

Resolution No. 19-01

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS FOR CUSTER COUNTY DECLARING SAID COUNTY TO BE A SECOND AMENDMENT SANCTUARY COUNTY

WHEREAS, the Board of County Commissioners for Custer County (the Board), 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 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 of the United States in the case of *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 Supreme Court of the United States in the case of *McDonald v. Chicago*, 561 U.S. 742 (2010), affirmed 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 14th Amendment against the states; and

WHEREAS, the Supreme Court of the United States in the case of *United States v. Miller*, 307 U.S. 174 (1939), ruled 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 13 of the Colorado Constitution provides that: "The right of no person to keep and bear arms in defense of his home, person or property, or in aid of the civil power when thereto legally summoned, shall be called in question; but nothing herein contained shall be so construed to justify the practice of carrying concealed weapons"; and

WHEREAS, it is the desire of the Board to declare its support of and allegiance to the Second Amendment of the United States Constitution and Article II, Section 13 of the Colorado Constitution, both of which protect and guarantee the 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 Colorado Constitution, and the laws of the State of Colorado insofar as such laws are constitutional; and

WHEREAS, it is the unanimous opinion of this Board that House Bill 19-1177, as presently drafted and proposed, represents a clear violation of the constitutional principles reflected above and that such proposed legislation, if passed, should not be enforced in Custer County until such time as its constitutionality is ruled upon by a court of competent jurisdiction.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of County Commissioners for Custer County pursuant to the authority granted the Board by the laws of the State of Colorado as referenced above, to stand and defend the rights and liberties guaranteed by the Second Amendment to the United States Constitution and by Article II, Section 13 of the Colorado Constitution, we hereby declare this Resolution shall be known as:

THE SECOND AMENDMENT PRESERVATION RESOLUTION
DESIGNATING CUSTER COUNTY AS A
SECOND AMENDMENT SANCTUARY COUNTY; and

BE IT FURTHER RESOLVED that this Board affirms its support for the duly elected Sheriff of Custer County, Colorado, in the exercise of his/her sound discretion, and further affirms its resolve to support decisions by our Sheriff not to enforce any unconstitutional firearms laws against any citizen of this county; and

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 any law that unconstitutionally infringes on the right of the people to keep and bear arms

Done this _____ day of _____, 2019.

Tommy G. Flower
Chairman, Board of County Commissioners

William R. Canda
Vice Chairman, Board of County Commissioners

Jay D. Printz
County Commissioner

SEAL:

ATTEST:

Kelley Camper, Clerk and Recorder for Custer County