

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR COLUMBIA COUNTY, OREGON

In the Matter of Declaring a Second)
Amendment Sanctuary in Columbia) ORDINANCE NO. 2021-1
County)
_____)

The Board of County Commissioners for Columbia County, Oregon ordains as follows:

SECTION 1. TITLE.

This Ordinance shall be known as Ordinance No. 2021-1. Exhibit "A", which is attached hereto and incorporated herein by this reference, shall be known as the "Columbia County Second Amendment Sanctuary Ordinance".

SECTION 2. AUTHORITY.

This Ordinance is adopted under the authority of ORS 203.035 through ORS 203.075.

SECTION 3. PURPOSE.

The purpose of this Ordinance is to implement the intent of the voters as demonstrated by the passage of Columbia County Initiative Measure 5-270, entitled "Second Amendment Preservation Ordinance", on November 6, 2018, and Initiative Measure 5-278, entitled "Second Amendment Sanctuary Ordinance", on November 3, 2020 (together the "Acts"). Many provisions of the Acts are the same. This Ordinance is intended to amend the Second Amendment Sanctuary Ordinance to incorporate provisions of the Second Amendment Preservation Ordinance where it differs from the Second Amendment Sanctuary Ordinance, to format the Ordinance

consistent with County practice and to correct scrivener errors in the Acts while preserving the intent of the voters. The Second Amendment Preservation Ordinance is then repealed.

SECTION 4. ADOPTION/AMENDMENT/REPEAL.

Ordinance No. 2021-1 is hereby adopted. The Second Amendment Sanctuary Ordinance is hereby amended as shown in Exhibit "A" which is attached hereto and is incorporated herein by this reference. The Second Amendment Sanctuary Ordinance, as amended by this Ordinance, shall be known as the Columbia County Second Amendment Sanctuary Ordinance. Initiative Measure 5-270, the Second Amendment Preservation Ordinance, is hereby repealed.

SECTION 5. SEVERABILITY.

If any provision of this Ordinance, including Exhibit "A", is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the remaining portions thereof.


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SECTION 6. REPEALER.

This Ordinance shall be automatically repealed if Columbia County Initiative Measure 5-270, or Initiative Measure 5-278 is, for any reason, overturned or declared invalid by a court of competent jurisdiction.

Dated this 31 day of March, 2021.


BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: 
Margaret Magruder, Chair

By: 
Casey Garrett, Commissioner

By: 
Henry Heimuller, Commissioner

Attest:

By: 
Recording Secretary

Approved as to form

By: 
Office of County Counsel

First Reading: March 10, 2021

Second Reading: March 31, 2021

Effective Date: March 31, 2021

EXHIBIT "A"

**COLUMBIA COUNTY
SECOND AMENDMENT
SANCTUARY ORDINANCE**

Adopted by Ordinance No. 2021-1

COLUMBIA COUNTY SECOND AMENDMENT SANCTUARY ORDINANCE

Amending Initiative Measure 5-278

Additions of Second Amendment Preservation Ordinance are in **bold**.

Additions for County form or correction of scrivener's errors are in **red bold**.

Deletions for County form or correction of scrivener's errors are ~~stricken red~~.

The Second Amendment Sanctuary Ordinance is amended as follows:

~~SECTION 1. — TITLE. — The title of this ordinance shall be known as the “Second Amendment Sanctuary Ordinance,” or “SASO.”~~

SECTION 21. FINDINGS. ~~The people of Columbia County find and declare:~~

- 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 I 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 rights 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, page 108 (1871) he surmises: “*The State may mould 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:— that the 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. The anti-commandeering principals 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 Columbia County, Oregon is hereby a Second Amendment Sanctuary County;

SECTION 32. PROHIBITIONS

A. No agent, employee, or official of Columbia County, a political subdivision of the State of Oregon, while acting in their official capacity, shall:

- 1) Knowingly and willingly, participate in any way in the enforcement of any Extraterritorial Act, as defined herein; or
- 2) Utilize any assets, county funds, or funds allocated by any entity to the county, in whole or in part, to engage in activity that aids in the enforcement or investigation related to personal firearms, firearm accessories, or ammunition.
- 3) **Authorize or appropriate governmental 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 by People to keep and bear arms, except as otherwise provided herein.**

B. While within Columbia County, this Ordinance preserves the right of any person to keep and bear arms as originally understood; in self-defense and preservation, and in defense of one's community and country, and to freely manufacture, transfer, sell and buy firearms, firearm accessories and ammunition, which are designed primarily for the same purposes and 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 ("ancillary firearm rights").

SECTION 3. DUTY OF SHERIFF. It shall be the duty of the Sheriff of Columbia 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.

SECTION 4. ~~PENALTIES-PROTECTIONS/EXTRATERRITORIAL ACTS~~

A. ~~4)~~ All local, state and federal acts, laws, rules or regulations, originating from jurisdictions outside of Columbia County, which restrict or affect an individual person's general right to keep and bear arms, including firearms, firearm accessories or ammunition are for all purposes under this Ordinance defined as Extraterritorial Acts. Such Extraterritorial Acts shall not be enforced by Columbia County agents, employees, or officers ~~and are specifically rejected by the voters of this~~ county, and shall be treated as if they are null, void and of no effect in Columbia County, Oregon. Examples of such Extraterritorial Acts includes:

- a. ~~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 citizens; and
- b. ~~2)~~ Any registering or tracking of firearms, firearm accessories, or ammunition; and
- c. ~~3)~~ Any registering or tracking of the owners of firearms, firearm accessories, or ammunition; and
- d. ~~4)~~ Any registration and background check requirement on firearms, firearm accessories, or ammunition for citizens, beyond those customarily required at time of purchase prior to December, 2012; and
- e. 5) Any Extraterritorial Act forbidding the possession, ownership, or use or transfer of any type of firearm, firearm accessory, or ammunition by citizens of the legal age of eighteen and over; and
- f. 6) Any Extraterritorial Act ordering the confiscation of firearms, firearm accessories, or ammunition from citizens; and
- g. 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 citizens; and

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

i. 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.

~~2) — Anyone within the jurisdiction of Columbia County Oregon accused to be in violation of this ordinance may be made a defendant in a civil proceeding pursuant to ORS 203.065.~~

~~3) — Fines recovered under ORS 203.030 to 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, pursuant to ORS 203.065.~~

~~4) — 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 \$4000 for a corporation, per ORS 153.018.~~

~~5) — Any peace officer, as define by ORS 161.015 may enforce this ordinance, adopted under ORS 203.035.~~

6B. Exceptions:

a.1) The protections provided Columbia County by Section ~~3(A)(1-2)~~ 2 of this Ordinance do not apply to person who have been convicted of felony crimes.

b.2) This Ordinance is not intended to prohibit or ~~eaffect~~ in any way the prosecution of any crime for which the use, or possession of, a firearm is an ~~aggregvating~~ factor or enhancement to an otherwise independent crime.

c.3) This Ordinance does not permit or otherwise allow the possession of firearms in State or Federal buildings.

d.4) This Ordinance does not prohibit individuals in Columbia County from voluntarily participating ~~in-assisting~~ in permitting, licensing, registration or other processing of applications for

concealed handgun licenses carry permits, or other firearm, firearm accessory, or ammunition licensing or registration processes that may be required by law or other legal jurisdictions outside Columbia County or by any other municipality inside Columbia County.

e.5) Actions in compliance with a judgment or order of a District or Circuit court, based upon any Extraterritorial Act, are exempt from this Ordinance.

f.6) This Ordinance does not prohibit Columbia County from enacting any other legislation to govern its own residents.

SECTION 5. ENFORCEMENT OF VIOLATION. The County may issue a citation for any violation of this Ordinance per ORS 203.065. Fines recovered under ORS 203.030-203.075 shall be paid to the clerk of the court in which the 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. Violation of this 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. Any peace officer, as defined by ORS 161.015, may enforce this ordinance, adopted under ORS 203.035.

SECTION 6.5. PRIVATE CAUSE OF ACTION

A. Any entity, person, official, agents, or employee of the Columbia County who knowingly violates this Ordinance, while acting under the color any state of 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 shall award the prevailing party, other than the government of Columbia County or any political subdivision of the county, reasonable attorney fees.

C. Neither sovereign nor governmental immunity shall be an affirmative defense of agent, employee or official of Columbia County in cases pursuant to Section 4 or 5 of this Ordinance.

~~SECTION 6. SEVERABILITY~~

~~A. 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.~~

~~SECTION 7. EFFECTIVE DATE~~

~~A. — 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 Columbia County.~~