

RESOLUTION 2019-03

A RESOLUTION FOR THE KIOWA COUNTY BOARD OF COUNTY COMMISSIONERS, KIOWA COUNTY, COLORADO, DECLARING KIOWA COUNTY TO BE A SECOND AMENDMENT SANCTUARY COUNTY

WHEREAS, 30-11-101, C.R.S. provided 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. provided that the powers of a 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, Article II, Section 15 of the Constitution of Colorado 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 of County Commissioners of Kiowa County 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 the Board of County Commissioners of Kiowa County 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.

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Kiowa County, Colorado by the authority granted the Board by the laws of the State of Colorado and people of Kiowa County, Colorado to stand and defend their rights and liberties, which are guaranteed by the United States and Colorado Constitutions, we hereby declare this Resolution to be a Second Amendment Preservation Resolution Designating Kiowa County a Second Amendment "Sanctuary County".

BE IT FURTHER RESOLVED that this Board affirms its support for the duly elected Sheriff of Kiowa 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.

Commissioner Robertson moved for adoption of this resolution, with a second by Commissioner Oswald.

The vote of the Board was unanimous in favor of the Resolution:

The Resolution was declared to be duly adopted this 28th day of February, 2019.

BOARD OF COUNTY COMMISSIONERS

Richard Scott, Chairman

Howard Robertson

Donald Oswald

ATTEST:

Delisa Weeks, Clerk To The Board