

## CHAPTER 117: SECOND AMENDMENT

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### **PRESERVATION ORDINANCE**

#### **§117.01 TITLE**

The People of Umatilla County do ordain that the following chapter shall be known and may be cited as the Second Amendment Preservation Ordinance. (Ord. 2018-05, passed 11-6-2018)

#### **§117.02 AUTHORIZATION**

A. The Second Amendment Preservation Ordinance preserves the right of the People of, on and in Umatilla County to:

- 1) Keep and bear arms as originally understood; in self-defense and preservation, and in defense of one's community and country.
- 2) Freely manufacture, transfer, sell and buy firearms, firearm accessories and ammunition, which are designed primarily for the same purposes.

B. These rights are retained by the People and protected by the Constitution of these United States, and the Constitution of the State of Oregon as follows:

1) 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."

2) Whereas the Ninth Amendment to the Constitution of the United States of America states: "The enumeration in the Constitution, of certain rights, shall not be construed to deny a disparage others retained by the people," protects ancillary rights that are closely related to the right to keep and bear arms protected by the Second Amendment; including the right to manufacture, transfer, buy and sell firearms, firearm accessories and ammunition. Hereinafter these shall be referred to as "ancillary firearm rights".

3) Whereas the Tenth Amendment to the Constitution of the United States of America states: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

4) Whereas Article 1, section 27 of the Constitution of the State of Oregon states: "The people shall have the right to bear arms for the defense of themselves, and the State, but the Military shall be kept in strict subordination to the civil power."

5) Whereas Article 1, section 33 of the Constitution of the State of Oregon states: "This enumeration of rights and privileges shall not be construed to impair or deny others retained by

the people." This section protects ancillary firearms rights that are closely related to the right to keep and bear arms protected by Article 1, section 27 of the Constitution of the State of Oregon.

C. Therefore, any regulation of the right to keep and bear arms or ancillary firearms rights that violate the Second, Ninth, or Tenth Amendments to the Constitution of the United States of America, or Article 1, sections 27 and 33 of the Constitution of the State of Oregon, as articulated herein, shall be regarded by the People on and in Umatilla County as unconstitutional; a transgression of the Supreme Law of the Land and its spirit of Liberty, and therefore by necessity void ab initio.

D. The People on and in Umatilla County do resolve by this instrument that the Umatilla County Government shall not authorize or appropriate governments funds, resources, employees, agencies, contractors, buildings, detention centers or offices for the purpose of enforcing any element of such acts, laws, orders, mandates, rules or regulations, that infringe on the right of the People to keep and bear arms.

E. It shall be the duty of the Sheriff of Umatilla County to determine as a matter of internal policy and county concern per ORS 203.035, whether any federal, state or local regulation affecting firearms, firearms accessories and ammunition that is enforceable within his/her jurisdiction, violates the Second, Ninth, or Tenth Amendments to the Constitution of these United States, or Article 1, sections 27 and 33 of the Constitution of the State of Oregon, as articulated herein. (Ord. 2018-05, passed 11-6-2018)

### **§117.03 PENALTIES**

A. Anyone within the jurisdiction of Umatilla County, Oregon found in violation of this chapter may be made a defendant in a civil proceedings by the county seeking redress of the violation per ORS 203.065.

B. Fine recovered under ORS 203.030 - 203.075 shall be paid to the clerk of the court in which recovery is had. After first deducting court costs in the proceedings, the clerk shall pay the remainder to the treasurer of the county for the general fund of the county, per ORS 203.065.

C. A civil offense against this chapter is a Class A violation, per ORS 203.065, with a maximum fine of \$2,000 for an individual, and \$4,000 for a corporation, per ORS 153.018.

D. Any peace officer, as defined by ORS 161.015, may enforce this chapter, adopted under ORS 203.035.

E. Under County authority per ORS 203.035, enforcement of this chapter is in alliance with the oath to uphold and defend the Constitution of these United States, and the Constitution of the State of Oregon, which the elected officials and officers of Umatilla County are being held to by the People of this county. It is primary in their scope of duties, and may indemnify them against certain liability per ORS 30.285. (Ord. 2018-05, passed 11-6-2018)

### **§117.04 SEVERANCE CLAUSE**

If any provision of this chapter or the application of any such provision to any person or circumstance should be held invalid by a Court of competent jurisdiction, the remainder of this chapter or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby. (Ord. 2018-05, passed 11-6-

2018)

### **§117.05 EFFECTIVE DATE**

The Second Amendment Preservation Ordinance shall be effective immediately upon certification of approval by the voters of Umatilla County. (Ord. 2018-05, passed 11-6-2018)

[Adopted by the voters November 6, 2018, with certification of approval issued November 28, 2018]

### **SANCTUARY ORDINANCE**

#### **§117.06 TITLE**

The title of this ordinance shall be known and may be cited as the "Second Amendment Sanctuary Ordinance," or "SASO."

#### **§117.07 FINDINGS**

The people of Umatilla County Oregon finds and declares:

A. Acting through the United States Constitution, the people created government to be their agent in the exercise of a few defined powers, while reserving the citizen's right to decide on matters, which concern their lives, liberties, and properties in the ordinary course of affairs;

B. 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";

C. The rights of the people to keep and bear arms are further protected from infringement by

State and Local Governments under the Ninth and Tenth Amendments to the Constitution of the United States of America as well as Article 1 of the Constitution of the Great State of Oregon;

D. Article 1, Section 27 of the Constitution of the Great State of Oregon states, "The people shall have the right to bear arms for the defense of themselves, and the State, but the Military shall be kept in strict subordination to the civil power";

E. Article 1, Section 33 of the Constitution of the Great State of Oregon states, "This enumeration of rights and privileges shall not be construed to impair or deny others retained by the people";

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

G. Justice Thomas M. Cooley in the People v. Hurlbut, 24 Mich. 44, 108 (1871) surmises: "The State may mold local institutions according to its views of policy or expediency; but local government is matter of absolute right; and the state cannot take it away";

H. The Fourteenth Amendment to the Constitution of the United States of America Section 1 it 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";

I. There is a right to be free from the commandeering hand of government that has been most notably recognized by the United States Supreme Court in *Printz v. United States*. The Court held: "The Federal Government may neither issue directives requiring the States to address particular problems, nor command the States' officers, or those of their political subdivisions, to administer or enforce a federal regulatory program" and that the anticommandeering principles recognized by the U.S. Supreme Court in *Printz v. United States* are predicated upon the advice of James Madison, who in *Federalist #46* advised "a refusal to cooperate with officers of the Union" in response to either unconstitutional federal measures or constitutional but unpopular federal measures;

J. It should be self-evident from the compounding evidence that the right to keep and bear arms is a fundamental individual right that shall not be infringed and all local, state, and federal acts, laws, orders, rules or regulations regarding firearms, firearms accessories, and ammunition are a violation of the Second Amendment;

K. Local governments have the legal authority to refuse to cooperate with state and federal firearm laws that violate those rights and to proclaim a Second Amendment Sanctuary for law-abiding citizens in their cities and counties;

L. Therefore, through the enactment of this document Umatilla County Oregon is hereby a Second Amendment Sanctuary County.

#### **§117.08 PROHIBITIONS**

A. Other than compliance with an order of the court, notwithstanding any law, regulation, rule

or order to the contrary, no agency of the Umatilla County Government, political subdivision of this county, or employee of an agency or political subdivision of this county acting in his or her official capacity shall:

1) Knowingly and willingly, participate in any way in the enforcement of any act, law, order, rule, or regulation issued regarding a personal firearm, firearm accessory, or ammunition.

2) Utilize any assets, county funds, or funds allocated by the state to the county, in whole or in part, to engage in any activity that aids any agency, agent, or corporation providing services to the state or federal government in the enforcement of any investigation pursuant to the enforcement of any act, law, order, rule, or regulation issued regarding a personal firearm, firearm accessory, or ammunition.

#### **§117.09 PENALTIES**

A. All local, state and federal acts, laws, orders, rules, and regulations, whether past, present, or future, which infringe on the people's right to keep and bear arms as guaranteed by the Second Amendment to the United States Constitution and Article 1, Section 27 of the Constitution of the State of Oregon shall be invalid in this county, shall not be recognized by this county, are specifically rejected by this county, and shall be considered null and void and of no effect in Umatilla County Oregon, and this includes:

1) Any 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 law-abiding citizens; and

2) Any registering or tracking of firearms, firearm accessories, or ammunition;

3) Any registering or tracking of the owners of firearms, firearm accessories, or ammunition;

4) Any registration and background check requirements on firearms, firearm accessories, or ammunition for law-abiding citizens;

5) Any Extraterritorial Act forbidding the possession, ownership, or use or transfer of any type of firearm, firearm accessory, or ammunition by law-abiding citizens;

6) Any Extraterritorial Act ordering the confiscation of firearms, firearm accessories, or ammunition from law-abiding citizens; and

7) Any prohibitions, regulations, and/or use restrictions related to ownership of non-fully automatic firearms, including but not limited to semi-automatic firearms; including semiautomatic firearms that have the appearance or features similar to fully automatic firearms and/or military "assault-style" firearms by law-abiding citizens; and

8) Any prohibition, regulations, and/or use restrictions limiting hand grips, stock, flash suppressors, bayonet mounts, magazine capacity, clip capacity, internal capacity, or types of ammunition available for sale, possession or use by law-abiding citizens; and

9) Any restrictions prohibiting the possession of open carry or concealed carry, or the transport of lawfully acquired firearms or ammunition by law-abiding adult citizens or minors supervised by adults.

B. Anyone within the jurisdiction of Umatilla County Oregon found in violation of this ordinance shall be made a defendant in a civil proceeding by the county seeking redress of the violation, per ORS 203.065.

C. Fines recovered under ORS 203.030 -

203.075 shall be paid to the clerk of the court in which recovery is had. After first deducting court costs in the proceedings, the clerk shall pay the remainder to the treasurer of the county for the general fund of the county, per ORS 203.065.

D. A civil offense against this ordinance is a Class A violation, per ORS 203.065, with a maximum fine of \$2,000 for an individual, and \$4,000 for a corporation, per ORS 153.018.

E. Any peace officer, as defined by ORS 161.015, may enforce this ordinance, adopted under ORS 203.035.

F. Exceptions:

a. The protections provided to citizens in Section A(1)-(A)(9) of this ordinance do not apply to persons who have been convicted of felony crimes.

b. This ordinance is not intended to prohibit or affect 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.

c. This ordinance does not permit or otherwise allow the possession of firearms in State or Federal buildings.

d. This ordinance does not prohibit individuals in Umatilla County from voluntarily participating in assisting in permitting, licensing, registration or other processing of applications for concealed carry permits, or other firearm, firearm accessory, or ammunition licensing or registration processes that may be required by law in other legal jurisdictions outside Umatilla County or by any other municipality inside Umatilla County.

e. This ordinance is not intended, nor written, to alter the County's Second Amendment Preservation Ordinance adopted by the voters of this county.

**§117.10 PRIVATE CAUSE OF ACTION**

A. Any entity, person, official, agent, or employee of the Umatilla County Government who knowingly violates, or otherwise knowingly deprives a citizen of Umatilla County the rights or privileges ensured by the Second Amendment of the United States Constitution or Article 1, Section 27 of the Oregon State Constitution, while acting under the color of any state or federal law, shall be liable to the injured party in an action at law, suit in equity, or other proper proceeding for redress.

B. In such actions, the court may award the prevailing party, other than the government of Umatilla County Oregon or any political subdivision of the county, reasonable attorney's fees and costs.

C. Neither sovereign nor official or qualified immunity shall be an affirmative defense in such cases.

**§117.11 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.

**§117.12 EFFECTIVE DATE**

The effective date of this ordinance, The Second Amendment Sanctuary Ordinance or SASO shall be effective immediately upon certification of approval by the voters of Umatilla County.

[Adopted by the voters November 3, 2020, with certification of approval issued December 2, 2020 ]