

STATE OF COLORADO }
 } ss
 COUNTY OF ELBERT }

RESOLUTION 19-____

A RESOLUTION REGARDING THE PRESERVATION OF THE SECOND AMENDMENT OF THE U.S. CONSTITUTION AND DESIGNATION OF ELBERT COUNTY AS A “SECOND AMENDMENT SANCTUARY COUNTY”

At a regular meeting of the Board of County Commissioners for Elbert County, State of Colorado, held at the Administrative Building in Kiowa on Wednesday, the ____day of _____ A.D. 2019, there were present:

Chris Richardson	Commissioner Chairman
Rick Pettitt	Commissioner
Grant Thayer	Commissioner
Dallas Schroeder	Clerk to the Board

WHEREAS, §30-11-101, C.R.S. provides that Counties have the authority to adopt and enforce ordinances and resolutions regarding health, safety, and welfare issues; and

WHEREAS, §30-11-103, C.R.S provides that the powers of the County as a body politic and corporate shall be exercised by a Board of County Commissioners; 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 Supreme Court in the *District of Columbia v. Heller*, 554 U.S. 570 (2008), decision 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 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 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 Constitution of Colorado 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 Constitution of Colorado 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 Constitution of Colorado 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 Constitution of Colorado provides that the “people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures”; and

WHEREAS, it is the desire of the Board to declare its support of the Second Amendment to the United States Constitution and the Colorado Constitution protecting citizens’ inalienable and individual right to keep and bear arms; and

WHEREAS, the members of this Board took an oath to support and defend the United States Constitution, the Constitution of the State of Colorado and the laws of the State of Colorado, insofar as they are constitutional; and

WHEREAS, the Elbert County of County Commissioners believes the right to keep and bear arms is a fundamental Constitutional right, with any restrictions to such rights being subject to strict scrutiny and thus justified only when such restrictions accomplish a compelling governmental interest, and even then, only when such law or policy is sufficiently narrowly tailored to achieve that goal with there being no less restrictive alternative capable of accomplishing the same interest; and

WHEREAS, the members of this Board believe that any reasonable restrictions upon the Second Amendment of the United States Constitution which meet the aforementioned standards of the prior paragraph should also be required to meet Constitutional standards for due process, presumption of innocence, and a conviction based on the standard of guilt of beyond a reasonable doubt or such similar disqualifier meeting the same standard in order for citizens to be disqualified from exercising the rights laid out within the Second Amendment; and

WHEREAS, this Board interprets the “Red Flag Law” or “Extreme Risk Protection Order,” as presented in Colorado HB19-1177 as flawed, likely to be abused, and insufficient to safeguard Constitutional Liberties such as the presumption of innocence and the Second Amendment. Moreover, it is this Board’s belief that in the event someone is sufficiently mentally unstable such that they present a danger to themselves or to others, that the 72 hour hold law, or the “M1 hold” law, already provides ample opportunity for law enforcement to take that individual into custody and evaluate whether they remain a danger to themselves or others, while also more effectively safeguarding that individual’s constitutional rights.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Elbert by the authority granted the Board by the laws of the State of Colorado and people of Elbert County, Colorado to stand and defend their rights and liberties, which are guaranteed by the United States and Colorado Constitutions, do hereby declare this Resolution

to be a Second Amendment Preservation Resolution Designating Elbert County a “Second Amendment Sanctuary County.”

BE IT FURTHER RESOLVED that this Board affirms its support for the duly elected Sheriff of Elbert County, Colorado in the exercise of his sound discretion and affirms its resolve to support decisions by our Sheriff to not enforce any unconstitutional firearms law against any citizen.

BE IT FURTHER RESOLVED that this Board will not authorize or appropriate government funds, resources, employees, agencies, contractors, buildings, detention centers or offices for the purpose of enforcing law that unconstitutionally infringes on the right of the people to keep and bear arms.

Upon a motion duly made and seconded, the foregoing resolution was adopted by the following vote:

_____ **AYE**
Chris Richardson, CHAIRMAN

_____ **AYE**
Rick Pettitt, COMMISSIONER

_____ **AYE**
Grant Thayer, COMMISSIONER

ATTEST: **Dallas Schroeder** **Date:**
COUNTY CLERK

BY: _____ **Date:**
CLERK TO THE BOARD