

## RESOLUTION 52-2019

### A RESOLUTION REGARDING THE PRESERVATION OF THE SECOND AMENDMENT OF THE U.S. CONSTITUTION and DESIGNATION OF WASHINGTON COUNTY TO BE A "SECOND AMENDMENT SANCTUARY COUNTY"

**WHEREAS**, the Board of County Commissioners for Washington County, a political subdivision of the State of Colorado, is aware that legislation is now pending in the Colorado General Assembly which is known as the Extreme Risk Protection Order Act (House Bill 19-1177); and

**WHEREAS**, §30-11-101 (2), C.R.S., grants to each county the authority to adopt and enforce ordinances and resolutions regarding health, safety, and welfare issues for the well-being of the citizens of the county, and

**WHEREAS**, the Board of County Commissioners of Washington County, Colorado, pursuant to Colorado statute is vested with the authority of administering the affairs of Washington County, Colorado, and

**WHEREAS**, the Second Amendment to the United States Constitution, adopted in 1791 as part of the Bill of Rights, protects the inalienable and individual right of the people to keep and bear arms, and

**WHEREAS**, the United States Supreme Court in *District of Columbia v. Heller*, 554 U.S. 570 (2008), affirmed an individual's right to possess firearms, unconnected with service in a militia, for traditionally lawful purposes, such as self-defense within the home, and

**WHEREAS**, the United States Supreme Court in *McDonald v. Chicago*, 561 U.S. 742 (2010), affirmed that the right of an individual to "keep and bear arms," as protected under the Second Amendment, is incorporated by the Due Process Clause of the Fourteenth Amendment against the states, and

**WHEREAS**, the United States Supreme Court in *United States v. Miller*, 307 U.S. 174 (1939), opined that firearms that are part of ordinary military equipment, or with use that could contribute to the common defense are protected by the Second Amendment, and

**WHEREAS**, Article II, Section 3 of the Colorado Constitution provides that all "persons have certain inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; of acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness," and

**WHEREAS**, Article II, Section 13 of the Colorado Constitution provides that the "right of no person to keep and bear arms in defense of his home, person and property, or in aid of the civil power when thereto legally summoned, shall be called in question," and

**WHEREAS**, Article II, Section 11 of the Colorado Constitution provides that no "ex post facto law, nor law impairing the obligation of contracts, or retrospective in its operation... shall be passed by the general assembly," and

**WHEREAS**, Article II, Section 7 of the Colorado Constitution provides that the "people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures," and

**WHEREAS**, Article II, Section 15 of the Colorado Constitution provides that "[P]rivate property shall not be taken or damaged, for public or private use, without just compensation," which the Colorado Supreme Court has indicated includes a legal interference with the physical use, possession, disposition, or enjoyment of the property, including temporarily, and

**WHEREAS**, it is the desire of the Board to declare its support of the Second Amendment to the United States Constitution and to the provisions of the Colorado Constitution which protect Washington County Citizens' inalienable and individual right to keep and bear arms, and

**WHEREAS**, the Commissioners each took an oath to support and defend the United States Constitution, the Colorado Constitution, and the laws of the State of Colorado which are not deemed unconstitutional by a court of competent jurisdiction.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Washington County be, and hereby is, declared to be a "Second Amendment Sanctuary County."

**BE IT FURTHER RESOLVED** that the Board affirms its support for the Washington County Sheriff in the exercise of his sound discretion to not enforce against any citizen an unconstitutional firearms law that represents a clear violation of the constitution and should not be enforced in Washington County until such time as its constitutionality is ruled upon by a court of competent jurisdiction.

**BE IT FURTHER RESOLVED** that the Board will not appropriate funds for capital construction of building space and purchase of storage systems to store weapons seized pursuant to the authority and requirements set forth in H.B. 19-1177, if such bill is enacted by the Colorado General Assembly, and/or for the purpose of enforcing any other law that unconstitutionally infringes upon the right of the People of Washington County to keep and bear arms.

The above and foregoing Resolution was, on motion duly made and seconded, adopted by the following vote on the 12th day of March, 2019.



Washington County Clerk to the Board

BY: Annie Kuntz  
Deputy Clerk to the Board

BOARD OF COUNTY COMMISSIONERS  
WASHINGTON COUNTY, COLORADO

Lea Ann Jaybourn  
Lea Ann Jaybourn, Chair

Tony Wells  
Tony Wells, Pro-Tem

Leland T. Willeke  
Leland Willeke

APPROVED AS TO FORM:

\_\_\_\_\_  
County Attorney

Date of signature: \_\_\_\_\_