

Town of Ashland
Local Law Number 1 of the Year 2021
SECOND AMENDMENT PRESERVATION ACT

SECTION 1. TITLE

The title of this local law shall be known as the Town of Ashland Second Amendment Preservation Act.

SECTION 2. FINDINGS

The people of the Town of Ashland, County of Greene and State of New York find and declare: Whereas, acting through the United States Constitution, the people created government to be their agent in the exercise of a few defined powers, while reserving to the citizens the right to decide on matters which concern their lives, liberty, and property in the ordinary course of affairs;

WHEREAS, the Second Amendment to the Constitution of the United States of America states, "A well-regulated Militia being necessary to the security of a free State, the right of the People to keep and bear arms, shall not be infringed";

WHEREAS, we start therefore with a strong presumption that the Second Amendment right to keep and bear arms is exercised individually and belongs to all Americans;

WHEREAS, the right of the people to keep and bear arms is further protected from infringement by State and Local Governments under the Ninth, Tenth, and Fourteenth Amendments to the Constitution of the United States of America as well as Article II, Section 4 of the New York Civil Rights Law;

WHEREAS, the Supreme Court of the United States of America in District of Columbia v. Heller recognized the individual's right to keep and bear arms, as protected by the Second Amendment to the Constitution of the United States of America. The Supreme Court's majority opinion in Heller stated that the Second Amendment protects an individual's right to possess a firearm unconnected with service in a militia, as well as the right to use that firearm for traditionally lawful purposes, such as self-defense within the home;

WHEREAS, Section 1 of the Fourteenth Amendment to the Constitution of the United States of America states, "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws";

WHEREAS, the Supreme Court of the United States recognized in McDonald v. City of Chicago that the Second Amendment to the Constitution was incorporated by the Fourteenth Amendment and thereby made applicable to the States;

WHEREAS, therefore, the right to keep and bear arms is a fundamental individual right that shall not be infringed; and all further and future local, state, and federal acts, laws, orders, rules or regulations regarding firearms, firearms accessories, and ammunition are a violation of the Second Amendment;

WHEREAS, the Town of Ashland acknowledges the existence of the "SAFE ACT" passed in 2013 by the New York State legislature. However, the Town does object to the terms of that Act and will not recognize any Second Amendment Restrictions, including but not limited to; restrictions on the amount of firearms, ammunition and firearm accessories that may be purchased by a citizen or corporation; any increase in time frame or so called waiting period between purchases of said firearms, ammunition and

firearm accessories; any increase in taxes or fees related to the transfer of said firearms, ammunition and firearm accessories;

WHEREAS, therefore, through the enactment of this local law, the Town of Ashland, County of Greene and State of New York, acting through its Town Board, hereby declares that the Town of Ashland will use all available avenues to preserve its citizens Second Amendment rights.

SECTION 3. PROHIBITIONS

Notwithstanding any other law, regulation, rule or order to the contrary, no agent, department, employee, or official of the Town of Ashland, a political subdivision of Greene County and the State of New York, while acting in their official capacity, shall:

- Knowingly and willingly, participate in any way in the enforcement of any unlawful Act, as defined herein, regarding personal firearms, firearm accessories, or ammunition.
- Utilize any assets, Town funds, or funds allocated by any entity to the Town in whole or in part, to engage in any activity that aids in the enforcement or investigation relating to subsequently enacted laws, rules or regulations that serve to further restrict citizens Second Amendment rights.

SECTION 4. "UNLAWFUL ACT" DEFINED

An "Unlawful Act" shall consist of any state act, law, order, rule, or regulation, enacted subsequent to the effective date hereof, which restricts an individual's constitutional right to keep and bear arms, including any state act, law, order, rule, or regulation which bans or effectively bans, registers or effectively registers, or limits the lawful use of firearms, firearm accessories or ammunition. Any such "Unlawful Act" is invalid in the Town and shall be considered null, void and of no effect in the Town of Ashland. This includes, but shall not be limited to, the following:

- Any subsequently enacted state tax, levy, fee, or stamp imposed on firearms, firearm accessories, or ammunition not common to all other goods and services on the purchase or ownership of those items by citizens, other than pursuant to federal law;
- Any subsequently enacted state registration or tracking of firearms, firearm accessories, or ammunition, other than pursuant to federal law;
- Any subsequently enacted state registration or tracking of the owners of firearms, firearm accessories, or ammunition, other than pursuant to federal law;
- Any subsequently enacted registration and background check requirements on firearms, firearm accessories, or ammunition for citizens, other than those made pursuant to federal law;
- Any subsequently enacted state act forbidding the possession, ownership, or use or transfer of any type of firearm, firearm accessory, or ammunition by citizen of the legal age, other than pursuant to federal law;
- Any act ordering the confiscation of firearms, firearm accessories, or ammunition from law abiding and mentally stable citizens;

- Any subsequently enacted prohibition, regulation, and/or use restriction related to ownership or the constitutionally guaranteed lawful use of Class A firearms;
- Any subsequently enacted prohibition, regulation, and/or use restriction limiting hand grips, stocks, flash suppressors, bayonet mounts, magazine capacity, clip capacity, internal capacity, or types of ammunition available for sale, possession or use by citizens; and
- Any subsequently enacted restrictions in time frame, or so-called waiting period, with regards to the purchase ammunition, firearms and firearm accessories.

SECTION 5. ENFORCEMENT

- Anyone accused to be in violation of this local law may be sued by a resident of the Town, in the Supreme Court of New York for declaratory and injunctive relief, damages, and attorney's fees, including a minimum civil fine in the amount of five-hundred dollars (\$500.00) and a maximum civil fine in the amount of two thousand dollars (\$2,000.00).

Exceptions:

- This Local Law shall not apply to persons who have been convicted of felony crimes or who are prohibited from possessing firearms under federal law;
- This Local Law shall not prohibit in any way the prosecution of any crime for which the use of, or possession of, a firearm is an aggregating factor or enhancement to an otherwise independent crime;
- This Local Law does not permit or otherwise allow the possession of firearms in areas now held to unlawful to carry a firearm.

SECTION 6. SEVERABILITY

The provisions of this act are hereby declared to be severable, and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

SECTION 7. EFFECTIVE DATE

The effective date of this Local Law, the Town of Ashland Second Amendment Preservation Act, shall be effective upon approval by the Town Board of the Town of Ashland, County of Greene and State of New York, and upon filing with the Secretary of New York State.