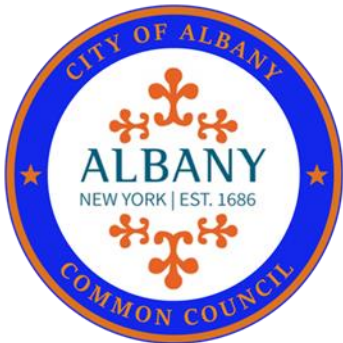


This meeting is being held in accordance to Governor Hochul’s signed legislation allowing municipalities to resume remote meetings until January 15, 2022 and we encourage residents to continue participating. Constituents provide public comment on our new public comment line 518-694-3987, by email commoncouncil@albanyny.gov or the form on our website <https://www.albanyny.gov/Government/CityOfficials/CommonCouncil.aspx>. These comments will be shared with members and/ or read for the record at the meeting, posted on our website and Facebook. Constituents may also register to speak during the meeting and you will be provided with the zoom credentials if it is your intent to speak email us at commoncouncil@albanyny.gov.



COMMON COUNCIL MEETING
Public Safety
Kelly Kimbrough, Chair

DATE: THURSDAY, SEPTEMBER 30, 2021

TIME: 6:30PM

PUBLIC COMMENT PERIOD: YES

TOPICS OF DISCUSSION:

LOCAL LAW L of 2021

A LOCAL AMENDING CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO CREATING A PUBLIC SAFETY COMMISSION

LOCAL LAW M OF 2021

A LOCAL LAW AMENDING ARTICLE VIIB (ALBANY POLICE DEPARTMENT INTERACTIONS) OF PART 1 (DEPARTMENT OF POLICE) OF CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF PART I (ADMINISTRATIVE LEGISLATION) OF THE ALBANY CITY CODE WITH REGARD TO THE USE OF CHEMICAL WEAPONS AND KINETIC ENERGY MUNITIONS ON CIVILIAN POPULATIONS

PUBLIC COMMENT PERIOD: Yes

The meeting will be held using Zoom and streamed through the Albany Common Council’s Facebook. To stream this video please visit: <https://www.facebook.com/albany.commoncouncil>. If we experience any technical difficulties on Facebook, the video will be streamed to YouTube: https://www.youtube.com/channel/UC-rOHp1fBLPcdk_4N6J4XbQ. The Common Council of the City of Albany is using the Zoom® platform to provide the public access to participate in committee meetings, caucuses, and common council meetings. The Common Council, its agents, nor any of its staff are responsible for the performance of Zoom® or your ability to access the content. Please make sure you visit Zoom’s support to confirm that you have the appropriate system requirements at <https://support.zoom.us/hc/en-us/articles/201>

LOCAL LAW L of 2021

A LOCAL AMENDING CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO CREATING A PUBLIC SAFETY COMMISSION

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

Section 1. Article XI (General Provisions) of Part 3 (Department of Public Safety) of Chapter 42 (Departments and Commissions) of Part I (Administrative Legislation) of the Code of the City of Albany is hereby amended to read as follows:

Section 42-69 Legislative Intent.

The City of Albany envisions a Commission of Public Safety that decouples public safety from policing, centers community voices, and ends systemic racism. The Commission embraces the four pillars of Procedural Justice: treating people with dignity and respect; giving citizens a voice during encounters; being open and transparent in decision-making; and conveying trustworthy motives. The Commission of Public Safety will ensure the elevation of the concepts of community policing into the practice of public safety. A guiding principle of the public safety commission is Sanctity of Life: that at the core of an officer's responsibilities is the duty to protect all human life and physical safety.

Section 42-70 Definitions

Commission of Public Safety

Shall mean the public body tasked with overseeing and running the Department of Public Safety.

Commissioner(s)

Shall mean a member of the Commission of Public Safety.

Chief of Police

Shall mean the Chief of Police of Albany Police Department

Section 42-71 Commission Established; appointment of members; Qualification.

- A. There is hereby established a Commission of Public Safety comprised of nine (9) members, five of whom shall be appointed by the Common Council and four of who shall be appointed by the Mayor. Members shall serve for a term of three years. All Commission members must be residents of the City of Albany.

- B. Candidates for the Commission of Public Safety shall be subject to a public hearing prior to commencement of their term. Reappointments shall be subject to a public hearing. Candidates shall be present at the public hearing.
 1. Notice of such public hearing shall circulate to the media no less than ten (10) calendar days prior to the scheduled public hearing. Such notice shall state and

include the time, place, and that all are welcome to submit comments and questions regarding the candidacy of the nominee(s).

- C. Commissioners shall receive compensation that shall be set in the budget.
- D. Current employees of the City of Albany and their immediate relatives shall not be eligible to serve as a Commissioner.
- E. Former employees and their immediate relatives of the Albany Police Department shall not be eligible to serve as a Commissioner.

Section 42-71.1 Powers and Duties

The Commission of Public Safety:

- A. Shall recommend a budget to Mayor that the Mayor will consider for inclusion in the general budget annually, as prescribed by the Charter of the City of Albany.
- B. May establish advisory committees, standing, or ad-hoc committees, panels, and/or host forums and public hearings as the Commission deems necessary.
- C. Shall set departmental practices in recruiting, hiring, promoting and disciplining, all in accordance with statutory authority, and may make recommendations to the Mayor and Common Council regarding practices, procedures, policy and planning.
- D. Shall require individual Commissioners to excuse themselves from participating in discussions or decision-making in which any item, in the execution of their duties, presents a personal, professional, or financial conflict of interest.
- E. Shall work in conjunction with Community Police Review Board (CPRB) in accordance of Part 33 of Chapter 42 of this Code.
- F. Shall work collaboratively with the Chief of Police.
- G. Shall implement the reforms and recommendations of the Albany Policing Reform and Reinvention Collaborative Plan as adopted by the Common Council in Resolution 26.31.21R and any subsequent amendments thereto.

Section 2. This Local Law shall go into effect upon passage, public hearing, and filing with the Secretary of State.

**APPROVED AS TO FORM THIS
27TH DAY OF MAY, 2021**

Corporation Counsel

To: Danielle Gillespie, City Clerk

From: John-Raphael Pichardo, Esq., Research Counsel

Re: Common Council Legislation
Supporting Memorandum

Date: May 27, 2021

SPONSOR Council Members Johnson, Anane, and Hoey with the support of Council President Ellis

LOCAL LAW L of 2021

TITLE

A LOCAL AMENDING CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO CREATING A PUBLIC SAFETY COMMISSION

GENERAL PURPOSE OF LEGISLATION

This local law is the start of a creating a Commission to oversee the new Department of Public Safety, as recommended by the Albany Collaborative.

NECESSITY FOR LEGISLATION AND CHANGES TO EXISTING LAW

The proposed legislation is only designed to create and establish the entity of the Public Safety Commission within the Department of Public Safety and to designate its authority to address issues of public safety and policing in the City of Albany. This local law will be amended further for more substantive amendments as policing is constantly being reimagined.

FISCAL IMPACT(S)

To be determined

Council Member Kimbrough introduced the following:

LOCAL LAW M OF 2021

A LOCAL LAW AMENDING ARTICLE VIIB (ALBANY POLICE DEPARTMENT INTERACTIONS) OF PART 1 (DEPARTMENT OF POLICE) OF CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF PART I (ADMINISTRATIVE LEGISLATION) OF THE ALBANY CITY CODE WITH REGARD TO THE USE OF CHEMICAL WEAPONS AND KINETIC ENERGY MUNITIONS ON CIVILIAN POPULATIONS

BE IT ENACTED by the Common Council of the City of Albany as follows:

Section 1. Article VIIB (Albany Police Department Interactions) of Part 1 (Department of Police) of Chapter 42 (Departments and Commissions) of Part I (Administrative Legislation) of the Albany City Code is hereby amended by adding a new section 42-54.3 to read as follows:

Section 42-54.3. Use of Chemical Weapons and Kinetic Energy Munitions

A. Use of Chemical Weapons and Kinetic Energy Munitions Policy.

- (1) The Chief of Police, or if there is one, the Commissioner of Public Safety, shall establish a written policy to prohibit the use of Chemical Weapons and Kinetic Energy Munitions by any member of the Albany Police Department on civilian populations, except for:

 - (a) The use of pepper spray as defined herein;
 - (b) In circumstances where a person is being restrained against their will, as defined in Penal Law §135.00, where significant bodily injury is clearly threatened against such individual, and the Chief of Police or a Deputy Chief of Police present on the site determined that there is no alternative to the use of chemical weapons to secure the safety of the person being so restrained and adequate notice is given to individuals occupying indoor or outdoor spaces in the vicinity to allow them to protect themselves against exposure;
 - (c) Circumstances in which the Chief of Police or Deputy Chief of Police is on site at a situation in which eleven or more persons are present and such Chief of Police or Deputy Chief of Police confirms that:

 - (i) such persons are engaging in actions that meet the elements of section 240.06 (1) of the New York State Penal Law;
 - (ii) no alternative to the use of Chemical Weapons and/or Kinetic Energy Munitions is available to enable the Albany Police Department to secure the safety of people in the immediate vicinity of the riot;

B. Definitions. For the purposes of this section, the following terms shall have the following meaning:

(1) Chemical Weapons. Any type of device containing toxic chemicals designed to be launched or thrown as a projectile or otherwise released in the area of civilian populations, in order to cause temporary or permanent incapacitation, injury or trauma to the intended target, through the action of such chemicals as an eye, throat, respiratory, and/or skin irritant. The term specifically includes, but is not limited to, any item commonly referred to as or having similar effects to “tear gas.”

(a) The term “chemical weapon” shall not apply to the use of pepper spray contained in liquid spray canisters of a volume no greater than 0.75 ounces when used to temporarily control a specific individual a police officer reasonably believes to be in the process of committing a crime that endangers other people and only when such agent is released in compliance with department policies and New York State law relating to the use of force and under circumstances that reasonably assure others in the vicinity are not affected by the use of such spray.

(2) Kinetic Energy Munitions. Any type of device designed to be launched from any device as a projectile, in order to cause temporary pain, injury, irritation, disability, incapacitation or trauma to the intended target. The term specifically includes, but is not limited to, any item commonly referred to as “impact rounds” or “rubber bullets.”

(3) First Amendment Activities. Any demonstrations, picketing, speechmaking, marching, holding vigils or religious services and all other like forms of conduct that involve the communication or expression of views or grievances, engaged in by one or more persons.

Section 2. This local law shall take effect upon final passage, public hearing and filing with the Secretary of State.

**APPROVED AS TO FORM THIS
27TH DAY OF MAY, 2021**

Corporation Counsel

To: Danielle Gillespie, City Clerk

From: Brett Williams, Senior Assistant Corporation Counsel

Re: Request for Common Council Legislation
Supporting Memorandum

Date: May 27, 2021

Sponsor: Council Member Kimbrough

LOCAL LAW M of 2021

TITLE

A LOCAL LAW AMENDING ARTICLE VIIB (ALBANY POLICE DEPARTMENT INTERACTIONS) OF PART 1 (DEPARTMENT OF POLICE) OF CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF PART I (ADMINISTRATIVE LEGISLATION) OF THE ALBANY CITY CODE REGARDING TO THE USE OF CHEMICAL WEAPONS AND KINETIC ENERGY MUNITIONS ON CIVILIAN POPULATIONS

GENERAL PURPOSE OF LEGISLATION

This local law will greatly limit the circumstances in which the Albany Police Department may deploy chemical weapons such as tear gas and kinetic energy munitions such as rubber bullets against civilian populations, and outright bans the use of such substances and devices against individuals engaging in activities protected by the First Amendment.

NECESSITY FOR LEGISLATION AND ANY CHANGE TO EXISTING LAW

This local law bans the use of chemical weapons and kinetic energy munitions in all but very limited situations, which are spelled out in the legislation. Under this local law, the Albany Police Department may only use chemical weapons or kinetic energy munitions when the Chief of Police or a Deputy Chief is on the scene of an incident at which there are eleven or more people and such Chief or Deputy Chief confirms that:

- The individuals are are engaging in actions that meet the elements of section 240.06 (1) of the New York State Penal Law;
- The Police Department has no alternative to the use of chemical weapons and/or kinetic energy munitions available to secure the safety of people in the immediate vicinity of the riot;
- The use of such devices, if deployed in a residential area, is absolutely necessary to protect lives;
- The Police Department has provided two notifications to the public in the immediate vicinity that such are about to be deployed; and
- At least one Emergency Medical Technician is present at the scene before such devices are deployed.

The local law also allows for the use of chemical weapons and/or kinetic energy munitions in hostage situations and in circumstances in which individuals are being restrained against their will, and then only after adequate warning has been given.

The legislation also requires the Chief of Police to develop a departmental policy on the use of such devices, consistent with this local law, within 60 days of the enactment of this local law, which must be presented to the Community Police Review Board for their review and recommendation.

The local law bans, outright, the use of such devices against one or more persons engaging in activities protected by the First Amendment of the United States Constitution, such as demonstrating, picketing, speechmaking, marching, holding vigils or religious services, and all other like forms of conduct that involve the communication or expression of views or grievances.

FISCAL IMPACT(S)

None.