

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of Declaring a Second Amendment )  
Sanctuary in Yamhill County )           ORDINANCE 913

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (“the Board”) sat for the transaction of county business in combined informal/formal session on April 1, 2021, at 10 a.m. in a virtual meeting via Zoom. Commissioners, Mary Starrett, Lindsay Berschauer and Casey Kulla being present.

THE DULY-ELECTED BOARD OF COUNTY COMMISSIONERS OF YAMHILL COUNTY OREGON FIND AND DECLARE:

**WHEREAS**, 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;

**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*”;

**WHEREAS**, 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;

**WHEREAS**, 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*”;

**WHEREAS**, 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*”;

**WHEREAS**, 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;

**WHEREAS**, Justice Thomas M. Cooley in the *People v. Hurlbut* 24 Mich. 44, page 108 (1871) 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*”;

**WHEREAS**, The Fourteenth Amendment to the Constitution of the United States of America Section 1 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*”;

**WHEREAS**, 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.*’

**WHEREAS**, 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;

**WHEREAS**, Yamhill County asserts its 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;

**WHEREAS**, Therefore, through the enactment of this ordinance Yamhill County Oregon is hereby a Second Amendment Sanctuary County; NOW, THEREFORE,

**THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:**

**Section 1                      PROHIBITION**

- 1.01 No agent, employee, or official of Yamhill County, a political subdivision of the State of Oregon, while acting in their official capacity, shall:
- (a) Knowingly and willingly, participate in any way in the enforcement of any Extraterritorial Act, as defined in Section 2; or
  - (b) Utilize any county assets, county funds, or funds allocated by any entity to the county, in whole or in part, to engage in any activity that violates this ordinance by aiding in the enforcement or investigation of Extraterritorial Acts relating to personal firearms, firearm accessories, or ammunition.

## Section 2

## **PENALTIES**

2.01 All local, state and federal acts, laws, rules, or regulations, originating from jurisdictions outside of Yamhill 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 are specifically rejected by this county, and shall not be enforced by Yamhill County agents, employees, or officers and, shall be treated as if they are null, void and of no effect in Yamhill County Oregon.

Extraterritorial Acts for which enforcement is prohibited by Section 1 include:

- (a) 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) Any registering or tracking of firearms, firearm accessories, or ammunition; and
- (c) Any registering or tracking of the owners of firearms, firearm accessories, or ammunition; and
- (d) Any registration and background check requirements on firearms, firearm accessories, or ammunition for citizens; and
- (e) 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) Any Extraterritorial Act ordering the confiscation of firearms, firearm accessories, or ammunition from citizens; and
- (g) Any prohibitions, regulations, and/or use restrictions related to ownership of non-fully automatic firearms, including but not limited to semi-automatic firearms; including semi-automatic firearms that have the appearance or features similar to fully automatic firearms and/or military "assault-style" firearms by citizens; and
- (h) 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) Any restrictions prohibiting the possession of open carry or concealed carry, or the transport of lawfully acquired firearms or ammunition by adult citizens or minors supervised by adults.

2.02 Any agent, employee or official of Yamhill County Oregon accused to be in violation of this ordinance may be made a defendant in a civil proceeding pursuant to ORS 203.065.

- 2.03 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.
- 2.04 A violation of 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.
- 2.05 Any peace officer, as defined by ORS 161.015, may enforce this ordinance, adopted under ORS 203.035.
- 2.06 Exceptions to Section 1:
- (a) The protections provided in Yamhill County by Section 1.01 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 aggravating 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 or courthouses.
  - (d) This ordinance does not prohibit Yamhill County, its employees, officials and agents from enforcing local, federal or state firearms acts, laws, rules or regulations in effect as of February 2021.
  - (e) Actions in compliance with a court judgment or court order, based upon any Extraterritorial Act in effect as of February 2021, are exempt from this ordinance.
  - (f) This ordinance does not prohibit Yamhill County from enacting any other legislation to govern its own residents, and exclusively and only applies to county officials, employees and agents whose role and duties are primarily if not wholly a county concern.
  - (g) This ordinance does not apply to, nor prohibit, the enforcement of local firearms regulations which have been enacted by the voters of Yamhill County.
  - (h) This ordinance does not apply to, nor prohibit, enforcement of firearms regulations in effect as of February 2021 pursuant to the directives of, written administrative decisions, or written policies of the County Sheriff or the District Attorney, and the Sheriff and District Attorney retain all prosecutorial, enforcement, or administrative discretion and authority that the Sheriff or District Attorney would otherwise have under federal, state, or local laws after February 2021 so long as said discretion and authority is exercised consistent with the legislative directives of this ordinance.

**Section 3 PRIVATE CAUSE OF ACTION**

- 3.01 Any official, agent, or employee of Yamhill County who knowingly violates this ordinance, shall be liable to the injured party in an action at law, suit in equity, or other proper proceeding for redress.
- 3.02 In such actions, the court shall award the prevailing party, other than the government of Yamhill County Oregon or any political subdivision of the county, reasonable attorney fees and costs.
- 3.03 Neither sovereign nor governmental immunity shall be an affirmative defense of agent, employee or official of Yamhill County in cases pursuant to Section 2 or 3 of this ordinance.

**Section 4 SEVERABILITY**

- 4.01 The provisions of this ordinance are hereby declared to be severable, and if any provision of this ordinance 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 ordinance.

**Section 5 EFFECTIVE DATE**

- 5.01 The first reading of this Ordinance was made March 18, 2021. The second reading of this Ordinance was made April 1, 2021. This Ordinance is effective June 30, 2021.

AYES: Commissioners Starrett and Berschauer NAYS: Commissioner Kulla

DONE at McMinnville, Oregon on April 1, 2021.

ATTEST



YAMHILL COUNTY  
BOARD OF COMMISSIONERS

BRIAN VAN BERGEN  
County Clerk

Chair

MARY STARRETT

By: Carolina Rook  
Deputy CAROLINA ROOK

Commissioner

LINDSAY BERSCHAUER

FORM APPROVED BY:

Christian Boenisch  
CHRISTIAN BOENISCH  
Yamhill County Legal Counsel

Commissioner

Voted "No"

CASEY KULLA