

STATE OF SOUTH CAROLINA

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ORDINANCE NO. 08-21

COUNTY OF SALUDA

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AN ORDINANCE TO ESTABLISH A COUNTY PROHIBITION ON THE INFRINGEMENT OF THE RIGHT TO KEEP AND BEAR ARMS AND DESIGNATING SALUDA COUNTY AS A SECOND AMENDMENT SANCTUARY.

WHEREAS, through the Constitution of the United States of America, the people created government to be their agent in the exercise of a few defined powers and reserved to the citizens the right to decide matters concerning their lives, liberty, and property in the ordinary course of affairs; and

WHEREAS, the Second Amendment to the Constitution of the United States of America provides, “[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;”

WHEREAS, the Fourth Amendment to the Constitution of the United States of America provides, in part, “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated,” and, pursuant to Mapp v. Ohio, 367 U.S. 643, 81 S.Ct. 1684 (1961), this amendment has been made applicable to the states through the due process clause of the Fourteenth Amendment;

WHEREAS, the Ninth Amendment to the Constitution of the United States of America provides, “[t]he enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people;”

WHEREAS, the Tenth Amendment to the Constitution of the United States of America provides, “[t]he 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;”

WHEREAS, Article I, Section 20 of the South Carolina Constitution provides, in part, “[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;”

WHEREAS, in District of Columbia v. Heller, 554 U.S. 570, 128 S. Ct. 2783 (2008), the Supreme Court held the Second Amendment to the Constitution of the United States of America protects the right to keep and bear arms for the purpose of self-defense, striking down a District of Columbia law banning the possession of handguns in the home;

WHEREAS, in District of Columbia v. Heller, the Supreme Court cautioned that Second Amendment rights are not unlimited, and the opinion should not be read to cast doubt on the longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places, such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms;

WHEREAS, in McDonald v. City of Chicago, 561 U.S. 742, 130 S.Ct. 3020 (2010), the United States Supreme Court ruled the due process clause of the Fourteenth Amendment incorporates the Second Amendment right recognized in Heller, making it applicable to the states. In reaching this conclusion, the Court held that the right to bear arms protected by the Second Amendment is deeply rooted our nation’s history and tradition and is, therefore, a fundamental right; and

WHEREAS, the Saluda County Council desires to express its commitment and support of its citizens under the Second Amendment of the Constitution of the United States of America and Article I, Section 20 of the South Carolina Constitution.

NOW, THEREFORE, BE IT ORDAINED by the Council, as follows:

Section 1. Purpose, Intent, and Declaration.

- A. It is the purpose and intent of this ordinance to express the County’s strong support for the Second Amendment to the Constitution of the United States of America and Article I, Section 20 of the South Carolina Constitution, both of which uphold the right of the people to keep and bear arms.
- B. Consistent with this purpose and intent, Saluda County is hereby declared to be a Second Amendment sanctuary county.

Section 2. Prohibitions and Enforcement.

- A. Any regulation of the right to keep and bear firearms, firearm accessories, and ammunition that violates the Second, Fourth, Ninth, and Tenth Amendments to the Constitution of the United States of America and Article I, Section 20 of the South Carolina Constitution beyond the current provisions of federal and state law is contrary to the creation of a Second Amendment sanctuary in Saluda County, and for the purpose of this ordinance, shall be considered an “Unlawful Act.”
- B. Any Unlawful Act shall be void and unenforceable in Saluda County, South Carolina.
- C. Therefore, no agent, department, employee, or official of Saluda County, a political subdivision of the State of South Carolina, while acting in their official capacity, shall:
  - 1. Knowingly and willingly participate in any way in the enforcement of any Unlawful Act, regarding the right to keep and bear firearms, firearm accessories, or ammunition, as described in Section 2(A) herein.
  - 2. Utilize any assets, Saluda County funds, or funds allocated by any entity to Saluda County, in whole or in part, for the specific purpose of enforcing any

law that infringes upon the right to keep and bear firearms, firearms accessories, and ammunition, as described in Section 2(A) herein.

3. Any peace officer or elected Saluda County official, pursuant to the oath taken by public elected officials to uphold and defend the United States and South Carolina constitutions, may enforce this ordinance.
4. Nothing contained herein prevents the Saluda County Sheriff from enforcing any federal or state law found to be constitutional by a court of competent jurisdiction.
5. Nothing contained herein prevents the assembly of persons for the purpose of training with, practicing with, or being instructed in the use of any lawful firearm, provided that such activities do not violate any zoning or land use regulations.

Section 3. Severability.

- A. The provisions of this ordinance are severable, and if any provision herein 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 provisions of this ordinance.
- B. Should the remaining terms and provisions of this ordinance be deemed unconstitutional or unenforceable by any court of competent jurisdiction, such determination shall not affect the remainder of this ordinance, all of which is hereby deemed separable.
- C. All ordinances, orders, resolutions, and actions of the Saluda County Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked, and rescinded.

Section 4. Effective Date.

This ordinance shall take effect upon adoption.

DONE IN COUNCIL DULY ASSEMBLED AND BY THE AUTHORITY OF THE SAME this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

ATTEST:

SALUDA COUNTY COUNCIL

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Regina Turner, Clerk to Council

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Raymond G. Strawbridge, Chairman

First Reading: July 12, 2021

Second Reading: August 9, 2021

Public Hearing:

Third Reading: