

## **LOCAL LAW NO. “J” FOR 2025**

### **A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK AMENDING CHAPTER 161 OF THE ALBANY COUNTY CODE TO PLACE RESTRICTIONS ON THE SALE AND POSSESSION OF FLARE GUNS**

Introduced: 10/14/25

By: Cunningham and Simpson

BE IT ENACTED BY THE LEGISLATURE OF THE COUNTY OF ALBANY AS FOLLOWS:

#### **Section I. Article Creation**

**Chapter 161, Article III, Flare Guns, is hereby created.**

#### **Section II. §161-14. Legislative Findings and Intent**

- A. This Article intends to address the dangers that flare guns present to public safety when utilized outside of their intended purpose, as their improper discharge poses a substantial risk of personal injury and property damage.
- B. The Legislature finds that, unlike similar potentially hazardous products such as alcohol, tobacco, and firearms, flare guns are currently available for purchase by [any] individuals [over] under eighteen (18) years of age, which significantly increases the likelihood of acquisition of flare guns by those who would misuse or abuse them.
- C. The Legislature also finds that injuries from flares are equivalent to those of an actual firearm, and can easily set combustible materials on fire. Further, flare guns can be modified to discharge live ammunition.
- D. The Legislature also finds that recent events in Albany County have demonstrated the increased risks that ease of access to flare guns presents to the public, especially in the hands of minors.
- E. Therefore, pursuant to the County’s inherent power to protect the public health, safety, and welfare of its citizens, this Local Law is created to balance the public’s proper use of flare guns with their misuse’s threat to public safety.

#### **Section III. §161-15. Definitions**

- A. Flare Gun

Any handheld signaling device, Very pistol, or signal pistol designed and purposed to fire a pyrotechnic flare, whether single-shot or multi-shot, and whether marketed for maritime, emergency, or recreational use.

**B. Person**

Any natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint-stock association or other entity or business of any kind.

**Section IV. §161-16 Unlawful Sale of a Flare Gun**

- i. No person shall sell, offer for sale, or distribute any flare gun to a person under twenty-one (21) years of age.
- ii. Before the completion of any sale or transfer of a flare gun, the seller shall require the purchaser to present a valid, government-issued photo identification card verifying that the purchaser is twenty-one (21) years of age or older.
- iii. This section shall not apply to sales or transfers of flare guns to:
  - (a) Members of the armed forces or other governmental personnel acting within the scope of their official duties; or
  - (b) Persons under twenty-one (21) years of age for participation in a supervised training program approved by the Commissioner of Parks, Recreation, and Historic Preservation, or the Division of Homeland Security and Emergency Services, who shall submit proof of their admission to such a program at purchase.
  - (c) Persons under twenty-one (21) years of age who are otherwise authorized or required to possess a flare gun by any other provision of federal or state law.

**Section V. §161-17. Unlawful Possession of a Flare Gun**

A person is guilty of unlawful possession of a flare gun when:

- i. A person possesses a flare gun with the intent to use the same unlawfully against the person or property of another; or

- ii. A person possesses a flare gun and has been convicted of a felony or serious offense, unless such possession is otherwise authorized by law.

## **Section VI. §161-18. Penalties**

- A. Any person who intentionally violates the provisions of §161-16 of this Article shall be guilty of an unclassified misdemeanor, punishable by a fine of five hundred dollars (\$500.00) for the first violation, and up to one thousand dollars (\$1,000.00) for each subsequent violation of the law. Each violation shall constitute a separate and distinct offense.
- B. Any person who intentionally violates the provisions of §161-17 of this Article shall be guilty of an unclassified misdemeanor, punishable by a fine of up to one thousand dollars (\$1,000.00), and up to three hundred and sixty-four (364) days in jail. Each violation shall constitute a separate and distinct offense.

## **Section VI. §161-19. Reverse Preemption**

This Local Law shall be null and void on the day that a statewide law is in effect, incorporating either the same or substantially similar provisions as are contained in this Local Law, or if a relevant state or federal administrative agency issues and promulgates regulations preempting such action by the County of Albany. The Albany County Legislature shall determine by resolution whether or not an identical or substantially similar statewide law or relevant preemptive state or federal regulations have been enacted for the purposes of triggering the provisions of this section.

## **Section VII. Severability**

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm, corporation 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 of the Local Law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of the Local Law or in its application to the person, individual, firm, corporation or circumstance directly involved in the controversy in which such judgment or order may be rendered.

**Section VIII. SEQRA Compliance**

This County Legislature determines that this Local Law constitutes a “Type II action” pursuant to the provisions of the State Environmental Quality Review Act (SEQRA) and that no further action under SEQRA is required.

**Section IX. §161-20. Effective Date**

The Local Law shall take effect ninety (90) days after its filing with the Secretary of State.