shall issue a duplicate license.

(b) All licensees shall be recertified to the division of state police every 5 years thereafter. Any license issued before the effective date of the chapter of the laws of 2013 which added this paragraph shall be recertified by the licensee on or before January 31, 2018, and not less than 1 year prior to such date, the state police shall send a notice to all license holders who have not recertified by such time. Such recertification shall be in a form as approved by the superintendent of state police, which shall request the license holder's name, date of birth, gender, race, residential address, social security number, firearms possessed by such license holder, email address at the option of the license holder and an affirmation that such license holder is not prohibited from possessing firearms. The form may be in an electronic form if so designated by the superintendent of state police. Failure to recertify shall act as a revocation of such license. If the New York state police discover as a result of the recertification process that a licensee failed to provide a change of address, the New York state police shall not require the licensing officer to revoke such license.

11. License: revocation and suspension.

(a) The conviction of a licensee anywhere of a felony or serious offense or a licensee at any time becoming ineligible to obtain a license under this section shall operate as a revocation of the license. A license may be revoked or suspended as provided for in § 530.14 of the criminal procedure law or § 842-a of the family court act. Except for a license issued pursuant to § 400.01 of this article, a license may be revoked and cancelled at any time in the city of New York, and in the counties of Nassau and Suffolk, by the licensing officer, and elsewhere than in the city of New York by any judge or justice of a court of record; a license issued pursuant to § 400.01 of this article may be revoked and cancelled at any time by the licensing officer or any judge or justice of a court of record. The official revoking a license shall give written notice thereof without unnecessary delay to the executive department, division of state police, Albany, and shall also notify immediately the duly constituted police authorities of the locality.

(b) Whenever the director of community services or his or her designee makes a report pursuant to § 9.46 of the mental hygiene law, the division of criminal justice services shall convey such information, whenever it determines that the person named in the report possesses a license issued pursuant to this section, to the appropriate licensing official, who shall issue an order suspending or revoking such license.

(c) In any instance in which a person's license is suspended or revoked under paragraph (a) or (b) of this subdivision, such person shall surrender such license to the appropriate licensing official and any and all firearms, rifles, or shotguns owned or possessed by such person shall be surrendered to an appropriate law enforcement agency as provided in subparagraph (f) of paragraph 1 of subdivision a of § 265.20 of this chapter. In the event such license, firearm, shotgun, or rifle is not surrendered, such items shall be removed and declared a nuisance and any police officer or peace officer acting pursuant to his or her special duties is authorized to remove any and all such weapons.

12. Records required of gunsmiths and dealers in firearms. Any person licensed as gunsmith or dealer in firearms

shall keep a record book approved as to form, except in the city of New York, by the superintendent of state police. In the record book shall be entered at the time of every transaction involving a firearm the date, name, age, occupation and residence of any person from whom a firearm is received or to whom a firearm is delivered, and the calibre, make, model, manufacturer's name and serial number, or if none, any other distinguishing number or identification mark on such firearm. Before delivering a firearm to any person, the licensee shall require him to produce either a license valid under this section to carry or possess the same, or proof of lawful authority as an exempt person pursuant to § 265.20. In addition, before delivering a firearm to a peace officer, the licensee shall verify that person's status as a peace officer with the division of state police. After completing the foregoing, the licensee shall remove and retain the attached coupon and enter in the record book the date of such license, number, if any, and name of the licensing officer, in the case of the holder of a license to carry or possess, or the shield or other number, if any, assignment and department, unit or agency, in the case of an exempt person. The original transaction report shall be forwarded to the division of state police within 10 days of delivering a firearm to any person, and a duplicate copy shall be kept by the licensee. The superintendent of state police may designate that such record shall be completed and transmitted in electronic form. A dealer may be granted a waiver from transmitting such records in electronic form if the superintendent determines that such dealer is incapable of such transmission due to technological limitations that are not reasonably within the control of the dealer, or other exceptional circumstances demonstrated by the dealer, pursuant to a process established in regulation, and at the discretion of the superintendent. Records assembled or collected for purposes of inclusion in the database created pursuant to § 400.02 of this article shall not be subject to disclosure pursuant to article 6 of the public officers law. The record book shall be maintained on the premises mentioned and described in the license and shall be open at all reasonable hours for inspection by any peace officer, acting pursuant to his special duties, or police officer. In the event of cancellation or revocation of the license for gunsmith or dealer in firearms, or discontinuance of business by a licensee, such record book shall be immediately surrendered to the licensing officer in the city of New York, and in the counties of Nassau and Suffolk, and elsewhere in the state to the executive department, division of state police.

12-a. State police regulations applicable to licensed gunsmiths engaged in the business of assembling or manufacturing firearms. The superintendent of state police is hereby authorized to issue such rules and regulations as he deems reasonably necessary to prevent the manufacture and assembly of unsafe firearms in the state. Such rules and regulations shall establish safety standards in regard to the manufacture and assembly of firearms in the state, including specifications as to materials and parts used, the proper storage and shipment of firearms, and minimum standards of quality control. Regulations issued by the state police pursuant to this subdivision shall apply to any person licensed as a gunsmith under this section engaged in the business of manufacturing or assembling firearms, and any violation thereof shall subject the licensee to revocation of license pursuant to subdivision 11 of this section.

12-c. Firearms records.

(a) Every employee of a state or local agency, unit of local government, state or local commission, or public or private organization who possesses a firearm or machine-gun under an exemption to the licensing requirements under this chapter, shall promptly report in writing to his employer the make, model, calibre and serial number of each such firearm or machine-gun. Thereafter, within 10 days of the acquisition or disposition of any such weapon, he shall furnish such information to his employer, including the name and address of the person from whom the weapon was acquired or to whom it was disposed.

(b) Every head of a state or local agency, unit of local government, state or local commission, public authority or public or private organization to whom an employee has submitted a report pursuant to paragraph (a) of this subdivision shall promptly forward such report to the superintendent of state police.

(c) Every head of a state or local agency, unit of local government, state or local commission, public authority, or any other agency, firm or corporation that employs persons who may lawfully possess firearms or machine-guns without the requirement of a license therefor, or that employs persons licensed to possess firearms or machine-guns, shall promptly report to the superintendent of state police, in the manner prescribed by him, the make, model, calibre and serial number of every firearm or machine-gun possessed by it on the effective date of this act for the use of such employees or for any other use. Thereafter, within 10 days of the acquisition or disposition of any such weapon, such head shall report such information to the superintendent of the state police, including the name and address of the person from whom the weapon was acquired or to whom it was disposed.

14. Fees. In the city of New York and the county of Nassau, the annual license fee shall be \$25 for gunsmiths and \$50 for dealers in firearms. In such city, the city council and in the county of Nassau the Board of Supervisors shall fix the fee to be charged for a license to carry or possess a pistol or revolver and provide for the disposition of such fees. Elsewhere in the state, the licensing officer shall collect and pay into the county treasury the following fees: for each license to carry or possess a pistol or revolver, not less than \$3 nor more than \$10 as may be determined by the legislative body of the county; for each amendment thereto, \$3, and \$5 in the county of Suffolk; and for each license issued to a gunsmith or dealer in firearms, \$10. The fee for a duplicate license shall be \$5. The fee for processing a license transfer between counties shall be \$5. The fee for processing a license or renewal thereof for a qualified retired police officer as defined under subdivision 34 of § 1.20 of the criminal procedure law, or a qualified retired sheriff, undersheriff, or deputy sheriff of the city of New York as defined under subdivision 2 of § 2.10 of the criminal procedure law, or a qualified retired bridge and tunnel officer, sergeant or lieutenant of the triborough bridge and tunnel authority as defined under subdivision 20 of § 2.10 of the criminal procedure law, or a qualified retired uniformed court officer in the unified court system, or a qualified retired court clerk in the unified court system in the first and second judicial departments, as defined in paragraphs a and

b of subdivision 21 of § 2.10 of the criminal procedure law or a retired correction officer as defined in subdivision 25 of § 2.10 of the criminal procedure law shall be waived in all counties throughout the state.

15. Any violation by any person of any provision of this section is a class A misdemeanor.

16. Unlawful disposal. No person shall except as otherwise authorized pursuant to law dispose of any firearm unless he is licensed as gunsmith or dealer in firearms.

16-a. Registration.

(a) An owner of a weapon defined in paragraph (e) or (f) of subdivision 22 of § 265.00 of this chapter, possessed before the date of the effective date of the chapter of the laws of 2013 which added this paragraph, must make an application to register such weapon with the superintendent of state police, in the manner provided by the superintendent, or by amending a license issued pursuant to this section within 1 year of the effective date of this subdivision except any weapon defined under subparagraph (vi) of paragraph (g) of subdivision 22 of § 265.00 of this chapter transferred into the state may be registered at any time, provided such weapons are registered within 30 days of their transfer into the state. Registration information shall include the registrant's name, date of birth, gender, race, residential address, social security number and a description of each weapon being registered. A registration of any weapon defined under subparagraph (vi) of paragraph (g) of subdivision 22 of § 265.00 or a feeding device as defined under subdivision 23 of § 265.00 of this chapter shall be transferable, provided that the seller notifies the state police within 72 hours of the transfer and the buyer provides the state police with information sufficient to constitute a registration under this section. Such registration shall not be valid if such registrant is prohibited or becomes prohibited from possessing a firearm pursuant to state or federal law. The superintendent shall determine whether such registrant is prohibited from possessing a firearm under state or federal law. Such check shall be limited to determining whether the factors in 18 USC 922 (g) apply or whether a registrant has been convicted of a serious offense as defined in subdivision 16-b of § 265.00 of this chapter, so as to prohibit such registrant from possessing a firearm, and whether a report has been issued pursuant to § 9.46 of the mental hygiene law. All registrants shall recertify to the division of state police every 5 years thereafter. Failure to recertify shall result in a revocation of such registration.

(a-1) Notwithstanding any inconsistent provisions of paragraph (a) of this subdivision, an owner of an assault weapon as defined in subdivision 22 of § 265.00 of this chapter, who is a qualified retired New York or federal law enforcement officer as defined in subdivision 25 of § 265.00 of this chapter, where such weapon was issued to or purchased by such officer prior to retirement and in the course of his or her official duties, and for which such officer was qualified by the agency that employed such officer within 12 months prior to his or her retirement, must register such weapon within 60 days of retirement.

(b) The superintendent of state police shall create and maintain an internet website to educate the public as to which semiautomatic rifle, semiautomatic shotgun or semiautomatic pistol or weapon that are illegal as a result of the enactment of the chapter of the laws of 2013 which added this paragraph, as well as such assault weapons which are illegal pursuant to article 265 of this chapter. Such website shall contain information to assist the public in recognizing the relevant features proscribed by such article 265, as well as which make and model of weapons that require registration.

(c) A person who knowingly fails to apply to register such weapon, as required by this section, within 1 year of the effective date of the chapter of the laws of 2013 which added this paragraph shall be guilty of a class A misdemeanor and such person who unknowingly fails to validly register such weapon within such 1 year period shall be given a warning by an appropriate law enforcement authority about such failure and given 30 days in which to apply to register such weapon or to surrender it. A failure to apply or surrender such weapon within such 30-day period shall result in such weapon being removed by an appropriate law enforcement authority and declared a nuisance.

16-b. The cost of the software, programming and interface required to transmit any record that must be electronically transmitted by the dealer or licensing officer to the division of state police pursuant to this chapter shall be borne by the state.

17. Applicability of section. The provisions of article 265 of this chapter relating to illegal possession of a firearm, shall not apply to an offense which also constitutes a violation of this section by a person holding an otherwise valid license under the provisions of this section and such offense shall only be punishable as a class A misdemeanor pursuant to this section. In addition, the provisions of such article 265 of this chapter shall not apply to the possession of a firearm in a place not authorized by law, by a person who holds an otherwise valid license or possession of a firearm by a person within a 1 year period after the stated expiration date of an otherwise valid license which has not been previously cancelled or revoked shall only be punishable as a class A misdemeanor pursuant to this section.

§ 400.01. License to carry and possess firearms for retired sworn members of the division of state police

1. A license to carry or possess a firearm for a retired sworn member of the division of state police shall be granted in the same manner and upon the same terms and conditions as licenses issued under § 400.00 of this article provided, however, that applications for such license may be made to, and the licensing officer may be, the superintendent of state police.

2. For purposes of this section, a "retired sworn member of the division of state police" shall mean a former sworn member of the division of state police, who upon separation from the division of state police was immediately entitled to receive retirement benefits under the provisions of the retirement and social security law.

3. The provisions of this section shall only apply to license applications made or renewals which must be made on or after the effective date of this section. A license to carry or possess a pistol or revolver issued pursuant to the provisions of § 400.00 of this article to a person covered by the provisions of this section shall be valid until such license would have

expired pursuant to the provisions of § 400.00 of this article; provided that, on or after the effective date of this section, an application or renewal of such license shall be made pursuant to the provisions of this section.

4. Except for the designation of the superintendent of state police as the licensing officer for retired sworn members of the division of state police who have opted to obtain such license under this section, all of the provisions and requirements of § 400.00 of this article and any other provision of law shall be applicable to individuals licensed pursuant to this section. In addition all provisions of § 400.00 of this article, except for the designation of the superintendent of state police as licensing officer are hereby deemed applicable to individuals licensed pursuant to this section.

§ 400.02. Statewide license and record database. There shall be a statewide license and record database which shall be created and maintained by the division of state police the cost of which shall not be borne by any municipality. Records assembled or collected for purposes of inclusion in such database shall not be subject to disclosure pursuant to article 6 of the public officers law. Records containing granted license applications shall be periodically checked by the division of criminal justice services against criminal conviction, mental health, and all other records as are necessary to determine their continued accuracy as well as whether an individual is no longer a valid license holder. The division of criminal justice services shall also check pending applications made pursuant to this article against such records to determine whether a license may be granted. All state agencies shall cooperate with the division of criminal justice services, as otherwise authorized by law, in making their records available for such checks. The division of criminal justice services, upon determining that an individual is ineligible to possess a license, or is no longer a valid license holder, shall notify the applicable licensing official of such determination and such licensing official shall not issue a license or revoke such license and any weapons owned or possessed by such individual shall be removed consistent with the provisions of subdivision 11 of § 400.00 of this article. Local and state law enforcement shall have access to such database, as otherwise authorized by law, in the performance of their duties. Records assembled or collected for purposes of inclusion in the database established by this section shall be released pursuant to a court order.

§ 400.03. Sellers of ammunition

1. A seller of ammunition as defined in subdivision 24 of § 265.00 of this chapter shall register with the superintendent of state police in a manner provided by the superintendent. Any dealer in firearms that is validly licensed pursuant to § 400.00 of this article shall not be required to complete such registration.

2. Any seller of ammunition or dealer in firearms shall keep a record book approved as to form by the superintendent of state police. In the record book shall be entered at the time of every transaction involving ammunition the date, name, age, occupation and residence of any person from whom ammunition is received or to whom ammunition is delivered, and the amount, calibre, manufacturer's name and serial number, or if none, any other distinguishing number or identification mark on such ammunition. The record book shall be maintained on the premises mentioned and described in the license and shall be open at all reasonable hours for inspection by any peace officer, acting pursuant to his or her special duties, or police officer. Any record produced pursuant to this section and any transmission thereof to any government agency shall not be considered a public record for purposes of article 6 of the public officers law.

3. No later than 30 days after the superintendent of the state police certifies that the statewide license and record database established pursuant to § 400.02 of this article is operational for the purposes of this section, a dealer in firearms licensed pursuant to § 400.00 of this article, a seller of ammunition as defined in subdivision 24 of § 265.00 of this chapter shall not transfer any ammunition to any other person who is not a dealer in firearms as defined in subdivision 9 of such § 265.00 or a seller of ammunition as defined in subdivision 24 of § 265.00 of this chapter, unless:

(a) before the completion of the transfer, the licensee or seller contacts the statewide license and record database and provides the database with information sufficient to identify such dealer or seller, transferee based on information on the transferee's identification document as defined in paragraph (c) of this subdivision, as well as the amount, calibre, manufacturer's name and serial number, if any, of such ammunition;

(b) the system provides the licensee or seller with a unique identification number; and

(c) the transferor has verified the identity of the transferee by examining a valid state identification document of the transferee issued by the department of motor vehicles or if the transferee is not a resident of the state of New York, a valid identification document issued by the transferee's state or country of residence containing a photograph of the transferee.

4. If the database determines that the purchaser of ammunition is eligible to possess ammunition pursuant to state and federal laws, the system shall:

(a) assign a unique identification number to the transfer; and

(b) provide the licensee or seller with the number.

5. If the statewide license and record database notifies the licensee or seller that the information available to the database does not demonstrate that the receipt of ammunition by such other person would violate 18 U.S.C. 922(g) or state law, and the licensee transfers ammunition to such other person, the licensee shall indicate to the database that such transaction has been completed at which point a record of such transaction shall be created which shall be accessible by the division of state police and maintained for no longer than 1 year from point of purchase, which shall not be incorporated into the database established pursuant to § 400.02 of this article or the registry established pursuant to subdivision 16-a of § 400.00 of this article. The division of state police may share such information with a local law enforcement agency. Evidence of the purchase of ammunition is not sufficient to establish probable cause to believe that the purchaser has committed a crime absent other information tending to prove the commission of a crime. Records assembled or accessed pursuant to this section shall not be subject to disclosure pursuant to article 6 of the public

officers law. This requirement of this section shall not apply **(i)** if a background check cannot be completed because the system is not operational as determined by the superintendent of state police, or where it cannot be accessed by the practitioner due to a temporary technological or electrical failure, as set forth in regulation, or **(ii)** a dealer or seller has been granted a waiver from conducting such background check if the superintendent of state police determines that such dealer is incapable of such check due to technological limitations that are not reasonably within the control of the dealer, or other exceptional circumstances demonstrated by the dealer, pursuant to a process established in regulation, and at the discretion of such superintendent.

6. If the superintendent of state police certifies that background checks of ammunition purchasers may be conducted through the national instant criminal background check system, use of that system by a dealer or seller shall be sufficient to satisfy subdivisions 4 and 5 of this section and such checks shall be conducted through such system, provided that a record of such transaction shall be forwarded to the state police in a form determined by the superintendent.

7. No commercial transfer of ammunition shall take place unless a licensed dealer in firearms or registered seller of ammunition acts as an intermediary between the transferor and the ultimate transferee of the ammunition for the purposes of contacting the statewide license and record database pursuant to this section. Such transfer between the dealer or seller, and transferee must occur in person.

8. A seller of ammunition who fails to register pursuant to this section and sells ammunition, for a first offense, shall be guilty of a violation and subject to the fine of \$1,000 and for a second offense, shall be guilty of a class A misdemeanor. A seller of ammunition that fails to keep any record required pursuant to this section, for a first offense shall be guilty of a violation and subject to a fine of \$500, and for a second offense shall be guilty of a class B misdemeanor, and the registration of such seller shall be revoked.

§ 400.05. Disposition of weapons and dangerous instruments, appliances and substances

1. Any weapon, instrument, appliance or substance specified in article 265, when unlawfully possessed, manufactured, transported or disposed of, or when utilized in the commission of an offense, is hereby declared a nuisance. When the same shall come into the possession of any police officer or peace officer, it shall be surrendered immediately to the official mentioned in paragraph (f) of subdivision one of § 265.20, except that such weapon, instrument, appliance or substance coming into the possession of the state police shall be surrendered to the superintendent of state police.

2. The official to whom the weapon, instrument, appliance or substance which has subsequently been declared a nuisance pursuant to subdivision one of this section is so surrendered shall, at any time but at least once each year, destroy the same or cause it to be destroyed, or render the same or cause it to be rendered ineffective and useless for its intended purpose and harmless to human life.

6. A firearm or other weapon which is surrendered, or is otherwise voluntarily delivered pursuant to § 265.20 of this chapter and which has not been declared a nuisance pursuant to subdivision 1 of this section, shall be retained by the official to whom it was delivered for a period not to exceed 1 year. Prior to the expiration of such time period, a person who surrenders a firearm shall have the right to arrange for the sale, or transfer, of such firearm to a dealer in firearms licensed in accordance with this chapter or for the transfer of such firearm to himself or herself provided that a license therefor has been issued in accordance with this chapter. If no lawful disposition of the firearm or other weapon is made within the time provided, the firearm or weapon concerned shall be declared a nuisance and shall be disposed of in accordance with the provisions of this section.

§ 400.10. Report of theft or loss of a firearm, rifle or shotgun

1. (a) Any owner or other person lawfully in possession of: **(i)** a firearm, rifle or, shotgun who suffers the loss or theft of said weapon; **(ii)** ammunition as well as a firearm, rifle or shotgun who suffers the loss or theft of such ammunition as well as a firearm, rifle or shotgun; or **(iii)** ammunition and is a dealer in firearms or seller of ammunition who suffers the loss or theft of such ammunition shall within 24 hours of the discovery of the loss or theft report the facts and circumstances of the loss or theft to a police department or sheriff's office.

(b) Whenever a person reports the theft or loss of a firearm, rifle, shotgun or ammunition to any police department or sheriff's office, the officer or department receiving such report shall forward notice of such theft or loss to the division of state police via the New York Statewide Police Information Network. The notice shall contain information in compliance with the New York Statewide Police Information Network Operating Manual, including the caliber, make, model, manufacturer's name and serial number, if any, and any other distinguishing number or identification mark on the weapon.

2. The division of state police shall receive, collect and file the information referred to in subdivision one of this section. The division shall cooperate, and undertake to furnish or make available to law enforcement agencies this information, for the purpose of coordinating law enforcement efforts to locate such weapons.

3. Notwithstanding any other provision of law, a violation of paragraph (a) of subdivision one of this section shall be a class A misdemeanor.

Code of the City of Albany

Current as of September 25, 2015

§ 193-1 Unlawful to carry loaded firearms; exception. [Amended 11-18-1991; 1-22-2004 by Ord. No. 47.121.03]

Any person, other than a peace officer, who shall in any public street, highway or place within the City of Albany have upon his person or carry any loaded pistol, revolver or other firearm without having been authorized as provided by law to carry

the same shall be guilty of a misdemeanor, punishable by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, or by both such fine and imprisonment.

§ 193-2 Commissioner of Police authorized to issue permit to carry loaded firearms. Any person, except as provided in this article, who has occasion to carry a loaded revolver, pistol or firearm for his protection may apply to the Commissioner of Police, and such officer, if satisfied that the applicant is a proper and law-abiding person, shall give said person a permit allowing him to carry such loaded firearm for such period of time as he may deem proper. Any nonresident who does business in the City of Albany and has occasion to carry a loaded pistol, revolver or firearm while in said City must make application for permission to do so, to the Commissioner of Police, in the same manner as is required of residents of said City and shall be subject to the same conditions and restrictions.

§ 193-3 Concealed firearms; at time of arrest. If, at the time of arrest, a loaded pistol, revolver or firearm of any description shall be found concealed on the person of the one arrested, the officer making the arrest shall state such fact to the Magistrate before whom the prisoner is brought and shall make a separate complaint against such prisoner for violation of the provisions of this article.

§ 193-4 Commissioner of Police authorized to revoke permits. The Commissioner of Police is hereby authorized and empowered, for reasons appearing to be satisfactory to him, to annul or revoke any permission given under this article. Every person to whom permit shall be granted as above provided shall pay therefor the sum of \$2.50, which shall be applied in aid of the Police Pension Fund; and a return, in detail, shall be made monthly by the Commissioner of Police to the Comptroller of the City of the amount so received and credited. All persons to whom such permission shall be granted are hereby declared to be individually responsible for their own acts, or the consequences that may arise from the use of loaded pistols, revolvers, or firearms, carried under the permission obtained as provided in this article.

§ 193-5 Repealer. All ordinances or parts of ordinances of the City of Albany, inconsistent with the provisions of this article are hereby repealed

§ 193-7 Definitions. Unless otherwise expressly stated, whenever used in this article, the following words shall have the meanings given to them by this section. When used herein:

AMMUNITION. Any projectile commonly known as a "bullet" or "shell."

FIREARM. Any weapon from which a shot is discharged by force of an explosive, or a weapon which acts by force of gunpowder, and shall include any weapon capable of being loaded with powder, ball or ammunition, and shall include any weapon which is otherwise capable of being loaded with powder, ball or ammunition, whether completed, assembled or from which any part or piece has been removed therefrom.

PERSON. Any person, firm, partnership, association, corporation, company or organization of any kind.

SAFE STORAGE DEPOSITORY. A safe or other secure container which, when locked, is incapable of being opened without the key, combination or other unlocking mechanism and is capable of preventing an unauthorized person from obtaining access to and possession of the firearm contained therein.

§ 193-8 Storage.

A. Firearms and ammunition for sale shall be kept secured at all times when the place in which they are held for sale is not open for business. The manner in which the firearms and ammunition are to be secured must be approved by both the Chief of Police and the Chief of the Fire Department upon receipt of appropriate application for such approval. Such approval shall in no case be unreasonably withheld.

B. No person who owns or is custodian of a firearm shall store or otherwise leave such firearm out of his or her immediate possession or control without having first securely locked such firearm in an appropriate safe storage depository, which when locked is incapable of being opened without the key, combination or other unlocking mechanism and is capable of preventing an unauthorized person from obtaining access to and possession of the firearm contained therein, or rendered it incapable of being fired by use of a gun locking device appropriate to that firearm.

§ 193-9 Sale of ammunition and firearms.

A. Ammunition shall only be sold to persons possessing a valid firearms license, when a license is required for the type of firearm for which the ammunition is used. When purchasing any other type of ammunition, where a firearms license would not be required for the type of ammunition being purchased, a driver's license shall be required. A record shall be kept by the dealer of each sale of ammunition which shall show the type, caliber and quantity of ammunition sold, the name and address of the person receiving the same, the caliber, make, model, manufacturer's name and serial number of the firearm for which the purchaser is purchasing ammunition, the date and time of the transaction, and the identifying number of the firearms or driver's license. Such record shall be maintained for 10 years and shall be made available to state and local enforcement agencies upon request.

B. Every person engaged in the retail business of selling firearms shall post a notice in the place where such firearms are displayed or delivered to the purchaser conspicuously stating, in no smaller than 24 point type and on no smaller than 8 1/2 x 11 paper, stating in bold print the following warning:

WARNING: RESPONSIBLE FIREARM STORAGE IS THE LAW IN THE CITY OF ALBANY. FIREARMS MUST BE STORED IN A SAFE OR OTHER SECURE CONTAINER WHICH, WHEN LOCKED, IS INCAPABLE OF BEING OPENED WITHOUT THE KEY, COMBINATION OR OTHER UNLOCKING MECHANISM AND IS CAPABLE OF PREVENTING AN

UNAUTHORIZED PERSON FROM OBTAINING ACCESS TO AND POSSESSION OF THE FIREARM CONTAINED THEREIN, OR IS RENDERED INCAPABLE OF BEING FIRED BY USE OF A GUN LOCKING DEVICE APPROPRIATE TO THAT FIREARM. LEAVING FIREARMS ACCESSIBLE TO A CHILD OR UNAUTHORIZED PERSON MAY SUBJECT YOU TO IMPRISONMENT, FINE, OR BOTH. YOU MAY ALSO FACE ADDITIONAL CRIMINAL PENALTIES IF THE FIREARM IS USED BY ANOTHER NEGLIGENTLY AND CIVIL LIABILITY.

§ 193-10 Report of theft or loss to Police Department. Any theft or loss of ammunition or firearms from a storage vault, safe storage depository, or otherwise shall be reported immediately to the Police Department of the City of Albany.

§ 193-11 Declaration of state of emergency by Mayor. In the event of disaster, riots, catastrophe, insurrection, war or acts of war and at which time the Mayor of the City of Albany or the Acting Mayor shall declare a state of emergency, then and in that event the Mayor or Acting Mayor may order such additional security measures as he may deem advisable.

§ 193-12 Penalties for offenses. Any person who shall violate or shall neglect or refuse to comply with this article or any provisions thereof, upon a first offense, shall be guilty of a violation and, upon conviction thereof, shall be punishable by a fine not exceeding \$250 or by imprisonment not exceeding 15 days. Upon a second offense or when a first offense results in injury or death, the offender shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not exceeding \$1,000 or by imprisonment not exceeding 1 year, or by both such fine and imprisonment, and each day of violation shall constitute a separate offense and be subject to punishment as such.

§ 193-13 Findings and declaration. The Common Council of the City of Albany finds and declares that the proliferation and use of assault weapons pose and present a threat to the health, safety, welfare and security to the citizens of Albany.

§ 193-14 Scope and intent. As used herein, "assault weapon" generally means a firearm of such a nature and with such a high rate of fire and/or capacity for firepower that its function as a legitimate sports or recreational firearm is substantially outweighed by the danger that it can be used to kill and injure human beings. While it is the intent, then, of this legislation to restrict the use and possession of assault weapons, it is not the intent of the Common Council to place restrictions on the use of those firearms which are primarily designed and intended for hunting, target practice or other legitimate sports or recreational activities.

§ 193-15 Assault weapons.

A. As used herein, "assault weapon" includes any of the following or their copies:

(1) Pistols:

Bushmaster Firearms Company auto pistol
Calico Model 100-P auto pistol
Federal Engineering Corporation XP 450, XP 900
Holmes Firearms MP-83, MP-22 assault pistols
Intratec Tec-9 Auto, Tec-9M, Scorpion auto pistols
Israeli Military Industries UZI pistol
Iver Johnson Enforcer Model 300 auto
Ingram or S.W.D. MAC 10, MAC 11
Spectre double-action auto pistol
Ruger Mini 14

(2) Rifles and shotguns by manufacturers in the United States:

Auto-Ordinance Corporation Thompson M1, Mix, 27 A-1
Thompson A-1 Thompson Deluxe, 1927 A5
Colt AR-15A2-Delta H-Bar, AR-15A2 H-Bar
Federal Engineering Corporation XC-900, XC-450 auto carbines
Springfield Armory Inc. BM-59, SAR-48
S.W.D. Street Sweeper shotgun
Weaver Arms Corporation nighthawk

(3) Rifles and shotguns by manufacturers outside the United States:

Avtomat Kalashnikovs manufactured or imported by American Arms, Bushmaster Firearms, Daewoo, Mitchell, Norinco and Poly Technologies
Beretta AR-70 Sporter rifle
Fabrique National FN, FNC rifle
Franchi LAW 12 auto, SPAS 12 pump/auto shotguns
Heckler and Koch HK 91, 93, 94 rifles
Israeli Military Industries Galil Rifles, UZI carbines
Steyr Daimler-Pusch A.U.G. autoloading rifle
Striker 12 shotgun
Valmet M-76 standard rifle, M78 semi-auto

(4) Any other weapon to be subsequently designated by law.

B. A copy of any of the weapons listed in Subsection A(1), (2) and (3) of this section shall include any other model by the same manufacturer with the same action design having slight modifications or enhancements, provided that such weapon

as modified or enhanced employs only ammunition of more than .22 caliber rimfire; any weapon with an action design identical or nearly identical to any of the listed weapons which has been designed from, renamed, renumbered or patterned after any of the listed weapons regardless of the manufacturer or country of origin, provided that such weapon employs only ammunition of more than .22 caliber rimfire; or any weapon which has been manufactured and sold by another company under a licensing agreement to manufacture or sell a weapon identical or nearly identical to any of the listed weapons regardless of the company or production or country of origin, provided that such weapon employs only ammunition of more than .22 caliber rimfire.

C. "Assault weapon" does not include weapons that do not use cartridges, manually operated bolt-action weapons, lever-action weapons, slide-action weapons, single-shot weapons, multiple-barrel weapons, revolving-cylinder weapons except shotguns, semiautomatic weapons that use exclusively a rotary Mannlicher-style magazine, any antique firearm as defined in Article 265 of the Penal Law or any assault weapon which has been modified either to render it permanently inoperable or permanently make it a device no longer defined as an assault weapon.

§ 193-16 Prohibition; penalty; registration of existing weapons.

A. Any person, firm or corporation who or which shall, on or after the effective date of this article, manufacture, import, keep, offer or expose for sale, give, lend or possess any assault weapon in the City of Albany, except as provided for herein, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not exceeding \$1,000 and/or to imprisonment not exceeding 1 year.

B. Any individual who lawfully acquired and possessed an assault weapon, as defined herein, prior to the effective date of this article shall register the firearm with the Chief of the Albany Police Department pursuant to the provisions of § 193-17 herein. The registration shall be made within 90 days of the effective date hereof and shall contain a description of the firearm that identifies it uniquely, including all identification marks and the full name, address, date of birth and fingerprints of the owner, together with such other information as the Chief of Police may deem appropriate. Any change of address of the owner must be registered with the Department within 90 days of the change. The Department may charge a fee for registration not to exceed the actual processing costs of the Department. Such registration shall allow the possession of the firearm on the registrant's property or for the uses specified in § 193-17.

C. On and after the date fixed herein for the registration of assault weapons, no such weapon possessed pursuant hereto shall be sold or transferred to anyone within the City of Albany other than at a licensed gun dealer as defined in the Penal Law. Any individual who obtains title to an assault weapon registered under this section by bequest or intestate succession must, within 90 days, either render the weapon inoperable in accordance with § 193-15, apply for a license pursuant to § 193-17 herein, sell the weapon to a licensed gun dealer or remove the weapon from the City.

§ 193-17 Possession for competitive use; licensing and transportation.

A. A license for an assault weapon may be issued as provided in Subsection B to possess such weapon for the purpose of loading and firing the same while participating as a competitor in organized competitive matches or league competition under the auspices of or approval by a law enforcement agency or a nationally or state recognized organization that fosters proficiency in or promotes education about firearms or to possess such weapon for the purpose of loading and firing the same at a range located on premises owned and occupied by such agency or organization. Such license shall not permit use for any other purpose and shall not be transferable.

B. Application for such license as hereinbefore specified shall be made to the Chief of the Albany Police Department on forms prescribed by him for that purpose. Every person so licensed shall have such license on his or her person when engaged in such activity and while transporting such weapon to or from such competition or range.

C. All such weapons shall be transported in a case, together with a copy of the match program, match schedule or match registration. Where such person is transporting such weapon to or from a range, it shall be transported in a case. Magazines and ammunition for such weapon shall be carried and transported in a locked container separate from the weapon.

D. A licensed gun dealer, as defined in the Penal Law of the State of New York, who lawfully possessed an assault weapon prior to the effective date of this legislation or who gains possession thereof pursuant to this legislation may transport the weapon between dealers or out of the City, display it at any gun show licensed by a state or local governmental entity or sell it to a person licensed under this section. Any transporting allowed herein shall be accomplished as required in Subsection C.

§ 193-18 Applicability to police and military forces. The provisions of this article shall not apply to the sale to, purchase by or the use or possession of firearms by the Police Department, Sheriff's office, Marshal's office, corrections officers and the like or the military forces of this state while engaged in the discharge of their official duties or as otherwise permitted by regulation or law.

§ 193-19 Severability. If any provisions of this article or the application thereof to any person or circumstance is held unenforceable or invalid, in whole or in part, by any court of competent jurisdiction, such holding of unenforceability or invalidity shall in no way affect or impair any other provision of this article or the application of any such provision to any other person or circumstance.

§ 193-20 When effective. This article shall take effect immediately upon final passage, publication and signing as required by law.

Code of the City of Buffalo
Article I: Firearms and Arrows
Current as of 2015

§ 180-1 Firearms, shotguns, rifles and other dangerous weapons.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

AMMUNITION. Explosives suitable to be fired from a firearm, machine gun, pistol, revolver, rifle, shotgun, assault weapon or other dangerous weapon.

AMMUNITION-FEEDING DEVICE. Magazines, belts, feedstrips, drums or clips capable of being attached to or utilized with any center-fire rifle, shotgun or pistol which employs the force of the expanding gases from a discharging cartridge to chamber a fresh round after each single pull of the trigger which, in the case of a rifle or shotgun, holds in excess of 5 cartridges, or in the case of a pistol holds in excess of 17 cartridges.

ASSAULT WEAPON

(1) Any center-fire rifle or shotgun which employs the force of the expanding gases from a discharging cartridge to chamber a fresh round after each single pull of the trigger, and which is loaded or capable of being loaded with a combination of more than 6 cartridges in the ammunition-feeding device and chamber combined. For the purposes of this section, a weapon is capable of being loaded if it is possessed by one who, at the same time, possesses:

(a) In the case of a rifle, a fixed or detachable ammunition feeding device which is attached to or utilized with or capable of being attached to or utilized with such rifle and which has a capacity of more than 5 cartridges; or

(b) In the case of a shotgun, an ammunition-feeding device which is attached to or utilized with or capable of being attached to or utilized with such shotgun and which has a capacity of more than 5 cartridges.

(2) A center-fire rifle or shotgun which employs the force of expanding gases from a discharging cartridge to chamber a fresh round after each single pull of the trigger, and which has:

(a) A flash suppressor attached to the weapon reducing muzzle flash;

(b) A grenade launcher;

(c) A sighting device making a target visible at night;

(d) A barrel jacket surrounding all or a portion of the barrel, to dissipate heat therefrom; or

(e) A multi-burst trigger activator.

(3) Any stockless pistol grip shotgun.

(4) For purposes of this section, the term "assault weapon" shall not include any of the following:

(a) Any weapon which has been modified to render it permanently inoperable or permanently make it a device no longer defined as an "assault" weapon.

(b) Weapons that do not use cartridges or shells.

(c) Manually operated bolt-action weapons, lever-action weapons, slide-action weapons or single-shot weapons.

(d) Multiple-barrel weapons, revolving-cylinder weapons except shotguns, weapons that use exclusively a rotary Mannlicher-style magazine.

(e) Any antique firearm as defined in § 265.00 of the New York State Penal Law or any curio or relic as defined under United States law which is possessed by a licensed collector in accordance with United States law.

DISPOSE OF. To dispose of, give away, give, lease, loan, keep for sale, offer, offer for sale, sell, transfer or otherwise dispose of.

DRUG. Any substance listed in § 3306 of the Public Health Law of the State of New York.

DWELLING. One or more rooms, in a building or portion thereof designed or used exclusively as the residence or sleeping place of 1 or more persons, designed for occupancy by one family for cooking, living and sleeping purposes, as defined in Chapter 511, Zoning, of this Code.

FIREARM. Any pistol or revolver, or a shotgun having one or more barrels less than 18 inches in length or any weapon made from a shotgun (whether by alteration, modification or otherwise) if such weapon, as modified, has an overall length of less than 26 inches; or a rifle having 1 or more barrels less than 16 inches in length or any weapon made from a rifle (whether by alteration, modification or otherwise) if such weapon, as modified, has an overall length of less than 26 inches. For purposes of this definition, the length of a barrel on a shotgun or rifle shall be determined by measuring the distance between the muzzle and the face of the bolt, breech or breechlock when closed and when the shotgun or rifle is cocked; the overall length of a weapon made from a shotgun or rifle is the distance between the extreme ends of the weapon measured along a line parallel to the center line of the bore. Such definition, except as otherwise indicated, shall include both loaded and unloaded firearms, except that it shall not include any antique firearm as defined in federal or New York State law or any curio or relic as defined under United States law which is possessed by a licensed collector in accordance with United States law.

LOCKING DEVICE. A design adaptation or attachable accessory that will prevent the use of the firearm, rifle or shotgun by an unauthorized user, and includes but is not limited to a trigger lock, which prevents the pulling of the trigger without the use of a key, or a combination handle, which prevents the use of the firearm, rifle or shotgun without the alignment of the combination tumblers.

POSSESS. Have physical possession or otherwise to exercise dominion or control over. The presence in an automobile of any firearm, rifle or shotgun which is openly visible is presumptive evidence of its possession by all persons

occupying such automobile at the time such firearm, rifle or shotgun is found, except if such firearm, rifle or shotgun is found in a vehicle for hire.

PUBLIC PLACE. Any street, including the sidewalk portion thereof, park, playground, recreation area, cemetery or lot owned, leased, operated or controlled by or on behalf of any government, municipality or public authority or corporation within the boundaries of the City, which is generally accessible to the public, except grounds used for educational purposes.

PUBLIC FACILITY. Any building or facility owned, leased, operated or controlled by or on behalf of any government, municipality or public authority or corporation within the boundaries of the City, except buildings or facilities used for educational purposes.

RIFLE. A weapon designed or redesigned, made or remade and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

SHOTGUN. A weapon designed or redesigned, made or remade and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

C. No person shall possess a loaded or unloaded firearm, rifle, shotgun or air gun, or a dagger, dangerous knife, dirk, razor or stiletto, in a public place or public facility in the City. This prohibition shall not apply to:

(1) A police officer or peace officer authorized to possess the same.

(2) A government employee or licensed security guard authorized or required by employment or office to possess the same while acting within the scope of such employment.

(3) A person in the military service of the State of New York or the United States when duly authorized to possess the same.

(4) A person transporting a rifle or shotgun in a motor vehicle in the City in accordance with the provisions of § 11-0931, Subdivision 2, of the New York State Environmental Conservation Law, or otherwise transporting an unloaded rifle, shotgun or air gun in the City, provided that the same is completely enclosed or contained in a nontransparent carrying case and either:

(a) Said carrying case is locked; or

(b) A locking device is attached to the weapon and locked in a manner so as to prevent the weapon from being fired.

(5) An authorized person who, for the purpose of shooting practice, possesses a weapon at an established target range in a public place other than a park or public facility.

(6) A person voluntarily surrendering the same in accordance with the provisions of § 265.20 of the Penal law.

(7) Possession of a firearm by a person licensed to carry a firearm pursuant to § 400.00 of the Penal Law or possession or transportation by a gunsmith or dealer in firearms in accordance with a license issued by the State of New York or the United States, except that this subsection shall not apply in a park or a public facility other than a parking garage.

D. No person shall store a firearm, rifle, shotgun or air gun in a dwelling in the City unless said firearm, rifle, shotgun or air gun is completely enclosed or contained in a nontransparent locked carrying case or in a locked gun rack, cabinet, closet or safe, or a locking device is attached to the weapon and locked in a manner so as to prevent the weapon from being fired. This requirement shall not apply to a rifle, shotgun or licensed firearm carried on the body of the owner or within such close proximity of the owner that the owner can retrieve it as quickly and easily as if it were carried on the owner's body.

E. No person shall dispose of any firearm, rifle, shotgun, air gun or ammunition in the City. This prohibition shall not apply to:

(1) A gunsmith or dealer in firearms duly licensed by the State of New York or the United States.

(2) A person disposing of the same to a gunsmith or dealer in firearms duly licensed by the State of New York or the United States.

(3) A person voluntarily surrendering the same in accordance with the provisions of § 265.20 of the Penal Law.

(4) A person disposing of a licensed firearm in accordance with law.

(5) Disposition by intestate or testamentary bequest.

(6) A person disposing of a rifle, shotgun, air gun or ammunition to a family member.

F. No person shall possess an assault weapon or an ammunition-feeding device in the City. This prohibition shall not apply to:

(1) A police officer or peace officer authorized to possess the same.

(2) A person in the military service of the State of New York or the United States when duly authorized to possess the same.

(3) A person voluntarily surrendering the same in accordance with the provisions of § 265.20 of the Penal law.

(4) A gunsmith or dealer in firearms duly licensed by the State of New York or the United States for weapons to be used by police officers or persons in the military service or for delivery outside of the City.

G. No person shall dispose of an assault weapon or ammunition-feeding device in the City. This prohibition shall not apply to:

(1) A person voluntarily surrendering the same in accordance with the provisions of § 265.20 of the Penal Law.

(2) A gunsmith or dealer in firearms duly licensed by the State of New York or the United States for weapons to be used by police offices or persons in the military service or for delivery outside of the City.

H. No person shall carry a firearm, shotgun, rifle or air gun in the City while such person has 1/10 of 1% or more by weight of alcohol in the person's blood as shown by chemical analysis of the person's blood, breath, urine or saliva.

I. No person shall carry a firearm, shotgun, rifle or air gun in the City while in an intoxicated condition.

J. No person shall carry a firearm, shotgun, rifle or air gun in the City while the person's ability to safely carry such weapon is impaired by the use of a drug.

K. Any person who carries a firearm, shotgun, rifle or air gun in the City shall be deemed to have given consent to a breath test and a chemical test of the person's breath, blood, urine or saliva for the purpose of determining the alcoholic or drug content of the person's blood, provided that any test is administered at the direction of a police officer having reasonable grounds therefor. A chemical test must be administered within 2 hours after such person has been placed under arrest for a violation of this section or any other law or ordinance involving the use or possession of a firearm, rifle, shotgun or air gun, or within 2 hours after a breath test indicates that alcohol has been consumed by such person. Upon the trial of any action arising out of an arrest for a violation of Subsection H, I or J of this section, the court shall admit evidence of the amount of alcohol or drugs in the blood of the person carrying the firearm, shotgun, rifle or air gun as shown by a test administered pursuant to this section. Evidence of a refusal to submit to a chemical test shall be admissible in any trial, proceeding or hearing based upon a violation of such subsections, but only upon a showing that the person was given sufficient warning, in clear and unequivocal language, of the effect of such refusal and the person persisted in such refusal.

L. Discharge of weapons; permits.

(1) No person shall discharge an air gun, shotgun, rifle, assault weapon, machine gun, submachine gun or a firearm of any kind or description in the City, except police officers, peace officers, members of the military and persons holding permits as in this subsection provided.

(2) The Commissioner of Police is hereby authorized to grant permits for the discharge of shotguns at clay pigeons at any particular location or for the discharge of weapons at target ranges subject to such restrictions and conditions as the Commissioner may deem necessary. Any person holding such a permit shall obey all the restrictions and conditions contained herein.

M. Penalties for offenses. A violation of any provision of this section shall be punishable by a fine not to exceed \$1,500 or by imprisonment not to exceed 15 days, or by both such fine and imprisonment.

N. The provisions of this section are severable, and if any of its provisions shall be held unconstitutional or invalid, the decision of the court shall not affect or impair any of the remaining provisions of the same. It is hereby declared to be the intention of the Council that this section would have been adopted had such unconstitutional or invalid provision not been included herein. If any term or provision of this section shall be declared unconstitutional, invalid or ineffective in whole, or in part, by a court of competent jurisdiction, then to the extent that it is not unconstitutional, invalid or ineffective, such term or provision shall be in force and effect, nor shall such determination be deemed to invalidate the remaining terms or provisions thereof.

§ 180-2 Carrying loaded shotgun or rifle; exceptions. Nothing herein contained shall be construed to prohibit the possession, custody or use of said shotgun or rifle for the lawful purpose of self-defense or the defense of others.

Article II: Open Display or Carrying of Weapons in Certain Public Buildings

§ 180-6 Definitions. When used in this article, the following words and phrases shall have the meanings herein ascribed to them:

OPENLY CARRY OR DISPLAY. The possession or transport by any person of a weapon, as hereinafter defined, in such a manner that the weapon is visible to persons in the immediate vicinity, except where such possession or transportation is consistent with an authorized activity of function at the specific City building where such possession occurs.

PERSON. Any person, except a police officer or a peace officer.

PUBLIC BUILDING. The following buildings, structures or property owned, occupied or operated by the City of Buffalo:

- A. City Hall.
- B. City Court Building.
- C. Dunn Tire Park.
- D. Johnnie B. Wiley Sports Pavilion.
- E. Kleinhans Music Hall.

WEAPON. A firearm, ...imitation pistol or any other dangerous or deadly instrument or weapon.

§ 180-7 Prohibited acts. No person shall openly carry or display a weapon in any public building owned, occupied or operated by the City of Buffalo.

§ 180-8 Surrender and return of weapon. No person who openly carries or displays a weapon in any public building shall refuse to surrender such weapon at the request of any police officer or peace officer. Any weapon so surrendered shall be returned to such person upon his or her departure from the public building, provided that the possession thereof is lawful.

§ 180-9 Possession of illegal weapons. Nothing contained in this chapter shall be deemed to authorize the possession of any weapon, the possession of which is made unlawful by any other law, statute, ordinance or resolution.

§ 180-10 Possession of legal weapons. Nothing contained in this chapter shall be deemed to prohibit the possession of any weapon otherwise lawful under the circumstances herein specified

**Administrative Code of the City of New York 10-301
Title 10 Public Safety
Chapter 3 Firearms**

§ 10-301 Control and regulation of the disposition, purchase and possession of firearms, rifles, shotguns and assault weapons. Definitions. Whenever used in this chapter the following terms shall mean and include:

1. **"Firearm."** (a) Any pistol or revolver; (b) a shotgun having 1 or more barrels less than 18 inches in length; or (c) a rifle having 1 or more barrels less than 16 inches in length; or (d) any weapon made from a shotgun or rifle whether by alteration, modification, or otherwise if such weapon as altered, modified, or otherwise has an overall length of less than 26 inches. For the purpose of this subdivision the length of the barrel on a shotgun or rifle shall be determined by measuring the distance between the muzzle and the face of the bolt, breech, or breechlock when closed and when the shotgun or rifle is cocked; the overall length of a weapon made from a shotgun or rifle is the distance between the extreme ends of the weapon measured along a line parallel to the center line of the bore. Firearm does not include an antique firearm. The provisions of this chapter relating to firearms shall not apply to assault weapons except as specifically provided.
2. **"Rifle."** A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and, even if not designed or redesigned, made or remade, and intended to be fired from the shoulder, is not a firearm as defined in subdivision one of this section, and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each pull of the trigger. The provisions of this chapter relating to rifles shall not apply to assault weapons except as specifically provided.
3. **"Shotgun."** A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and, even if not designed or redesigned, made or remade, and intended to be fired from the shoulder, is not a firearm as defined in subdivision one of this section, and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell, to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger. The provisions of this chapter relating to shotguns shall not apply to assault weapons except as specifically provided.
4. **"Gunsmith."** Any person, firm, partnership, corporation, or company who engages in the business of repairing, altering, assembling, manufacturing, cleaning, polishing, engraving, or trueing, or who in the course of such business performs any mechanical operation on any rifle, shotgun, firearm, assault weapon or machine gun.
5. **"Dealer in firearms."** Any person, firm, partnership, corporation or company who engages in the business of purchasing, selling, keeping for sale, loaning, leasing, or in any manner disposing of any pistol or revolver or other firearms which may be concealed upon the person. Dealer in firearms shall not include a wholesale dealer.
6. **"Dealer in rifles and shotguns."** Any person, firm, partnership, corporation or company who engages in the business of purchasing, selling, keeping for sale, loaning, leasing, or in any manner disposing of any rifle, or shotgun. Dealer in rifles and shotguns shall not include a wholesale dealer.
7. **"Ammunition."** Explosives suitable to be fired from a firearm, machine gun, pistol, revolver, rifle, shotgun, assault weapon or other dangerous weapon.
8. **"Dispose of."** To dispose of, give away, give, lease, loan, keep for sale, offer, offer for sale, sell, transfer and otherwise dispose of.
9. **"Deface."** To remove, deface, cover, alter, or destroy the manufacturer's serial number or any other distinguishing number or identification mark.
10. **"Commissioner."** The police commissioner of the city of New York or the commissioner's designee.
11. **"Permit."** The permit for purchase and possession of rifles and shotguns issued by the commissioner.
12. **"Certificate."** The certificate of registration for possession of rifles and shotguns.
13. **"Serious offense."** A serious offense as defined in subdivision 17 of § 265.00 of the penal law.
14. **"Business enterprise."** Any proprietorship, company, partnership, corporation, association, cooperative, nonprofit organization or other entity engaged or seeking to engage in the activities regulated pursuant to § 10-302 of this chapter.
15. **"Semiautomatic."** Any firearm, rifle or shotgun that uses part of the energy of a fired cartridge to expel the case of the fired cartridge and load another cartridge into the firing chamber, and which requires a separate pull of the trigger to fire each cartridge.
16. **"Assault weapon."**
 - (a) Any semiautomatic centerfire or rimfire rifle or semiautomatic shotgun which has one or more of the following features:
 1. folding or telescoping stock or no stock;
 2. pistol grip that protrudes conspicuously beneath the action of the weapon;
 3. bayonet mount;
 4. flash suppressor or threaded barrel designed to accommodate a flash suppressor;
 5. barrel shroud;
 6. grenade launcher; or

7. modifications of such features, or other features, determined by rule of the commissioner to be particularly suitable for military and not sporting purposes. In addition, the commissioner shall, by rule, designate specific semiautomatic centerfire or rimfire rifles or semiautomatic shotguns, identified by make, model and/or manufacturer's name, as within the definition of assault weapon, if the commissioner determines that such weapons are particularly suitable for military and not sporting purposes. The commissioner shall inspect such specific designated semiautomatic centerfire or rimfire rifles or semiautomatic shotguns at least 3 times per year, and shall revise or update such designations as he or she deems appropriate.

(b) Any shotgun with a revolving-cylinder magazine.

(c) Any part, or combination of parts, designed or redesigned or intended to readily convert a rifle or shotgun into an assault weapon.

(d) "Assault weapon" shall not include any rifle or shotgun modified to render it permanently inoperative.

17. "**Ammunition feeding device.**" Magazines, belts, feedstrips, drums or clips capable of being attached to or utilized with firearms, rifles, shotguns or assault weapons.

18. "**Antique firearm.**" Any unloaded muzzle loading pistol or revolver with a matchlock, flintlock, percussion cap, or similar type of ignition system, or a pistol or revolver which uses fixed cartridges which are no longer available in the ordinary channels of commercial trade.

19. "**Special theatrical dealer.**" Any person, firm, partnership, corporation or company who possesses assault weapons exclusively for the purpose of leasing such assault weapons to special theatrical permittees within the city and for theatrical purposes outside the city.

20. "**Acquire.**" To gain possession of or title to a weapon through purchase, gift, lease, loan, or otherwise.

§ 10-302 Licensing of gunsmiths, of wholesale manufacturers of firearms, or assemblers of firearms, dealers in firearms, dealers in rifles and shotguns, and special theatrical dealers.

a. It shall be unlawful for any person or business enterprise to engage in the business of gunsmith, wholesale manufacturer of firearms, assembler of firearms, dealer in firearms, dealer in rifles and shotguns, or special theatrical dealer, unless such person, or business enterprise, has obtained a license to engage in such business in the manner prescribed in this section. No person shall engage in the business of dealer in rifles and shotguns or special theatrical dealer unless he or she has been issued a permit for the possession of shotguns and rifles pursuant to the provisions of this chapter. No person or business enterprise shall be eligible to apply for or to hold a license as a special theatrical dealer unless such person or business enterprise (1) possesses both a license as a dealer in firearms and a license as a dealer in rifles and shotguns and (2) has possessed such licenses and engaged in such businesses for at least 1 year.

b. No license shall be issued or renewed pursuant to this section except by the police commissioner, and then only after investigation and finding that all statements in a proper application for a license or renewal are true. No license shall be issued or renewed except for any applicant:

(1) of good moral character;

(2) who has not been convicted anywhere of a felony or of any serious offense;

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

(4) who has not been convicted of violating § 10-303.1 of this chapter; and

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

c. (1) An applicant to engage in such business shall also be a citizen of the United States, more than 21 years of age and maintain a place of business in the city.

(2) Each applicant to engage in such business shall comply with all the requirements set forth in this section. If the applicant is a partnership, each partner thereof shall comply with all the requirements set forth in this section and if the applicant is a corporation, each officer thereof shall so comply.

(3) No applicant for a special theatrical dealer's license or renewal thereof shall be issued such license or renewal unless the applicant submits proof, in such form as the commissioner may require, that at least ten percent of the gross income earned by the applicant as a dealer in firearms, dealer in rifles and shotguns and, in the case of an application for renewal, special theatrical dealer, in the year preceding the application for such license or renewal, was earned from the lease for theatrical purposes of such ammunition feeding devices, firearms, rifles, shotguns or assault weapons as the applicant was authorized to lease. No applicant for a special theatrical dealer's license or renewal thereof shall be issued such license or renewal unless the gross income earned by the applicant as a dealer in firearms, dealer in rifles and shotguns and, in the case of an application for renewal, special theatrical dealer, in the year preceding the application for such license or renewal, exceeded \$50,000.

d. An application for a license or renewal thereof shall be made to the police commissioner. An application shall include the full name, date of birth, residence, present occupation of each person or individual signing the same, whether he or she is a citizen of the United States, whether he or she complies with each requirement for eligibility specified in subdivision b of this section and such other facts as may be required to show the good character, competency and integrity of each person or individual signing the application. An application shall be signed and affirmed by the applicant. Each individual signing an application shall submit 1 photograph of himself or herself and a duplicate for each required copy of the application. Such photographs shall have been taken within 30 days prior to filing the application. The photographs submitted shall be 2 inches square, and the application shall also state the previous occupation of each

individual signing the same and the location of the place of such business, or of the bureau, agency, subagency, office or branch office for which the license is sought, indicating the street and number and otherwise giving such apt description as to point out reasonably the location thereof. In such case, if the applicant is a business enterprise, its name, date and place of formation, and principal place of business shall be stated. For a partnership, the application shall be signed and affirmed by each partner, and for a corporation, by each officer thereof.

With respect to an application for a license as a dealer in rifles and shotguns or as a special theatrical dealer, a written statement shall be submitted by the individual applicant, or in the case of a business enterprise a responsible officer or agent thereof, stating **(a)** the identification number of the shotgun and rifle permit issued to the individual applicant or the responsible officer or agent in the case of a business enterprise, **(b)** the address of a regular place of business maintained by the applicant, **(c)** that since the issuance of the rifle and shotgun permit the individual applicant or responsible officer or agent has not become disqualified for issuance of such a permit, **(d)** that he or she undertakes to supervise the acts of his or her, or in the case of a business enterprise, its employees, **(e)** that the applicant has not previously been refused a license as a dealer in shotguns and rifles or as a special theatrical dealer and that no such license issued to the applicant has ever been revoked.

e. Before a license is issued or renewed, there shall be an investigation of all statements required in the application by the police department. For that purpose, the records of the department of mental hygiene concerning previous or present mental illness of the applicant shall be available for inspection by the investigating officer of the police department. In order to ascertain any previous criminal record, the investigating officer shall take the fingerprints and physical descriptive data in quadruplicate of each individual by whom the application is signed. Two copies of such fingerprints shall be taken on standard fingerprint cards 8 inches square, and 1 copy may be taken on a card supplied for that purpose by the federal bureau of investigation. When completed, 1 standard card shall be promptly submitted to the division of criminal justice services where it shall be appropriately processed. A second standard card, or the one supplied by the federal bureau of investigation, as the case may be, shall be forwarded to that bureau at Washington with a request that the files of the bureau be searched and notification of the results of the search be made to the police department. The failure or refusal of the federal bureau of investigation to make the fingerprint check provided for in this section shall not constitute the sole basis for refusal to issue a license pursuant to the provisions of this section. Of the remaining 2 fingerprint cards, 1 shall be filed with the executive department, division of state police, Albany, within 10 days after issuance of the license, and the other remain on file with the police department. No such fingerprints may be inspected by any person other than a peace officer, when acting pursuant to his or her special duties, or a police officer except on order of a judge or justice of a court of record either upon notice to the licensee or without notice, as the judge or justice may deem appropriate. Upon completion of the investigation, the police department shall report the results to the commissioner without unnecessary delay.

f. Applications shall indicate and licenses shall be issued for a gunsmith, a wholesale manufacturer of firearms, an assembler of firearms, a dealer in firearms, a dealer in rifles and shotguns or a special theatrical dealer.

g. The application for any license, if granted, shall be a public record. Such application shall be kept on file in the office of the police commissioner and, within 10 days after the issuance of a license, a duplicate copy shall be filed in the executive department, division of state police, Albany.

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

i. A license issued pursuant to this section shall be prominently displayed on the licensed premises. Failure of any person or business enterprise to so exhibit or display such license shall be presumptive evidence that the person or business enterprise is not duly licensed.

j. Any license or renewal issued pursuant to this section shall expire on the first day of the second January following the date of issuance. Any application to renew a license that has not previously expired, been revoked or cancelled shall thereby extend the term of the license until disposition is made of the application by the police commissioner.

k. The conviction of a licensee anywhere of a felony or a serious offense shall operate as a revocation of the license. Written notice of such revocation shall be forwarded to the executive division of state police in Albany.

l. The police commissioner, upon evidence of any disqualification set forth in subdivision b of this section, may at any time suspend or revoke and cancel a license issued pursuant to this section. Written notice of such suspension or revocation shall be forwarded to the executive department, division of state police, Albany.

m. No license shall be issued pursuant to this section unless the applicant therefor possesses and exhibits all licenses required under any federal or state law.

n. Records. (1) Any person licensed under this section shall keep an accurate book record of every transaction involving a firearm, machine gun, rifle, shotgun or assault weapon. Such record shall be kept in the manner prescribed and contain the information required by the police commissioner.

(2) The records required by this section shall be subject to inspection at all times by members of the police department. Such records shall be maintained on the premises mentioned and described in the license, and preserved for record. In the event of suspension, cancellation or revocation of a license, or discontinuance of business by a licensee, such record shall be immediately surrendered to the police commissioner.

(3) Any person licensed under this section as a dealer in firearms or special theatrical dealer shall cause a physical inventory to be taken within the first 5 business days of April and October of each year, which shall include a listing of each firearm by make, caliber and serial number. The original copy of such inventory shall be securely maintained on the

premises for which the license was issued. One or more additional copies shall be forwarded to such addresses as the commissioner may direct, by such means as the commissioner may direct.

(4) With each copy of the inventory required under paragraph 3 of this subdivision shall be included an affidavit signed by the licensee (or, if the licensee is not a natural person, by an officer, general manager, or other principal of the licensee) stating under penalties of perjury that within the first 5 business days of that April or October, as the case may be, the signer has personally observed the firearms reported. The affidavit shall also describe the date and contents of any report required to be made pursuant to § 400.10 of the penal law.

(5) In addition to the penalties specified in § 10-310, any act or omission that constitutes a violation of this subdivision or of rules and regulations issued by the commissioner pursuant thereto shall be grounds for the revocation of a license issued by the commissioner pursuant to this section.

o. Rules and regulations. (1) The police commissioner may make and promulgate such rules and regulations regarding the issuance and renewal of such licenses and the reporting of inventory of firearms, loss of firearms, and theft of firearms and may prescribe such forms as are necessary to carry out the provisions of this section.

(2) Such rules and regulations shall prescribe reasonable standards and conditions under which firearms, component parts of firearms, rifles, shotguns, assault weapons and ammunition shall be kept at the store or premises of gunsmiths, including store and plant security, employment, record keeping and product quality control for the protection of the public safety, health and welfare. The foregoing enumeration shall not be construed as a limitation of the police commissioner's authority to promulgate rules and regulations hereunder.

(3) The violation of such rules and regulations shall be triable by a judge of the criminal court of the city of New York and punishable by not more than 30 days imprisonment or by a fine of not more than \$50, or both.

p. The annual license fee for a license issued pursuant to this section shall be \$25 for gunsmiths, wholesale manufacturers and assemblers of firearms, \$50 for dealers in firearms, and \$150 for dealers in rifles and shotguns and special theatrical dealers.

q. Failure to obtain a license, by any person, firm, partnership, corporation or company, as required by the provisions of this section shall be punishable as a class A misdemeanor.

r. No dealer in rifles and shotguns may dispose of a rifle or shotgun to any person unless such person produces a valid rifle and shotgun permit, or proof of lawful authority as a police or peace officer, or is an exempt person as provided in this chapter.

s. Any suspension, denial or revocation of a license may be appealed by the applicant or licensee pursuant to procedures established by the police commissioner for administrative review.

§ 10-302.1 Preventing the diversion of firearms, rifles and shotguns to criminals.

a. No dealer in firearms and no dealer in rifles and shotguns shall: **(i)** sell or otherwise dispose of more than 1 firearm or more than 1 rifle or shotgun to any individual as part of the same sales transaction; or **(ii)** sell or otherwise dispose of a rifle or shotgun to any individual if the dealer knows or should know that such individual has purchased a rifle or shotgun within the prior 90 days, or **(iii)** sell or otherwise dispose of a firearm to any individual if the dealer knows or should know that such individual has purchased a firearm within the prior 90 days.

b. No person shall acquire a firearm if such person has acquired a firearm within the previous 90 days. No person shall acquire a rifle or shotgun if such person has acquired a rifle or shotgun within the previous 90 days. For purposes of this subdivision when a firearm, rifle or shotgun is acquired by a corporation, partnership, or other entity, it shall be considered to have been acquired by each natural person who is an officer, director or other principal of such entity, unless the firearm, rifle or shotgun is acquired on behalf of such entity by a person who is licensed by the commissioner as gun custodian or special gun custodian, or acquired on behalf of an organization possessing an organization registration certificate, as those terms are used in title 38 of the rules of the city of New York.

c. Before disposing of any firearm, rifle or shotgun to a person licensed by the commissioner to possess firearms, rifles or shotguns, any dealer in firearms, dealer in rifles and shotguns or other person shall contact the police department to ensure compliance with the requirements of this section.

d. Any dealer in firearms, dealer in rifles and shotguns or other person who disposes of any firearm, rifle or shotgun to a person licensed by an authority other than the commissioner to possess firearms, rifles or shotguns shall make reasonable efforts to contact such licensing authority and to ascertain the most recent date of acquisition by such licensee of a firearm, in the case of disposition of a firearm, or of a rifle or shotgun, in the case of disposition of a rifle or shotgun.

e. Any dealer in firearms or dealer in rifles or shotguns who disposes of any firearm, rifle or shotgun shall, before or at the time of disposing of such firearm, rifle or shotgun, record, in the record book required to be kept by subdivision n of § 10-302, the efforts made by such dealer to ensure compliance with the requirements of this section, any exception or exemption set forth in this section that such dealer reasonably believes would authorize the disposal of such firearm, rifle or shotgun, and the grounds for such dealer's belief that such exception or exemption applies.

f. Exceptions. The provisions of this section shall not apply to the sale of firearms, rifles or shotguns to **(i)** a police officer, as such term is defined in § 1.20 of the criminal procedure law, **(ii)** a federal law enforcement officer, as such term is defined in § 2.15 of the criminal procedure law, **(iii)** a public agency in furtherance of official business, **(iv)** persons in the military service of the state of New York, when duly authorized by regulations issued by the adjutant general to possess such weapons, **(v)** persons in the military or other service of the United States, in pursuit of official duty or when duly authorized by federal law, regulation or order to possess such weapons, **(vi)** persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of such weapons is necessary

for manufacture, transport, installation and testing under the requirements of such contract, **(vii)** peace officers as defined in § 2.10 of the criminal procedure law, provided that such peace officers are authorized pursuant to law or regulation of the state or city of New York to possess a firearm, rifle or shotgun within the city of New York without a license or permit therefor, and are authorized by their employer to possess such firearm, rifle or shotgun, **(viii)** persons licensed as dealers, manufacturers or importers of firearms pursuant to chapter 44 of title 18 of the United States Code, **(ix)** any motion picture, television or video production company or entertainment or theatrical company whose production involves the use of firearms, rifles or shotguns, provided that such weapons shall be properly registered and a special theatrical permit shall have been issued for such weapons pursuant to rules established by the commissioner, **(x)** with respect to the sale of firearms only, persons licensed by the commissioner as gun custodians or special gun custodians, as those terms are used in title 38 of the rules of the city of New York, and **(xi)** with respect to the sale of rifles and shotguns only, organizations possessing an organization registration certificate, as that term is used in title 38 of the rules of the city of New York.

g. Exempt transactions. The requirements of this section shall not apply to: **(i)** any transaction in which a person acquires a firearm, rifle or shotgun by operation of law, or because of the death of another person for whom such person is an executor or administrator of an estate or a trustee of a trust created in a will, provided that within 15 days such person surrenders such firearm, rifle or shotgun to the commissioner until it can be reacquired without violation of this section or other applicable law. If a firearm, rifle or shotgun is surrendered pursuant to this subdivision but no written request to reacquire it is received by the commissioner within 2 years of such surrender, the commissioner shall dispose of such firearm in accordance with the provisions of § 400.05 of the penal law; **(ii)** the exchange of a firearm, rifle or shotgun by a dealer in firearms or a dealer in rifles and shotguns for another firearm, rifle or shotgun previously purchased from such dealer by the person requesting such exchange, provided that such exchange takes place within 30 days of such request; **(iii)** the acquisition or disposal of an antique firearm, rifle or shotgun which is incapable of being fired or discharged or which does not fire fixed ammunition, or a firearm, rifle or shotgun manufactured prior to 1894 or whose design was patented and whose commercial manufacture commenced prior to 1894 and whose manufacture continued after such year without any substantial alteration in design or function, and for which cartridge ammunition is not commercially available and is possessed as a curiosity or ornament or for its historical significance and value; **(iv)** the acquisition or disposal of a firearm at an indoor or outdoor pistol range when such acquisition or disposal begins a period of possession or use of the firearm that is authorized by paragraphs 7-a, 7-b, or 7-e of subdivision a of § 265.20 of the penal law; **(v)** the sale of a firearm by a dealer in firearms to a person whose firearm is stolen or irretrievably lost, provided that: **(1)** such person has complied with any legal requirement to report the loss or theft, including but not limited to the applicable provisions of title 38 of the rules of the city of New York and § 400.10 of the penal law; **(2)** such person provides to such dealer a copy of a police report of the loss or theft or of any report made pursuant to the applicable provisions of title 38 of the rules of the city of New York and § 400.10 of the penal law, which copy the dealer shall attach to the record book required to be kept by subdivision n of § 10-302; **(3)** the copy provided pursuant to subparagraph 2 of this paragraph contains the name and address of the regulated firearm owner, a description of the regulated firearm, the location of the loss or theft, if known, the date of the loss or theft, if known, and the date when the loss or theft was reported to the law enforcement agency; and **(4)** such person's attempt to replace the regulated firearm occurs within 30 days of the loss or theft of such firearm, if known, or, if such date is not known, within 30 days of the date when the loss or theft was reported to the law enforcement agency, as reflected by the information recorded on the police report; and **(vi)** any other transaction authorized in advance in writing by the commissioner.

h. Penalties. **(i)** In addition to the penalties specified in § 10-310, any act or omission that constitutes or would constitute a violation of this section or of rules and regulations issued by the commissioner pursuant thereto shall be grounds for the revocation of a license to deal in firearms, deal in rifles and shotguns, possess firearms, or possess a rifle or shotgun. **(ii)** Any firearm disposed of or acquired in violation of this section shall be a nuisance subject to surrender and forfeiture in accordance with the procedures specified in § 400.05 of the penal law.

i. The commissioner may make and promulgate such rules and regulations as are necessary to carry out the provisions of this section. Such rules and regulations may address, but need not be limited to: **(i)** procedures for implementation of this section by the commissioner; **(ii)** establishment of a database of firearm, rifle and shotgun purchases for the purpose of enforcing the requirements of this chapter; and **(iii)** the specification of reasonable efforts required to comply with subdivision d of this section.

§ 10-303.1 Prohibition of the possession or disposition of assault weapons.

a. It shall be unlawful for any person to possess or dispose of any assault weapon within the city of New York, except as provided in subdivision d, e or f of this section or § 10-305. A person who peaceably surrenders an assault weapon to the commissioner pursuant to subdivision d, e or f of this section or subdivision f of § 10-305 shall not be subject to the criminal or civil penalties set forth in this section.

b. Criminal penalty. Any person who shall violate subdivision a of this section shall be guilty of an unclassified misdemeanor punishable by a fine of not more than \$5,000 or by imprisonment of up to 1 year, or by both such fine and imprisonment, for each assault weapon disposed of or possessed, provided that the first violation of subdivision a of this section involving possession of an assault weapon as defined in paragraph c of subdivision 16 of § 10-301 shall be an offense punishable by a fine of not more than \$300 or imprisonment of not more than 15 days, or both, on condition that **(1)** such first violation is not in conjunction with the commission of a crime and **(2)** the possessor has not been previously convicted of a felony or a serious offense.

c. Civil penalty. In addition to the penalties prescribed in subdivision b of this section, any person who shall violate subdivision a of this section shall be liable for a civil penalty of not more than \$25,000 for each assault weapon disposed of or possessed, to be recovered in a civil action brought by the corporation counsel in the name of the city in any court of competent jurisdiction, provided that the first violation by any person of subdivision a of this section involving possession of an assault weapon as defined in paragraph c of subdivision 16 of § 10-301 shall subject such person to a civil penalty of not more than \$5,000 on condition that **(1)** such first violation is not in conjunction with the commission of a crime and **(2)** the possessor has not been previously convicted of a felony or a serious offense.

d. Disposition of assault weapons by permittees, licensees and previously exempt persons. Any person who, on or after the effective date of this local law, shall possess an assault weapon and a valid permit for possession and purchase of rifles and shotguns and a certificate of registration for such assault weapon, and any licensed dealer in firearms or licensed dealer in rifles and shotguns who is not licensed as a special theatrical dealer and who, on or after the effective date of this local law, shall possess an assault weapon, and any police officer or peace officer who, before the effective date of this local law was exempt from the sections of the administrative code requiring rifle and shotgun permits and certificates, and who, upon the effective date of this local law, is not exempt from the sections of the administrative code prohibiting the possession or disposition of assault weapons, and who, on or after the effective date of this local law, shall possess an assault weapon, shall, within 90 days of the effective date of rules promulgated by the commissioner pursuant to subparagraph 7 of paragraph a of subdivision 16 of § 10-301, either: **(1)** peaceably surrender his or her assault weapon pursuant to subdivision f of § 10-305 for the purpose of destruction of such weapon by the commissioner, provided that the commissioner may authorize the use of such weapon by the department; or **(2)** lawfully remove such assault weapon from the city of New York. All assault weapons possessed by such permittees, licensees and previously exempt persons shall be subject to the provisions of this subdivision, whether defined as assault weapons in subdivision 16 of § 10-301 or in rules promulgated by the commissioner pursuant to subparagraph 7 of paragraph a of subdivision 16 of § 10-301.

e. Disposition of assault weapons by non-permittees. Any person who, on or after the effective date of this local law, shall possess an assault weapon and who is not the holder of a valid permit for possession and purchase of rifles and shotguns and a certificate of registration for such assault weapon, shall peaceably surrender his or her assault weapon pursuant to subdivision f of § 10-305 for the purpose of destruction of such weapon by the commissioner, provided that the commissioner may authorize the use of such weapon by the department, and provided further that heirs and legatees may dispose of assault weapons pursuant to subdivision f of this section.

f. Disposition of assault weapons by heirs and legatees. Any person who acquires an assault weapon on or after the effective date of this local law by the laws of intestacy or by testamentary bequest shall, within 90 days of such acquisition, either: **(1)** peaceably surrender such assault weapon pursuant to subdivision f of § 10-305 for the purpose of destruction of such weapon by the commissioner, provided that the commissioner may authorize the use of such weapon by the department; or **(2)** lawfully remove such assault weapon from the city of New York.

g. Within 30 days of the effective date of rules promulgated by the commissioner pursuant to subparagraph 7 of paragraph a of subdivision 16 of § 10-301, the commissioner shall send by regular mail to every person who has been issued a permit to possess a rifle or shotgun and whose rifle or shotgun the commissioner reasonably believes to be an assault weapon as defined in subdivision 16 of § 10-301 or as defined in such rules, a written notice setting forth the requirements and procedures relating to the disposition of such weapons, and the criminal and civil penalties that may be imposed upon the permittee for unlawful possession or disposition of such weapons. Failure by the commissioner to send, or the permittee to receive, such notice, shall not excuse such permittee for unlawful possession or disposition of such weapons.

h. Surrender of firearms. At the discretion of the police commissioner, any person convicted of violating this section may be subject to immediate surrender of all firearms in his or her possession.

§ 10-303.2 Civil penalty; firearms dealers and manufacturers.

a. Definitions. For purposes of this section, the terms "firearm," "handgun," "dealer," "collector," and "manufacturer" shall have the meanings set forth in 18 U.S.C. §921, as such section may be amended from time to time, or any successor provision thereto. The term "transfer" shall be deemed to include any sale, assignment, pledge, lease, loan, gift or other disposition. References to "statutes, laws or regulations" shall be deemed to include federal, state and local statutes, laws, local laws, ordinances, rules and regulations.

b. Manufacturer and Dealer Liability. A manufacturer or dealer shall be liable for any injury or death caused by a firearm that it has transferred, if **(i)** such injury or death results from the use of such firearm by an individual not authorized by law to possess such firearm in the city of New York, and **(ii)** such manufacturer or dealer, or any other individual or entity acting subsequent to such manufacturer or dealer, unlawfully transferred such firearm at any time prior to such injury or death. Such liability also includes the possible imposition of punitive damages. Liability under this section does not extend to any manufacturer or dealer that has complied with the following standards during a period of one year immediately preceding and including the transfer of such firearm:

(1) The manufacturer or dealer executes no transfers or agreements to transfer at gun shows except for gun shows that maintain a practice of performing instant criminal background checks consistent with 18 U.S.C. §922 (t), as such subsection may be amended from time to time and any successor provision thereto, on all transfers, whether by licensed or unlicensed sellers.

(2) Any place of business operated by the manufacturer or dealer is located at a fixed address where:

(a) a record is maintained, as may be required by any statute, law or regulation, of the make, model, caliber or gauge, and serial number of all firearms held in inventory or offered for sale; and

(b) a record is maintained, as may be required by any statute, law or regulation, of the make, model, caliber or gauge, and serial number of all firearms sold, and of any identifying information required by any such statute, law or regulation to be obtained from purchasers;

(3) The manufacturer or dealer provides access to the aforementioned records to officers, employees and agents of public agencies conducting inspections, to the full extent required by applicable statutes, laws and regulations;

(4) The manufacturer or dealer limits transfers to any individual or entity to 1 handgun in any given 30-day period, provided that this paragraph shall not apply to lawful transfers to (a) public agencies in furtherance of official business; (b) law enforcement officers employed by public agencies; (c) private security firms, holding any permits or licenses required by applicable statutes, laws and regulations, for the use of their agents and employees; (d) private operators of state and local correctional facilities, for the use of their agents and employees; or (e) licensed manufacturers, licensed dealers or licensed collectors, as those terms are defined by 18 U.S.C. §921, as such section may be amended from time to time, or any successor provision thereto;

(5) The manufacturer or dealer has complied with all applicable statutes, laws and regulations governing the transfer of firearms; and

(6) The manufacturer or dealer has not transferred a firearm to any other manufacturer or dealer in circumstances in which the manufacturer or dealer transferring such firearm knew or should have known that such manufacturer or dealer had not complied with the standards set forth in this subdivision.

c. Exceptions.

(1) No action may be commenced pursuant to this section by any person injured or killed by the discharge of a firearm that is lawfully possessed by a law enforcement official employed by a public agency.

(2) This section shall not limit in scope any cause of action, other than that provided by this section, available to a person injured by or killed by a firearm.

(3) Nothing in this section shall prevent a manufacturer or dealer from seeking whole or partial indemnity or contribution for any liability incurred under this section from any third party wholly or partially responsible for the injury or death.

(4) Notwithstanding the provisions of subdivision b, there shall be no basis for liability under this section if the manufacturer or dealer proves by a preponderance of the evidence that: (i) the person injured or killed by the discharge of a firearm was committing or attempting to commit a crime (whether or not such crime is actually charged); (ii) the unlawful transfer or possession of the firearm is solely a result of the failure of the owner of the firearm to renew a license, permit or registration within 6 months of the date such renewal is required; or (iii) prior to the injury or death caused by the firearm, a lawful possessor of the firearm has reported its theft to a federal, state or local law enforcement agency, or reported its loss to an appropriate public agency.

(5) Notwithstanding the provisions of subdivision b, there shall be no basis for liability under this section if the manufacturer or dealer proves by a preponderance of the evidence that the manufacturer or dealer lawfully transferred the firearm to: (i) a public agency in furtherance of official business; (ii) a law enforcement officer employed by a public agency; (iii) a private security firm, holding any permits or licenses required by applicable statutes, laws and regulations, for the use of its agents and employees; or (iv) a private operator of a state or local correctional facility for the use of its agents and employees.

(6) Notwithstanding the provisions of subdivision b, there shall be no basis for liability under this section if the manufacturer or dealer proves by a preponderance of the evidence that the injury or death is not directly or indirectly related to any act or omission by such manufacturer or dealer, including but not limited to any failure by the manufacturer or dealer to comply with the standards set forth in subdivision b of this section.

§ 10-304 Certificates of registration.

a. It shall be unlawful for any person to have in his or her possession any rifle or shotgun unless said person is the holder of a certificate of registration for such rifle or shotgun.

b. It shall be unlawful for any person who is not a licensed dealer to dispose of any rifle or shotgun for which such person does not have a certificate of registration unless such person files with the police commissioner a declaration in duplicate, signed and affirmed by the declarant which shall list by caliber, make, model, manufacturer's name and serial number, or if none, any other distinguishing number or identification mark, of each rifle and shotgun possessed by the declarant. Upon receipt of acknowledgement of said declaration by the police commissioner, the declarant may lawfully sell, transfer, or otherwise dispose of such rifles or shotguns to a licensed dealer or any other person legally permitted to purchase or take possession of such rifles or shotguns.

Any willful or material omission or false statement shall be a violation of this section.

c. **Exhibition of certificate.** Every person carrying a rifle or shotgun shall have on his or her person a certificate of registration valid for such weapon. Upon demand, the appropriate certificate shall be exhibited for inspection to any peace officer or police officer. Failure of any person to so exhibit his or her certificate shall be presumptive evidence that he or she is not duly authorized to possess such rifle or shotgun and may be considered by the police commissioner as cause for revocation or suspension of such person's permit.

d. **Revocation.** The revocation of a rifle or shotgun permit shall automatically be deemed to be a revocation of all certificates of registration for rifles and shotguns held by the person whose permit has been revoked.

e. **Disposition of rifles and shotguns.** No person lawfully in possession of a rifle or shotgun shall dispose of same

except to a licensed dealer in firearms, licensed dealer in rifles and shotguns, the holder of a valid rifle and shotgun permit, an exempt person as enumerated in this chapter, or a non-resident of the city of New York not subject to the permit requirements of this chapter.

Any person so disposing of a rifle or shotgun shall report the disposition on forms provided by the commissioner setting forth the rifle and shotgun permit number of both seller and purchaser, the make, caliber, type, model and serial number, if any, and if the seller is a licensed dealer the certificate of registration number, of all such rifles and shotguns. Such form shall be signed by both seller and purchaser and the original shall be forwarded to the police commissioner within 72 hours of the disposition, 1 copy shall be retained by the seller, another by the purchaser.

1. If the seller is a licensed dealer, he or she shall at the time of the sale issue a certificate of registration to the purchaser provided to the dealer for that purpose by the police commissioner and shall forward to the police commissioner the duplicate thereof, together with the report of disposition.

2. If the seller is not a licensed dealer, the police commissioner shall, if the purchaser's rifle permit is valid, issue the certificate of registration within 10 days of the receipt by the police commissioner of the report of disposition. Pending receipt of the certificate, but in no event for any longer than 14 days from the date of purchase, the copy of the report of disposition shall serve in lieu of the purchaser's certificate of registration.

f. No fee shall be charged for a certificate of registration.

g. Notwithstanding any other provision of this section concerning the transfer, receipt, acquisition, or any other disposition of a rifle or shotgun, a rifle and shotgun permit shall not be required for the passing of a rifle or shotgun upon the death of an owner, to his or her heir or legatee, whether the same be by testamentary bequest or by the laws of intestacy, except that the person who shall so receive or acquire said rifle or shotgun shall be subject to all other provisions of this chapter, provided further that if the heir or legatee of the owner of such rifle or shotgun does not qualify to possess same under this chapter, the rifle or shotgun may be possessed by the heir or legatee for the purpose of sale as otherwise provided herein for a period not exceeding 180 days or for such further limited period beyond the 180 days as may be approved by the commissioner, said extensions in no event to exceed a total of 90 days.

§ 10-305 Exemptions. The sections requiring rifle and shotgun permits and certificates and prohibiting the possession or disposition of assault weapons shall not apply as follows:

a. Minors. Any person under the age of 21 years may carry, fire, or use any rifle or shotgun in the actual presence or under the direct supervision of any person who is a holder of a rifle or shotgun permit, or for the purpose of military drill under the auspices of a legally recognized organization and under competent supervision or for the purpose of competition or target practice in and upon a firing range approved by the police commissioner or any other governmental agency authorized to provide such approval, or the national rifle association, which is under competent supervision at the time of such competition or target practice, provided that the rifle or shotgun is otherwise properly registered or exempt from registration by virtue of some other provision of this chapter. This exemption shall not apply to assault weapons.

b. Antiques and ornaments. The provisions of this chapter shall not apply to antique rifles and shotguns which are incapable of being fired or discharged or which do not fire fixed ammunition, or those weapons manufactured prior to 1894 and those weapons whose design was patented and whose commercial manufacture commenced prior to 1894 and whose manufacture continued after 1894 without any substantial alteration in design or function, and for which cartridge ammunition is not commercially available and are possessed as curiosities or ornaments or for their historical significance and value. This exemption shall not apply to assault weapons.

c. Persons in the military service in the state of New York, when duly authorized by regulations issued by the chief of staff to the governor to possess the same, and police officers, provided that such police officers shall not be exempt from the sections prohibiting the possession or disposition of assault weapons except during the performance of their duties as police officers, and other peace officers as defined in § 2.10 of the criminal procedure law, provided that such peace officers **(1)** are authorized pursuant to law or regulation of the state or city of New York to possess either **(a)** a firearm within the city of New York without a license or permit therefor, or **(b)** a rifle, shotgun or assault weapon within the city of New York without a permit therefor; and **(2)** are authorized by their employer to possess such rifle, shotgun or assault weapon; and **(3)** shall not possess such rifle, shotgun or assault weapon except during the performance of their duties as peace officers.

d. Persons in the military or other service of the United States, in pursuit of official duty or when duly authorized by federal law, regulation or order to possess the same.

e. Persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the same is necessary for manufacture, transport, installation and testing under the requirements of such contract.

Any such person exempted by subdivisions c, d and e above, may purchase a rifle or shotgun only from a licensed dealer, and must submit to the dealer full and clear proof of identification, including shield number, serial number, military or governmental order or authorization, and military or other official identification. Any dealer who disposes of a rifle or shotgun to any exempt person without securing such identification shall be in violation of these sections.

f. A person may voluntarily surrender a rifle, shotgun or assault weapon to the police commissioner, provided, that the same shall be surrendered by such person only after he or she gives notice in writing to the police commissioner, stating such person's name, address, the type of gun to be surrendered, and the approximate time of day and the place where such surrender shall take place and such time of day and place have been approved in writing by the police commissioner. Nothing in this subdivision shall be construed as granting immunity from prosecution for any crime or

offense except that of unlawful possession of such rifle, shotgun or assault weapon.

g. The regular and ordinary transport of rifles, shotguns or assault weapons as merchandise provided that the person transporting such rifles, shotguns or assault weapons where he or she knows or has reasonable means of ascertaining what such person is transporting, notifies, in writing, the police commissioner of the name and address of the consignee and the place of delivery, and withholds delivery to the consignee for such reasonable period of time designated in writing by the police commissioner as the police commissioner may deem necessary for investigation as to whether the consignee may lawfully receive and possess such rifles, shotguns or assault weapons.

h. Possession by retail customers for the purpose of firing at duly licensed rifle target concessions at amusement parks, piers, and similar locations provided that the rifles to be so used by firmly chained or affixed to the counter and that the individual rifles are registered by the proprietor and that the proprietor is in possession of a rifle and shotgun permit. This exemption shall not apply to assault weapons.

i. (1) Non-residents in transit. Any other provision of this chapter to the contrary notwithstanding, a non-resident of the city of New York who, without a rifle and shotgun permit issued hereunder, enters the city of New York possessing a rifle or shotgun in the course of transit to a destination outside the city of New York, or a non-resident of the city of New York who enters the city of New York possessing an assault weapon in the course of transit to a destination outside the city of New York, shall have a period of 24 hours subsequent to such entering to be exempt from penalty under this chapter for the unlawful possession of a rifle, shotgun or assault weapon, provided that such rifle, shotgun or assault weapon shall at all times be unloaded and in a locked case, or locked automobile trunk, and that said non-resident is lawfully in possession of said rifle, shotgun or assault weapon according to the laws of his or her place of residence.

(2) Non-residents purchasing a rifle or shotgun from a licensed dealer. Any other provision of this chapter notwithstanding, a non-resident of the city of New York may purchase a rifle or shotgun from a licensed dealer provided that he or she presents the dealer with documentary evidence of his or her identity and place of residence, and the rifle or shotgun purchased is either personally delivered to the purchaser or transmitted by the dealer directly to the purchaser's residence. In the event the purchaser is traveling from the city by rail, ship or plane, the dealer is hereby authorized to deliver such rifle or shotgun at the appropriate terminal to a representative of the railroad, airline or shipping company, for placement aboard such train, plane or ship. If the rifle or shotgun is personally delivered to the non-resident purchaser within the city of New York, the purchaser shall have the rifle or shotgun removed from the city no later than 24 hours after the time of purchase. This exemption shall not apply to assault weapons.

j. Nothing herein contained shall be construed to be a prohibition of the conduct of business by manufacturers, wholesale dealers, interstate shippers, or any other individuals or firms properly licensed by the federal government, where such prohibition would be preempted by federal law.

k. Special theatrical permit. Nothing herein contained is intended to prevent the possession or utilization of any rifle, shotgun or assault weapon during the course of any television, movie, stage or other similar theatrical production, or by a professional photographer in the pursuance of his or her profession, provided however, that the rifle or shotgun so used shall be properly registered and a special theatrical permit shall have been issued for the rifle, shotgun or assault weapon pursuant to rules established by the commissioner.

l. Persons in possession of, using or transporting rifles which have been issued by the director of civilian marksmanship of the department of the army, pursuant to the provisions of ten U.S.C.A., §§ 4307-4309, unto a civilian rifle club, or unto a rifle team representing an educational institution, provided that such persons are members in good standing of an accredited civilian rifle club, or are connected as students or coaches with such educational institution, shall not be required to obtain a certificate of registration for such rifle. This exemption shall not apply to assault weapons.

m. Any resident of the city of New York acquiring a rifle or shotgun outside the city of New York shall within 72 hours after bringing such weapon into the city make application for a rifle and shotgun permit, if such person does not already possess such permit, and for a certificate of registration.

Pending the issuance of such permit and/or certificate of registration such resident shall deposit such weapon with a designated officer, at the police precinct in which such person resides, who shall issue a receipt therefor and said weapon shall be retained at the precinct until the resident shall produce the proper permit and registration certificate. This exemption shall not apply to assault weapons.

n. The provisions of § 10-303 of this chapter shall not apply to persons who are members of units of war veterans organizations, which organizations are duly recognized by the veterans administration, pursuant to § 3402 of title 38 of the United States code, and who are specifically designated to carry rifles or shotguns by the commanders of said units, while actually participating in, going to or returning from, special events authorized by the commissioner. Said rifles or shotguns, to be carried, must be the property of the unit of the war veterans organization, must be registered with the police commissioner pursuant to § 10-304 of this chapter and must be kept at the unit's headquarters or some central place as registered.

o. Nothing herein shall exempt a member of a unit of a war veterans organization from possessing a permit issued pursuant to § 10-303, to carry rifles or shotguns which are not the property of a war veterans organization; nor shall that member be exempt from registering such rifles or shotguns, pursuant to § 10-304, which said member may personally own, possess or purchase.

p. Any gunsmith licensed pursuant to § 10-302 may engage in the business of gunsmith as authorized by such license.

q. Notwithstanding the provisions of this chapter prohibiting the possession or disposition of assault weapons, a special theatrical dealer may possess such weapons exclusively for the purpose of leasing such weapons to special theatrical

permittees within the city and for theatrical purposes outside the city and may, in addition, with the written approval of the commissioner, permanently remove one or more assault weapons from the city.

§ 10-306 Disposition, purchase and possession of ammunition and ammunition feeding devices.

a. No person, except a dealer in rifles and shotguns, may dispose of to another person an ammunition feeding device which is designed for use in a rifle or shotgun and which is capable of holding more than 5 rounds of rifle or shotgun ammunition, except in the manner provided in this chapter for the disposition of assault weapons, provided that a person in lawful possession of such ammunition feeding devices may dispose of such ammunition feeding devices to a dealer in rifles and shotguns. No dealer in rifles and shotguns may dispose of such ammunition feeding devices except to a person who is exempt from subdivision a. of § 10-303.1 pursuant to § 10-305.

b. No person may possess an ammunition feeding device which is designed for use in a rifle or shotgun and which is capable of holding more than 5 rounds of rifle or shotgun ammunition, unless such person is exempt from subdivision a of § 10-303.1 pursuant to § 10-305, provided that a dealer in rifles and shotguns may possess such ammunition feeding devices for the purpose of disposition authorized pursuant to subdivision a of this section.

c. No ammunition suitable for use in a rifle of any caliber or for any shotgun or ammunition feeding device which is designed for use in a rifle or shotgun and which is capable of holding no more than 5 rounds of rifle or shotgun ammunition shall be disposed of to any person who has not been issued a rifle and shotgun permit and a certificate of registration and who does not exhibit same to the dealer at the time of the purchase. In no event shall rifle or shotgun ammunition be disposed of to or possessed by any such person except for a shotgun, or for the specific caliber of rifle, for which the certificate of registration has been issued. No ammunition feeding device which is designed for use in a rifle or shotgun and which is capable of holding more than 5 rounds of rifle or shotgun ammunition shall be disposed of by a dealer in rifles and shotguns to any person who does not exhibit proof that he or she is exempt from subdivision a of § 10-303.1 pursuant to § 10-305.

d. It shall be unlawful for any person who is required to have a permit in order to possess a rifle or shotgun and who has not been issued such permit to possess rifle or shotgun ammunition or an ammunition feeding device which is designed for use in a rifle or shotgun.

e. A record shall be kept by the dealer of each disposition of ammunition or ammunition feeding devices under this section which shall show the type, caliber and quantity of ammunition or ammunition feeding devices disposed of, the name and address of the person receiving same, the caliber, make, model, manufacturer's name and serial number of the rifle or shotgun for which the purchaser is purchasing ammunition, the date and time of the transaction, and the number of the permit and certificate exhibited or description of the proof of exemption exhibited as required by this section. Such information shall be made available to all law enforcement agencies.

f. Notwithstanding any other provision of this section, ammunition and ammunition feeding devices which are designed for use in rifles or shotguns and which are capable of holding no more than 5 rounds of rifle or shotgun ammunition may be disposed of or possessed in the same manner and pursuant to the same requirements, rules and exemptions as apply to disposal or possession of rifles, shotguns or assault weapons under this chapter, provided that a special theatrical permittee may not possess live ammunition suitable for use in the rifle, shotgun or assault weapon such permittee is authorized to possess. Ammunition feeding devices which are designed for use in rifles or shotguns and which are capable of holding more than 5 rounds of rifle or shotgun ammunition may only be disposed of or possessed in the manner provided in this section.

g. Notwithstanding any other provision of this section, any person authorized to possess a pistol or revolver within the city of New York may possess ammunition suitable for use in such pistol or revolver and a dealer in firearms or dealer in rifles and shotguns may dispose of such ammunition to such person pursuant to subdivision i of § 10-131.

h. Dealers in rifles and shotguns and special theatrical dealers may lease ammunition feeding devices which are designed for use in rifles or shotguns to special theatrical permittees. Special theatrical permittees may possess such ammunition feeding devices subject to the same conditions as apply with respect to such permittee's possession of rifles, shotguns and assault weapons.

§ 10-307 Supply of forms. The commissioner shall provide all dealers in rifles and shotguns with adequate supplies of all forms including applications for permits as required by this chapter, without charge.

§ 10-308 Vehicles, rooms, dwellings or structures; possession therein. The presence of a rifle, or shotgun, or rifle or shotgun ammunition, in a vehicle, room, dwelling or structure, without a rifle and shotgun permit therefor and a certificate of registration therefor, or the presence of an assault weapon in a vehicle, room, dwelling or structure, shall be presumptive evidence of possession thereof by all persons occupying the vehicle, room, dwelling or structure at the time.

§ 10-309 Identifying marks.

a. Defacing. Any person who alters, changes, removes, disfigures, obliterates or defaces the name of the maker, model, manufacturer's or serial number of a rifle, shotgun or assault weapon shall be in violation of this section.

b. Any rifle or shotgun sold or otherwise disposed of by a licensed dealer, which does not contain a manufacturer's or serial number, must have imbedded into the metal portion of such rifle or shotgun a dealer's number. Failure to so mark and identify any rifle or shotgun shall be a violation of this section.

§ 10-310 Violation. Except as is otherwise provided in §§ 10-302 and 10-303.1, violation of §§ 10-301 through 10-309 and of rules and regulations issued by the commissioner pursuant thereto shall be a misdemeanor punishable by a fine of

not more than \$1,000 or imprisonment of not more than 1 year or both, provided that the first violation of such sections involving possession of an unregistered rifle or shotgun or rifle or shotgun ammunition or an ammunition feeding device which is designed for use in a rifle or shotgun and which is capable of holding no more than 5 rounds of rifle or shotgun ammunition shall be an offense punishable by a fine of not more than \$300 or imprisonment of not more than 15 days, or both on condition that **(a)** the first violation of possession of an unregistered rifle and shotgun or rifle and shotgun ammunition or an ammunition feeding device which is designed for use in a rifle or shotgun and which is capable of holding no more than 5 rounds of rifle or shotgun ammunition is not in conjunction with the commission of a crime and **(b)** the possessor has not been previously convicted of a felony or a serious offense and **(c)** the possessor has not previously applied for and been denied a permit for such possession.

§ 10-311 Sale of weapons without safety locking device prohibited.

a. It shall be unlawful for any person or business enterprise to dispose of any weapon which does not contain a safety locking device. For the purposes of this section and § 10-312: (1) weapon shall mean a firearm, rifle, shotgun, or assault weapon, as such terms are defined in § 10-301; or a machine gun, as defined in the penal law; and (2) a safety locking device shall mean a design adaptation or attachable accessory that will prevent the use of the weapon by an unauthorized user, and includes, but is not limited to, a trigger lock, which prevents the pulling of the trigger without the use of a key, or a combination handle, which prevents the use of the weapon without the alignment of the combination tumblers.

b. It shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to dispose of any weapon in the city of New York unless it is accompanied by the following warning, which shall appear in conspicuous and legible type in capital letters, and which shall be printed on a label affixed to the weapon and on a separate sheet of paper included within the packaging enclosing the weapon: "THE USE OF A LOCKING DEVICE OR SAFETY LOCK IS ONLY ONE ASPECT OF RESPONSIBLE WEAPON STORAGE. ALL WEAPONS SHOULD BE STORED UNLOADED AND LOCKED IN A LOCATION THAT IS BOTH SEPARATE FROM THEIR AMMUNITION AND INACCESSIBLE TO CHILDREN AND ANY OTHER UNAUTHORIZED PERSONS. NEW YORK CITY LAW PROHIBITS, WITH CERTAIN EXCEPTIONS, ANY PERSON FROM ACQUIRING MORE THAN ONE FIREARM, OR MORE THAN ONE RIFLE OR SHOTGUN, WITHIN A 90-DAY PERIOD."

c. Any person who applies for and obtains authorization to purchase a weapon or otherwise lawfully obtains a weapon pursuant to chapters 1 or 3 of title 10 of this code shall be required to purchase or obtain a safety locking device at the time he or she purchases or obtains the weapon.

d. (1) The police commissioner is authorized to promulgate rules setting forth the types of safety locking devices which will comply with this section in accordance with subdivision a of this section. The city of New York and its agencies, officers or employees shall not be liable to any party by reason of any incident involving, or the use or misuse of, a safety locking device that may have been purchased in compliance with such rules promulgated by the commissioner.

(2) The police commissioner shall provide written notice of the requirements of this section and § 10-312 to all persons who receive an official authorization to purchase a weapon and all persons applying for renewal of a license or permit issued pursuant to chapters 1 or 3 of title 10, including any rules promulgated under this subdivision. All persons applying for a license or permit or applying for the renewal of a license or permit pursuant to chapters 1 or 3 of title 10 of this code, shall receive from the commissioner information concerning the importance of using a safety locking device while a weapon is not in use, and a warning that weapons should be stored unloaded and locked in a location that is both separate from their ammunition and inaccessible to [their] children and any other unauthorized persons.

e. Any violation of subdivisions a or b of this section or any rule promulgated thereunder shall be a misdemeanor and triable by a judge of the criminal court of the city of New York and punishable by imprisonment of not more than 30y days or by a fine of not more than \$500, or both.

§ 10-312 Use of safety locking device required under certain circumstances.

a. It shall be unlawful for any person who is the lawful owner or lawful custodian of a weapon, as that term is defined in § 10-311, to store or otherwise place or leave such weapon in such a manner or under circumstances that it is out of his or her immediate possession or control, without having rendered such weapon inoperable by employing a safety locking device. Any person who violates this subdivision shall be guilty of a violation, punishable by imprisonment of not more than 10 days or by a fine of not more than \$250, or both.

b. Any person who violates subdivision a of this section having previously been found guilty of a violation of such subdivision, or under circumstances which create a substantial risk of physical injury to another person, shall be guilty of a misdemeanor punishable by imprisonment of not more than 30 days or by a fine of not more than \$1,000, or both.

c. The provisions of this section shall not apply to weapons owned or lawfully possessed by a police officer, as such term is defined in § 1.20 of the criminal procedure law, or a federal law enforcement officer, as such term is defined in § 2.15 of the criminal procedure law.

**Code of the City of Rochester
Chapter 47. Dangerous Articles**

§ 47-4 Storage and display of firearms, ammunition and explosives. [Added 9-24-1996 by Ord. No. 96-297]

A. Purpose and intent. The Council finds that it is necessary to regulate the commercial storage, possession and display of firearms, ammunition or explosives pursuant to § 139-d of the General Municipal Law in order to provide for the public

health, safety and welfare of all persons in the City of Rochester. The Council finds that the location of such activities close to residential uses is not compatible with residential uses and can pose a danger to residents through fire or explosion or as a result of burglaries at such locations. The Council therefore intends to regulate the location of such activities and to place additional regulations upon those activities in order to assure that such activities are conducted in a safe manner. The restrictions found herein shall be in addition to restrictions found in Chapter 120 of the Municipal Code, Zoning Code, and whichever regulations are more restrictive shall be applicable to any potential location where such activities are to be conducted.

[Amended 11-19-2002 by Ord. No. 2002-354]

B. Location. The storage, possession or display of firearms, ammunition or explosives within a building occupied by a residential use, or within a building located within 100 feet of any residential use, which distance shall be measured from the closest point of the building, or portion thereof, used for the storage, possession or display of firearms, ammunition or explosives to the nearest point of the lot line of the property with a residential use, is hereby prohibited.

C. Standards of design, construction and maintenance of buildings and structures in which firearms, ammunition or explosives are stored.

(1) Perimeter doorways. All perimeter doorways shall meet one of the following:

(a) A windowless steel security door equipped with a high-security cylinder lock;

(b) A windowed metal door that is equipped with a high-security cylinder lock. If the window has an opening of 5 inches or more measured in any direction, the window shall be covered with steel bars of at least 1/2-inch diameter no further than 6 inches apart, or metal grating of at least 9 gauge which has no spaces larger than 6 inches wide measured in any direction, affixed to the exterior or interior of the door; or

(c) A metal grate or a metal folding scissors gate of at least 9 gauge which has no spaces larger than 6 inches wide measured in any direction that is padlocked and affixed to the premises independent of the door and doorframe when the premises is not open for business.

(2) Windows. All windows shall be covered with steel bars of at least 1/2-inch diameter no further than 6 inches apart; or metal grating of at least 9 gauge which has no spaces larger than 6 inches wide measured in any direction, affixed to the exterior or interior of the window frame; or a metal grate or a metal folding scissors gate of at least 9 gauge which has no spaces larger than 6 inches wide measured in any direction that is padlocked and affixed to the premises independent of the door and doorframe when the premises is not open for business.

(3) Heating, ventilating, air-conditioning and service openings. All heating, ventilating, air-conditioning and service openings shall be secured with steel bars, metal grating or an alarm system.

(4) Alarm systems. Any building or structure used for the storage, possession and display of firearms, ammunition or explosives shall be protected by an alarm system which, when activated, directly notifies either a security guard on duty at the location, the Emergency Communications Center (through a designated line other than 911), an answering service or a central station, of a fire or smoke or intrusion or attempted intrusion into the premises. If an answering service or central station is used, the answering service or central station shall provide the service of receiving on a continuous basis through trained employees, emergency signals from the alarm systems and, thereafter, immediately relaying the message by live voice to 911.

D. Visibility of interior to be maintained at all times. The interior of any building or structure used for the storage, possession and display of firearms, ammunition or explosives shall be visible through any windows at all times when open for business, and no drapes or blinds should be used that would block the view of police or passersby who might observe unusual activity within the premises. The exterior of the premises shall be illuminated at night and during the hours when business is not conducted within.

E. Combustible materials. Combustible materials shall not be stored in any building or structure or that portion thereof used for the storage, possession and display of firearms, ammunition or explosives.

F. Fire-extinguishing equipment. Fully operable listed fire-extinguishing equipment shall be maintained in any building or structure used for the storage, possession and display of firearms, ammunition or explosives and made easily accessible.

G. Smoking and open flames prohibited. Smoking, matches, spark-producing devices and open flames shall be prohibited in any building or structure or that portion thereof used for the storage, possession and display of firearms, ammunition or explosives.

H. Standards of security for storage of firearms, ammunition or explosives.

(1) Storage of ammunition and explosives. All ammunition and explosives shall be stored in compliance with 9 NYCRR 1176 et seq. and 12 NYCRR 39 et seq. Further, all ammunition when being displayed shall be kept in locked cases or behind the counter in an area not accessible to the public.

(2) Storage of firearms when open for business.

(a) No firearms shall be stored, exhibited or displayed in windows of the premises.

(b) Firearms storage or inventory areas shall be physically separated from counter and display areas and access to these areas shall be carefully controlled.

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

(d) Trigger locks which disable firearms and prevent them from functioning must be locked to each firearm at all times, or the firearms must be secured in a locked case or be otherwise locked, or the firearms must be dispensed in an area

behind the counter that is not accessible to the public. These requirements shall not apply to a firearm being shown to a customer, being repaired, or otherwise being worked on.

(3) Storage of firearms when not open for business. When not open for business, all firearms shall be stored in accordance with one of the following:

(a) All firearms shall be stored in a locked fireproof safe or vault located in the business premises;

(b) All firearms must be secured by a hardened steel rod or cable of at least 1/8 inch in diameter through the trigger guard of the firearm. The steel cord or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a bolt cutter and the rod or cable shall be anchored in a manner that prevents the ready removal of the firearms from the premises; or

(c) All firearms shall be secured in a manner that prevents the ready removal of the firearms from the premises, as approved by the Chief of Police or the Chief's designee.

I. The regulations provided for herein shall not apply to the personal possession, use or ownership of firearms or ammunition therefor.

§ 47-5 Firearms, shotguns, rifles and other dangerous weapons. [1] [Amended 9-11-1951; 1-11-1955; 5-10-1960; 1-27-1970 by Ord. No. 70-36; 5-28-1974 by Ord. No. 74-180; 5-27-1986 by Ord. No. 86-163; 3-16-1993 by Ord. No. 93-62]

A. Purpose and intent. The restrictions imposed by this section are intended to be in addition to restrictions found in state law and are not intended to conflict with state law provisions.

B. As used in this section, the following terms shall have the meanings indicated:

AIR GUN [Amended 12-15-2009 by Ord. No. 2009-410[2]]. Any pistol, revolver, rifle or shotgun which fires projectiles by means of a spring or compressed air or other gas, instead of an explosive.

AMMUNITION. Explosives suitable to be fired from a firearm, machine gun, pistol, revolver, rifle, shotgun, assault weapon or other dangerous weapon.

AMMUNITION FEEDING DEVICE. Magazines, belts, feedstrips, drums or clips capable of being attached to or utilized with any center-fire rifle, shotgun or pistol which employs the force of the expanding gases from a discharging cartridge to chamber a fresh round after each single pull of the trigger which, in the case of a rifle or shotgun holds in excess of 5 cartridges, or in the case of a pistol holds in excess of 17 cartridges.

ASSAULT WEAPON

(1) Any center-fire rifle or shotgun which employs the force of the expanding gases from a discharging cartridge to chamber a fresh round after each single pull of the trigger, and which is loaded or capable of being loaded with a combination of more than 6 cartridges in the ammunition feeding device and chamber combined. For the purposes of this section, a weapon is capable of being loaded if it is possessed by one who, at the same time, possesses:

(a) In the case of a rifle, a fixed or detachable ammunition feeding device which is attached to or utilized with or capable of being attached to or utilized with such rifle and which has a capacity of more than 5 cartridges; or

(b) In the case of a shotgun, an ammunition feeding device which is attached to or utilized with or capable of being attached to or utilized with such shotgun and which has a capacity of more than 5 cartridges.

(2) A center-fire rifle or shotgun which employs the force of expanding gases from a discharging cartridge to chamber a fresh round after each single pull of the trigger, and which has:

(a) A flash suppressor attached to the weapon reducing muzzle flash;

(b) A grenade launcher;

(c) A sighting device making a target visible at night;

(d) A barrel jacket surrounding all or a portion of the barrel to dissipate heat therefrom; or

(e) A multi-burst trigger activator.

(3) Any stockless pistol grip shotgun.

(5) For purposes of this section, the term "assault weapon" shall not include any of the following:

(a) Any weapon which has been modified to render it permanently inoperable or permanently make it a device no longer defined as an "assault weapon";

(b) Weapons that do not use cartridges or shells;

(c) Manually operated bolt-action weapons, lever-action weapons, slide-action weapons or single-shot weapons;

(d) Multiple-barrel weapons, revolving-cylinder weapons except shotguns, weapons that use exclusively a rotary Mannlicher-style magazine; or

(e) Any antique firearm as defined in § 265.00 of the New York State Penal Law or any curio or relic as defined under United States law which is possessed by a licensed collector in accordance with United States Law.

DISPOSE OF. To dispose of, give away, give, lease, loan, keep for sale, offer, offer for sale, sell, transfer or otherwise dispose of.

DRUG. Any substance listed in § 3306 of the Public Health Law of the State of New York.

DWELLING [Amended 11-19-2002 by Ord. No. 2002-354]. As defined in Chapter 120 of the Municipal Code, Zoning Code.

FIREARM. Any pistol or revolver; or a shotgun having 1 or more barrels less than 18 inches in length or any weapon made from a shotgun (whether by alteration, modification or otherwise) if such weapon as modified has an overall length of less than 26 inches; or a rifle having 1 or more barrels less than 16 inches in length or any weapon made from a rifle (whether by alteration, modification or otherwise) if such weapon as modified has an overall length of less than 26 inches. For purposes of this definition, the length of the barrel on a shotgun or rifle shall be determined by measuring the distance between the muzzle and the face of the bolt, breech or breechlock when closed and when the shotgun or rifle is cocked;

the overall length of a weapon made from a shotgun or rifle is the distance between the extreme ends of the weapon measured along a line parallel to the center line of the bore. Such definition, except as otherwise indicated, shall include both loaded and unloaded firearms, except that it shall not include any antique firearm as defined in federal or New York State law or any curio or relic as defined under United States law which is possessed by a licensed collector in accordance with United States law.

PARK. As defined in § 79-1 of the Municipal Code.

POSSESS. Have physical possession or otherwise to exercise dominion or control over. The presence in an automobile of any firearm, rifle or shotgun which is openly visible is presumptive evidence of its possession by all persons occupying such automobile at the time such firearm, rifle or shotgun is found, except if such firearm, rifle or shotgun is found in a vehicle for hire.

PUBLIC FACILITY. Any building or facility owned, leased, operated or controlled by or on behalf of any government, municipality or public authority or corporation within the boundaries of the City, except buildings or facilities used for educational purposes.

PUBLIC PLACE. Any street, including the sidewalk portion thereof, park, playground, recreation area, cemetery or lot owned, leased, operated or controlled by or on behalf of any government, municipality or public authority or corporation within the boundaries of the City, which is generally accessible to the public, except grounds used for educational purposes.

RIFLE. A weapon designed or redesigned, made or remade and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

SHOTGUN. [2] Editor's Note: This ordinance provided an effective date of 1-11-2010. A weapon designed or redesigned, made or remade and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

C. No person shall possess a loaded or unloaded firearm, rifle, shotgun or air gun, or a dagger, dangerous knife, dirk, razor or stiletto, in a public place or public facility in the City. This prohibition shall not apply to:

- (1) A police officer or peace officer authorized to possess the same;
- (2) A government employee or licensed security guard authorized or required by employment or office to possess the same while acting within the scope of such employment;
- (3) A person in the military service of the State of New York or the United States when duly authorized to possess the same;
- (4) A person transporting a rifle or shotgun in a motor vehicle in the City in accordance with the provisions of § 11-0931, Subdivision 2, of the New York State Environmental Conservation Law, or otherwise transporting an unloaded rifle, shotgun or air gun in the City, provided that the same is completely enclosed or contained in a nontransparent carrying case and either:
 - (a) Said carrying case is locked; or
 - (b) A locking device is attached to the weapon and locked in a manner so as to prevent the weapon from being fired;
- (5) An authorized person who, for the purpose of shooting practice, possesses a weapon at an established target range in a public place other than a park or public facility;
- (6) A person voluntarily surrendering the same in accordance with the provisions of § 265.20 of the Penal Law; or
- (7) Possession of a firearm by a person licensed to carry a firearm pursuant to § 400.00 of the Penal Law or possession or transportation by a gunsmith or dealer in firearms in accordance with a license issued by the State of New York or the United States, except that this subsection shall not apply in a park or a public facility other than a parking garage.

D. No person shall store a firearm, rifle, shotgun or air gun in a dwelling in the City unless said firearm, rifle, shotgun or air gun is completely enclosed or contained in a nontransparent locked carrying case or in a locked gun rack, cabinet, closet or safe, or a locking device is attached to the weapon and locked in a manner so as to prevent the weapon from being fired. This requirement shall not apply to a rifle, shotgun or licensed firearm carried on the body of the owner or within such close proximity of the owner that the owner can retrieve it as quickly and easily as if it were carried on the owner's body.

E. No person shall dispose of any firearm, rifle, shotgun, air gun or ammunition in the City. This prohibition shall not apply to:

- (1) A gunsmith or dealer in firearms duly licensed by the State of New York or the United States;
- (2) A person disposing of the same to a gunsmith or dealer in firearms duly licensed by the State of New York or the United States;
- (3) A person voluntarily surrendering the same in accordance with the provisions of § 265.20 of the Penal Law;
- (4) A person disposing of a licensed firearm in accordance with law;
- (5) Disposition by intestate or testamentary bequest; or
- (6) A person disposing of a rifle, shotgun, air gun or ammunition to a family member.

F. No person shall possess an assault weapon or an ammunition feeding device in the City. This prohibition shall not apply to:

- (1) A police officer or peace officer authorized to possess the same;

(2) A person in the military service of the State of New York or the United States when duly authorized to possess the same;

(3) A person voluntarily surrendering the same in accordance with the provisions of § 265.20 of the Penal Law; or

(4) A gunsmith or dealer in firearms duly licensed by the State of New York or the United States for weapons to be used by police officers or persons in the military service or for delivery outside of the City.

G. No person shall dispose of an assault weapon or ammunition feeding device in the City. This prohibition shall not apply to:

(1) A person voluntarily surrendering the same in accordance with the provisions of § 265.20 of the Penal Law; or

(2) A gunsmith or dealer in firearms duly licensed by the State of New York or the United States for weapons to be used by police officers or persons in the military service or for delivery outside of the City.

H. No person shall carry a firearm, shotgun, rifle or air gun in the City while such person has 1/10 of 1% or more by weight of alcohol in the person's blood as shown by chemical analysis of the person's blood, breath, urine or saliva.

I. No person shall carry a firearm, shotgun, rifle or air gun in the City while in an intoxicated condition.

J. No person shall carry a firearm, shotgun, rifle or air gun in the City while the person's ability to safely carry such weapon is impaired by the use of a drug.

K. Any person who carries a firearm, shotgun, rifle or air gun in this City shall be deemed to have given consent to a breath test and a chemical test of the person's breath, blood, urine or saliva for the purpose of determining the alcoholic or drug content of the person's blood, provided that any test is administered at the direction of a police officer having reasonable grounds therefor. A chemical test must be administered within 2 hours after such person has been placed under arrest for a violation of this section or any other law or ordinance involving the use or possession of a firearm, rifle, shotgun or air gun, or within 2 hours after a breath test indicates that alcohol has been consumed by such person. Upon the trial of any action arising out of an arrest for a violation of Subsection H, I or J of this section, the court shall admit evidence of the amount of alcohol or drugs in the blood of the person carrying the firearm, shotgun, rifle or air gun as shown by a test administered pursuant to this section. Evidence of a refusal to submit to a chemical test shall be admissible in any trial, proceeding or hearing based upon a violation of such subsections, but only upon a showing that the person was given sufficient warning, in clear and unequivocal language, of the effect of such refusal and the person persisted in such refusal.

M. Discharge of weapons; permits.

(1) No person shall discharge an air gun, shotgun, rifle, assault weapon, machine gun, submachine gun or a firearm of any kind or description in the City, except police officers, peace officers, members of the military and persons holding permits as in this subsection provided.

(2) The Chief of Police is hereby authorized to grant permits for the discharge of shotguns at clay pigeons at any particular location or for the discharge of weapons at target ranges subject to such restrictions and conditions as the Chief may deem necessary. Any person holding such a permit shall obey all the restrictions and conditions contained herein.

N. The owner of a firearm, shotgun, rifle, assault weapon, machine gun or submachine gun, which becomes lost or stolen, shall report the loss or theft to the Rochester Police Department within 24 hours after the loss or theft is discovered or reasonably should be discovered. The owner of such a weapon shall store the weapon in a safe and secure manner as required in Subsection D of this section and shall check such weapon at least once each week, or immediately upon returning to the City if the owner is absent from the City for more than one week. Failure to perform such a check shall not be a defense to a prosecution for a violation of this subsection. [Added 9-15-1998 by Ord. No. 98-345[3]] [3]

Editor's Note: This ordinance also relettered former Subsections N and O as Subsections O and P.

O. Notwithstanding the penalties contained in § 47-8, a violation of any provision of this section shall be punishable by a fine not to exceed \$1,000 or by imprisonment not to exceed 180 days, or by both such fine and imprisonment.

P. The provisions of this section are severable, and if any of its provisions shall be held unconstitutional or invalid, the decision of the court shall not affect or impair any of the remaining provisions of the same. It is hereby declared to be the intention of the Council that this section would have been adopted had such unconstitutional or invalid provision not been included herein. If any term or provision of this section shall be declared unconstitutional, invalid or ineffective in whole, or in part, by a court of competent jurisdiction, then to the extent that it is not constitutional, invalid or ineffective, such term or provision shall be in force and effect, nor shall such determination be deemed to invalidate the remaining terms or provisions thereof.

[1] Editor's Note: For additional provisions relating to firearms, see Ch. 43, Cemeteries, § 43-11, and Ch. 79, Parks, § 79-5.

§ 47-8 Penalties. [Amended 7-22-1969 by Ord. No. 69-329] Any person or corporation violating any of the provisions of this chapter shall, upon conviction be punishable by a fine not exceeding \$150, or by imprisonment not exceeding 15 days, or by both such fine and imprisonment, or by a penalty of not less than \$5 nor more than \$500 to be recovered by the City of Rochester in a civil action.

**Laws of Suffolk County
Chapter 349
Bullets Armor-Piercing**

§ 349-1 Purpose. It is the intent of the Suffolk County Legislature to restrict the possession, disposition and use of certain handgun bullets that are designed primarily for the purpose of armor penetration so as to give law enforcement personnel a reasonable degree of protection from penetration of body armor. This chapter is not intended to restrict the availability of ammunition for personal defense, sporting or hunting purposes.

§ 349-2 Definitions. As used in this chapter, the following terms shall have the meanings indicated:

BODY ARMOR. Commercially available soft, bullet-resistant apparel with a penetration resistance equal to or greater than body armor classified as Threat Level Class II that complies with New York State Industrial Code Rule 55 or National Institute of Law Enforcement and Criminal Justice Standard 0101.01, dated May 1978.

DEALER. Any person engaged in the business of selling ammunition at wholesale or retail who is licensed under Chapter 44 of Title 18 of the United States Code.

DISPOSE OF. To dispose of, give, give away, loan, offer for sale, sell, transfer and otherwise dispose of, except to police or military units.

HANDGUN. A firearm originally designed to be fired by the use of a single hand.

PERSON. A natural person, firm, partnership, corporation or company.

RESTRICTED HANDGUN BULLET. A handgun projectile that is capable of penetrating armor, including body armor as defined herein, and is comprised of a projectile whose composition includes any components having a hardness of 70 or greater on the Rockwell B hardness scale, specifically the Czechoslovakian-manufactured 9-millimeter; and all KTW teflon-coated projectiles.

§ 349-3 Prohibited acts.

A. Any person who, with intent to injure or kill, or whoever, during and in relation to the commission of a crime of violence for which he may be prosecuted in court, including a felony which provides for an enhanced punishment if committed by the use of a dangerous weapon or device, uses or carries any handgun loaded with armor-piercing ammunition, as defined herein, shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment of not less than 6 months.

B. No dealer shall dispose of any restricted handgun bullet or bullets in Suffolk County, except to police or military units.

§ 349-4 Penalties for offenses. Any person convicted of violating this chapter shall be deemed guilty of a misdemeanor punishable by a fine not exceeding \$1,000 or by imprisonment for not more than 6 months, or by both such fine and imprisonment. Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this chapter nor place him on probation, nor shall the term of imprisonment run concurrently with any other term of imprisonment, including that imposed for the felony in which the armor-piercing handgun ammunition was used or carried. No person sentenced under this section shall be eligible for parole.

**Chapter 467
Firearms & Weapons**

§ 467-2 Definitions. As used in this article, the following terms shall have the meanings indicated:

CAREER EDUCATION. Organized educational programs offering a sequence of courses which are directly related to the preparation of individuals in paid or unpaid employment in current or emerging occupations requiring other than a baccalaureate or advanced degree, and shall include vocational and occupational education.

CONVICTED OF. An adjudication of guilt by any court of competent jurisdiction, whether upon a verdict or plea of guilty or nolo contendere.

DEPARTMENT. The Suffolk County Police Department.

GUN OFFENDER. Any person who is convicted of a gun offense as defined in this article. This shall not include any person whose conviction for a gun offense has been reversed upon appeal or who has been pardoned for all gun offenses by the Governor.

GUN OFFENSE. The unlawful possession or use of a firearm in the commission of one of the following enumerated crimes: criminal possession of a weapon in the third degree, as defined in Subdivisions (4), (5), (6), (7) and (8) of New York State Penal Law § 265.02, and criminal possession of a weapon in the second degree, as defined in Subdivision (3) of New York State Penal Law § 265.03.

HIGHER EDUCATION. Education in advance of secondary education, and includes the work of colleges, universities, professional and technical schools, and educational work connected with libraries, museums, university and educational extension courses and similar agencies.

SECONDARY EDUCATION. Instruction of academic grade, between the elementary grades and the college or university.

§ 467-3 Creation of registry; administration. A registry is hereby created which shall contain the names, residence and identifying information of individuals living in Suffolk County who are convicted of a gun offense. All further administration of this article shall be the responsibility of the Department.

§ 467-4 Registration requirements.

A. Any person convicted of a gun offense in Suffolk County must register with the Gun Offender Registry administered by the Department.

B. When registering, a gun offender shall personally report to the Department and provide the following information, with verifying documentation:

- (1) The gun offender's name;
- (2) Any aliases he or she is known under;
- (3) The gun offender's residential address;
- (4) The gun offender's date of birth;
- (5) A physical description of the gun offender;
- (6) A photograph, to be taken by the Department and updated during the period of registration;
- (7) A description of the offense for which the gun offender was convicted, the date of conviction and the sentence imposed;
- (8) The name and address of any institution of career education, higher education or secondary education at which the gun offender is or expects to be enrolled or is attending, and whether such offender resides in or will reside in a facility owned or operated by such institution;
- (9) The gun offender's expected place of employment, including the name and phone number of a supervisor and mailing address of the employer; and
- (10) Any other information required pursuant to the rules and regulations adopted by the Commissioner of the Suffolk County Police Department.

C. A gun offender who is required to register must do so within 48 hours of:

- (1) His or her release from incarceration, if the gun offender receives a sentence of imprisonment; or
- (2) The imposition of a sentence for a gun offense, if such sentence does not include imprisonment.

D. For a gun offender who resides in the County of Suffolk and is subject to the registration requirements of this article, the following shall apply:

(1) The gun offender shall report to the Department annually within 20 days of the anniversary of the gun offender's initial registration and verify the information required under Subsection B of this section with the registry. A new photograph and verifying documentation may be required by the Department.

(2) If a gun offender required to register under this article is confined to any correctional facility, hospital or institution throughout the 20-day period established in Subsection D(1), such gun offender shall report to the Department and verify the information as required under Subsection B of this section within 48 hours of his or her release from confinement.

E. Any gun offender required to register under this article must provide notice to the Department within 10 calendar days of establishing a new residence within the County of Suffolk. Verifying documentation of the residence change must be submitted with the gun offender's notification.

§ 467-5 Duration of registration and verification. A gun offender shall register and verify his or her personal information for a period of 4 years from the date of initial registration.

§ 467-6 Penalties for offenses. A gun offender who violates this article, including failure to register or verify information as required, shall be guilty of an unclassified misdemeanor punishable by a fine of up to \$1,000 and/or up to 1 year's imprisonment.

§ 467-7 Fees. Each person required to register with the Gun Offender Registry must pay an annual fee of \$25. These funds will be used to pay the administrative costs of maintaining the registry.

§ 467-8 Sharing of information. The Commissioner of the Suffolk County Police Department may make the information collected under this article available to any federal, state or local law enforcement agency.

§ 467-9 Rules and regulations. The Commissioner of the Suffolk County Police Department is hereby authorized and empowered to promulgate such rules and regulations as deemed necessary to implement this article.

§ 467-10 Applicability. This article shall apply to all individuals convicted of a gun offense on or after the effective date of this article.

§ 467-11 When effective. This article shall take effect on the 180th day immediately subsequent to filing in the office of the Secretary of State.

Chapter 563. Licensed Occupations

§ 563-49 Definitions. [Amended 12-27-1983 by L.L. No. 3-1984; 12-17-2002 by L.L. No. 4-2003; 6-10-2003 by L.L. No. 21-2003] As used in this article, the following terms shall have the meanings indicated:

ANTIQUÉ FIREARMS. Any unloaded muzzle-loading pistol or revolver with a matchlock, flintlock, percussion cap or similar type of ignition system, or a pistol or revolver which uses fixed cartridges which are no longer available in the ordinary channels of commercial trade.

BUSINESS DAY. Any calendar day except Sunday or any County holiday.

DEALER IN SECONDHAND ARTICLES

A. Any person corporation, partnership, collateral loan broker, as defined in Article 5 of the New York General Business Law, or other entity and its employees that, as a business, transacts more than 5 deals in the purchase of, sale of, or transaction for a collateral loan against any of the following articles within a 12-month period:
[Amended 9-15-2011 by L.L. No. 49-2011; 12-6-2011 by L.L. No. 2-2012]

(1) Antique firearms.

(2) Rifles.

(3) Shotguns.

[Added 4-28-2015 by L.L. No. 19-2015]

B. Exempted operations:

(1) "Dealer in secondhand articles" shall not include any organizations formed for charitable purposes which accept donations of secondhand articles and resell them to raise funds for purposes consistent with the formation of the organization, nor any persons, corporations, partnerships or other entities and their employees that, as a business, are principally engaged in the service and/or repair of electronic equipment or component parts thereof and who, from time to time, sell electronic equipment or component parts thereof, which have been left for repair and later abandoned.

(2) The sale of secondhand goods at events commonly known as "garage sales," "yard sales," or "estate sales," provided:

(a) The sale is held on noncommercial property;

(b) None of the items offered for sale have been purchased for resale;

(c) The owner of the property receives all proceeds; and

(d) The sale period is no longer than 72 hours. At no time shall the property owner be permitted to conduct more than 2 events within a 12-month period.

(4) Organizations or persons that resell secondhand articles acquired solely from:

[Added 12-15-2009 by L.L. No. 43-2009]

(a) Other organizations or persons who or which received the secondhand articles by way of gift or donation; or

(b) Members of the general public by way of gift or donation.

DEPARTMENT. The Office of Consumer Affairs.

PROPER IDENTIFICATION. Identification documents that contain the person's name, address, and a photograph of said person or a current and valid government-issued passport. Social Security cards, draft registration cards, voter registration cards and comparable documents shall not be considered sufficient identification for the purpose of this article.

[Amended 4-28-2015 by L.L. No. 19-2015; 4-12-2016 by L.L. No. 14-2016]

SECONDHAND ARTICLE. An article or object which:

A. Has been previously sold at retail; or

B. Has been previously used or is not in a new condition.

§ 563-50 License required; display. [Amended 6-21-1994 by L.L. No. 13-1994]

A. No person shall engage in any business as a dealer in secondhand articles without obtaining a license therefor from the Office in accordance with and subject to the provisions of this article and Article I.

B. A licensee shall display the license obtained pursuant to this article in the establishment. If a licensee shall maintain more than 1 establishment within the County of Suffolk, he shall obtain duplicate licenses. The fee for duplicate licenses are set forth in § 563-51B.

C. No applicant for a license or license renewal shall have any outstanding judgment for child support against him or her, or be in arrears in child-support payments as determined by official court records or official government records, at the time an application is filed for such license or license renewal. ...

[Amended 6-6-2000 by L.L. No. 11-2000]

§ 563-51 Fees. [Amended 2-8-1983 by L.L. No. 5-1983; 6-6-1989 by L.L. No. 19-1989; 11-30-2001 by L.L. No. 23-2001; 12-17-2002 by L.L. No. 4-2003]

A. An application fee of \$200 shall accompany each application for a dealer in secondhand articles license.

[Amended 8-5-2008 by L.L. No. 32-2008]

B. The fee for a duplicate license for an additional dealer in a secondhand articles establishment shall be \$50 per annum. It may be renewed biennially for a fee of \$100.

C. The fee for a dealer in secondhand articles license or renewal thereof shall be \$200 per annum.

§ 563-52 Required records. [Amended 6-10-2003 by L.L. No. 21-2003]

A. Each licensee shall keep records, legibly written in English, in a bound book. All entries shall be made in ink at the time of each transaction and shall include the computer transaction number. Each transaction shall also include:

(1) An accurate account and description of the article or thing bought, including but not limited to the make, model, color and serial number when present.

(2) The amount paid for the article.

(3) The date of transaction.

(4) The name, home residence, date of birth, sex and race of the person selling the items.

(5) The type of identification produced by the person selling the article. For the purposes of this section, proper identification shall be government-issued identification documents that depict the person's name, address, and photograph or a current and valid government-issued passport. Social security cards, draft registration cards, voter registration cards and other similar documents shall not be considered sufficient identification for the purposes of this section. In the event seller utilizes a current and valid government-issued passport as identification, seller shall then also be required to provide documentation of seller's current address. Such documentation shall be in the form of at least 2 utility bills in the seller's name and reflecting the seller's current address or any other such documentation as may be required by the Department.

[Amended 4-28-2015 by L.L. No. 18-2015; 4-12-2016 by L.L. No. 14-2016]

(6) The signature of the person identified in the transaction.

B. No alterations or erasures are to be made to records. Erroneous entries are to have a simple line drawn through them and the corrected entry made on the next line.

C. The records shall be retained in the possession of the licensee for at least 7 years.

[Amended 4-28-2015 by L.L. No. 18-2015]

D. A written receipt shall be issued to the seller with the serial number of the transaction and the information required in Subsections A, B and C of this section.

E. Each licensee shall take digital photographs of the following:

[Added 4-28-2015 by L.L. No. 18-2015]

(1) The article purchased, each item to be separately photographed; and

(2) The head and face of the person selling the article (with any and all obstructions, i.e., hat, hood, sunglasses, etc., removed), or the photograph identification produced by the person selling the article.

§ 563-53 Inspection of records. [Amended 12-17-2002 by L.L. No. 4-2003; 6-10-2003 by L.L. No. 21-2003] All records required to be kept pursuant to this article shall be open for inspection by the Office of Consumer Affairs, the Police Commissioner, a Chief of Police or any officer or employee duly authorized by them.

§ 563-54 Required holding period. [Amended 12-17-2002 by L.L. No. 4-2003; 6-10-2003 by L.L. No. 21-2003]

A. No article purchased by a dealer in secondhand articles shall be sold or otherwise disposed of until the expiration of at least 21 business days from the date of purchase.

B. All articles subject to this holding period shall be available for inspection by the Director of the Office of Consumer Affairs, the Police Commissioner, the Chief of Police or any officer duly authorized by them.

C. Purchases or sales between licensed secondhand dealers shall be exempt from the provisions of this section only if evidence of full compliance with all provisions and conditions set forth in this article is obtained by the purchasing secondhand dealer from the selling secondhand dealer in the form of a receipt. This receipt shall be retained by the purchasing secondhand dealer for the period required by § 563-52C hereof.

D. During the required holding period, which includes the holding period required under §§ 563-54A and 563-55, it shall be unlawful for dealers in secondhand articles to erase or alter any data or programs maintained on electronic equipment that has been purchased by such dealers.

[Added 4-28-2015 by L.L. No. 18-2015]

§ 563-55 Police order to hold property. [Added 6-10-2003 by L.L. No. 21-2003]

A. **Investigative hold.** Whenever a law enforcement or consumer affairs official notifies a licensee not to sell an item, the item shall not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency within 72 hours and shall remain in effect for 15 days from the date of initial notification or until the investigative order is cancelled, or until an order to hold is issued, whichever comes first.

B. **Order to hold.** Whenever the Commissioner of Police, a Police Chief, or the Director of Consumer Affairs notifies a licensee not to sell an item, the item shall not be sold or removed from the licensed premises until authorized to be released by the aforementioned individuals or their designees. The order to hold shall expire 90 days from the date it is placed.

C. When an item is placed on hold, the person doing so shall provide identification and provide the licensee with the name and phone number of the holding agency and the case number related to the hold order.

D. When an order to hold is no longer necessary, the licensee shall be notified in writing by the requesting agency.

§ 563-56 Prohibited acts. [Added 6-10-2003 by L.L. No. 21-2003]

A. No article shall be purchased from a person who is unable to produce proper identification.

B. The acts enumerated in this section are not exclusive. Article I of this chapter also applies.

C. No article shall be purchased from a person under the age of 18 without the written consent of his parent or guardian.

D. No article shall be purchased that possesses an altered or obliterated serial number or any item that has had its serial number removed.

E. No article shall be purchased from a person who appears to be intoxicated or of unsound mind.

§ 563-57 Required reports. [Amended 12-17-2002 by L.L. No. 4-2003; 6-10-2003 by L.L. No. 21-2003]

A. Every person so licensed as a dealer in secondhand articles shall report to the Police Commissioner or Chief of Police, on or before the end of each business day in a form approved and supplied by the Commissioner of Police, the information described in § 563-52 of this article.

B. On or after March 1, 2004, any required report shall be filed electronically.

§ 563-58 Temporary license pending issuance of permanent license. [Amended 12-27-1983 by L.L. No. 3-1984; 6-6-1989 by L.L. No. 19-1989; 11-30-2001 by L.L. No. 23-2001; 12-17-2002 by L.L. No. 4-2003]

A. The Office shall issue a temporary license to any applicant for a dealer in secondhand articles license if the Office has not, within 30 days after receipt of the application for such license, approved or disapproved such application.

B. The temporary license shall be valid for a period of 90 days. If within such 90-day period the Office shall have failed to approve or disapprove the application, the Office shall then issue a regular license to the applicant. If the application is approved during the term of the temporary license, the Office shall then issue a regular license to the applicant.

C. The fee for a temporary license shall be \$50. The fee for a regular license issued to replace a temporary license shall be \$150.

D. A regular license issued pursuant to the provisions of Subsection B shall expire on the last day of the 24th month following the issuance of the temporary license.

§ 563-59 Required bond. [Added 6-10-2003 by L.L. No. 21-2003] Notwithstanding the provisions of § 563-11A(4) herein, every applicant for a dealer in secondhand articles license shall submit a \$5,000 bond, or for renewal of a license, evidence of a bond issued in favor of the licensee. This bond shall be for the purpose of guaranteeing payments up to the face amount of the bond for bank drafts or other negotiable instruments issued by the licensee in exchange for the purchase of secondhand articles. All bonds shall be conditioned that the licensee will observe all laws in relation to precious metal dealers and will conduct business in conformity thereto. Such bond shall remain in full force during the entire period for which the license is valid.

Code of the City of Yonkers

Chapter 59.

Article V. Ammunition

§ 59-90 Definitions. As used in this article, terms shall be defined as follows:

AMMUNITION. A metal or other shell containing a fulminate or containing black or smokeless powder for the purpose of propelling projectiles or shot. The term shall also include black or smokeless powder packed for use as a propelling charge or for saluting purposes.

SMALL-ARMS AMMUNITION. Any shotgun, rifle, pistol or revolver cartridges, and shall include percussion caps and primers.

§ 59-91 Manufacture prohibited. It shall be unlawful to manufacture ammunition or small-arms ammunition in the City of Yonkers.

§ 59-92 Power machinery prohibited. It shall be unlawful for any person to load ammunition or small-arms ammunition by power machinery in the City.

§ 59-93 Permit for storage and sale.

A. It shall be unlawful for any person to store or sell or offer for sale any ammunition or small-arms ammunition within the City without a permit from the Fire Commissioner.

B. The permit shall state the location of the premises, the maximum amount of ammunition to be stored at any time and such other information as the Fire Commissioner may deem necessary.

§ 59-94 Application for permit. Permits for the storage and sale of ammunition or small-arms ammunition may be issued by the Fire Commissioner upon written application giving in detail the following information:

A. The name and address of the applicant.

B. The location of the premises.

C. The nature of construction of the building.

D. Other purposes for which the building is used.

E. The nature of the business in which the applicant is engaged in such building.

F. The maximum quantity and description of the ammunition to be stored and sold.

§ 59-95 Permit fees. For a permit allowing the storage and sale of ammunition or small-arms ammunition as provided in this article, the applicant shall pay an annual permit fee.

§ 59-96 Storage and sale in designated locations prohibited. No permit for the storage and sale of ammunition or small-arms ammunition shall be issued for any of the following premises:

A. Premises which are occupied as a tenement house, school, theater or other place of public amusement or assembly.

B. Premises which are used as a drugstore, paint store, pawnshop or stationery store.

C. Premises which are artificially lighted by any means other than electricity.

D. Premises where cigars, cigarettes or tobacco are stored or kept for sale.

E. Premises where liquors are sold.

F. Premises where dry goods or other materials of a highly flammable nature are manufactured, stored or kept for sale.

§ 59-97 Storage of ammunition.

A. The Fire Commissioner shall fix the maximum quantity of ammunition and small-arms ammunition to be stored in any premises for which a permit is issued, which quantity shall be stated in the permit. No permit shall be issued for the storage of ammunition or small-arms ammunition greater than the following:

- (1) One hundred thousand loaded shells containing shot for shotguns not exceeding No. 8 gauge.
- (2) Two hundred thousand cartridges for pistols.
- (3) Two hundred thousand cartridges for rifles, of a caliber not larger than 0.50 of an inch.
- (4) One million percussion caps or primers without anvils.

B. Ammunition and small-arms ammunition shall be kept out of the reach of the public. All ammunition and small-arms ammunition that is in excess of what is allowed to be kept on shelves or showcases shall be stored in an approved metal cabinet or vault, the location of which shall be approved by the Fire Commissioner.

§ 59-98 Display and storage of ammunition restricted. It shall be unlawful for the holder of a permit for the storage and sale of ammunition or small-arms ammunition to store or exhibit in the windows or doors of the premises covered by the permit any cartridges or shells containing explosives.

§ 59-99 Permit fee for use of blank cartridges. The Fire Commissioner may issue a permit allowing the use of blank cartridges in connection with performances in duly authorized theaters or places of amusement or for saluting purposes. The applicant shall pay an annual permit fee, except that no fee shall be charged for a permit for saluting purposes issued to the Grand Army or any other military or patriotic body.

Chapter 74 Firearms & Weapons

§ 74-1 License required to sell air guns. It shall be unlawful for any person to sell, offer to sell or have in his possession any air pistol or air rifle or similar instrument in which the propelling force is a spring or air, except that the sale of such instruments, if accompanied by delivery to a point without the City, and possession for such purpose shall not be unlawful if such person shall have secured an annual license from the Police Commissioner of the City of Yonkers authorizing such sale and possession.

§ 74-2 Record of sales. All persons dealing in such instruments referred to in this chapter shall keep a record showing the name and address of each person purchasing such instrument or instruments, together with the place of delivery, and said record shall be open to inspection during regular business hours by the officers of the Police Department of the City.

§ 74-3 Issuance of license. The Police Commissioner is hereby authorized to issue, in his discretion, upon payment of a license fee in the amount of \$10, an annual license authorizing the sale and possession of such instruments for delivery to a point without the City.

§ 74-4 Pistol permit; registration; fee. [Added 1-11-1966 by G.O. No. 1-1966] The Police Commissioner may also issue a permit for a spring-, gas- or air-operated pistol to any person who holds a current New York State pistol permit. Said pellet gun shall be registered in the same manner as all other pistols, and the cost for said permit shall be \$1.

§ 74-5 Discharge of firearms. [Added 9-26-1959 by G.O. No. 39-1959] The firing of a gun or pistol or any other firearm in the City shall be prohibited.

§ 74-6 Rifles and shotguns; penalties for offenses. [Added 1-12-1971 by G.O. No. 1-1971]

A. It shall be unlawful for any person to carry or possess a loaded rifle or shotgun, as those terms are defined in Penal Law § 265.00, in public within the City limits. Any violation of this subsection shall constitute a Class I offense.[1]

[1] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

B. It shall be unlawful for any person to carry or possess an unloaded rifle or shotgun, as those terms are defined in Penal Law § 265.00, in public within the City limits unless such rifle or shotgun is completely enclosed or contained in a nontransparent carrying case or a cover. Any violation of this subsection shall constitute a Class II offense.[2]

[2] Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

C. The above provisions shall not apply to persons in the military service of the State of New York, when duly authorized by regulations issued by the Chief of Staff to the Governor to possess the same, or to peace officers, as defined in § 1.20, Subdivision 33, of the Criminal Procedure Law, or to participants in special events when authorized by the Police Commissioner.

D. The above provisions shall not apply to persons possessing or carrying a rifle or shotgun at a rifle range for which a license has been obtained from the Police Commissioner or to persons possessing or carrying a rifle or shotgun on their own premises.

§ 74-7 Possession of imitation or inoperable guns, firearms and weapons prohibited. [Added 4-14-1994 by G.O. No. 7-1994; amended 10-13-2015 by L.L. No. 21-2015]

B. This section is not intended to forbid or restrict the sale, possession or use of true and actual toy pistols, guns, revolvers or other weapons or attachments to electronic devices, provided that the same are not substantial duplicates of actual pistols, guns, revolvers or weapons in appearance.

C. It shall be unlawful for any person to possess or use or attempt to use any imitation, toy or inoperable pistol, revolver, gun, firearm or any other weapon or attachments to electronic devices which substantially duplicates an actual pistol, revolver, gun, firearm or other weapon unless said imitation, toy or inoperable item or instrument shall be colored in colors other than blue, black, grays, silver or aluminum, or is marked with a nonremovable orange stripe which is at least 1 inch in width and runs the entire length of the barrel on each side and the front end of the barrel and along and around the handle of the gun, and further provided, if resembling a gun or other firearm, that the barrel of said item shall be closed with the same material of which the item itself is made for a distance of not less than 1/2 inch from the front end of the barrel of said item.

D. The provisions of Subsection C shall not apply to possession or display of such an instrument by a licensed manufacturer or dealer of the same, used solely in connection with his or her business. Further, any said instrumentalities used in theatrical productions licensed in advance by the City of Yonkers shall also be exempted when possessed, displayed and used in connection with said licensed theatrical productions.

E. No person shall sell an attachment to an electronic device which substantially duplicates an actual pistol, revolver, gun, firearm or other weapon as described herein, unless the person making the purchase is over the age of 18. No person under the age of 18 shall own or possess attachment to an electronic device which substantially duplicates an actual pistol, revolver, gun, firearm or other weapon as described herein.

F. If any clause, sentence, paragraph, subdivision, section, or part of this section or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this section, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

G. Any violation of this section shall constitute a Class I offense.

§ 74-11 Severability. [Added 4-28-2004 by G.O. No. 3-2004; amended 3-25-2008 by G.O. No. 3-2008] If any provision or portion of a provision of this ordinance is held to be unconstitutional, preempted by federal or state law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.