

RESOLUTION NO. 03-19-2019-01

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS FOR PHILLIPS COUNTY, COLORADO CONFIRMING THE BOARD'S SUPPORT OF THE SECOND AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA AND ARTICLE II, SECTION 13 OF THE CONSTITUTION OF THE STATE OF COLORADO ESTABLISHING THE RIGHT OF LAW ABIDING CITIZENS TO KEEP AND BEAR ARMS; AND RECOGNIZING THE BOARD'S BELIEF THAT COLORADO HB-1177 IS INCONSISTENT WITH THE RIGHT OF LAW ABIDING CITIZENS TO KEEP AND BEAR ARMS.

WHEREAS, §30-11-101 of the Colorado Revised Statutes provides that Colorado counties have the authority to adopt and enforce ordinances and resolutions regarding health, safety, and welfare issues; and

WHEREAS, §30-11-103, of the Colorado Revised Statutes provides 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 of the U.S. Constitution protects the rights of self-defense, defense of others and defense of the Nation and assumes the rights of hunting and sport shooting; 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 United States Supreme Court in the case of *District of Columbia v. Heller*, 554 U.S. 570 (2008), 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 United States 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 United States 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 which has been incorporated by the Due Process Clause of the Fourteenth Amendment against the States; 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, throughout history, tyrants have recognized that a disarmed population is readily dominated; and

WHEREAS, it is the desire of the Board 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 this Board 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; and

WHEREAS, it is the belief of the Board that Colorado HB-1177 in its current form is inconsistent with the citizens’ inalienable and individual right to keep and bear arms guaranteed by the Second Amendment to the Constitution of the United States of America and by Article II, Section 13 of the Constitution of Colorado; and

WHEREAS, the Board is aware that the board of commissioners of several Colorado counties have adopted resolutions declaring sanctuary county status; and

WHEREAS, the Board wishes to reserve the right to declare Phillips County to be a sanctuary county if HB-1177 is signed into law in its current form.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Phillips by the authority granted the Board by the laws of the State of Colorado and people of Phillips 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 support and preservation resolution.

BE IT FURTHER RESOLVED that this Board affirms its support for the duly elected Sheriff of Phillips County, Colorado in the exercise of his sound discretion and affirms its resolve to support decisions by the Sheriff of Phillips County, Colorado to not enforce any law against any citizen that unconstitutionally infringes on the right of the citizen to keep and bear arms.

BE IT FURTHER RESOLVED, that this Board opposes Colorado HB-1177 in its current form as being inconsistent with the citizens' inalienable and individual right to keep and bear arms guaranteed by the Second Amendment to the Constitution of the United States of America and by Article II, Section 13 of the Constitution of Colorado.

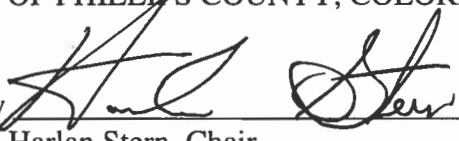
BE IT FURTHER RESOLVED, that the Board reserves the right to declare Phillips County a sanctuary county if HB-1177 is signed into law in its current form.

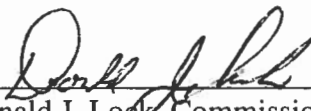
Upon motion duly made and seconded, the foregoing Resolution was adopted by the following vote:

Commissioner Harlan Stern	<u>AYE</u>
Commissioner Donald J. Lock	<u>ABE</u>
Commissioner Terry L. Hofmeister	<u>7221</u>

DONE this 19th day of March, 2019.

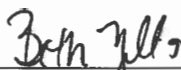
BOARD OF COUNTY COMMISSIONERS
OF PHILLIPS COUNTY, COLORADO

By 
Harlan Stern, Chair

By 
Donald J. Lock, Commissioner

By 
Terry L. Hofmeister, Commissioner

ATTEST:

By 
County Clerk and Recorder