

AN ORDINANCE

AN ORDINANCE TO ESTABLISH A COUNTY PROHIBITION ON INFRINGEMENTS OF THE RIGHT TO KEEP AND BEAR ARMS.

NOW, BE IT ORDAINED by the County Council of Greenville County, South Carolina:

Section 1. **Findings.** The Greenville County Council, South Carolina, hereby finds and declares:

- 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 to the citizens the right to decide on matters which concern their lives, liberty, and property in the ordinary course of affairs; and
- 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"; and
- C. The Supreme Court of the *United States of America in District of Columbia v. Heller* recognized the individual's right to keep and bear arms, as protected by the second amendment of the Constitution of the United States of America. Justice Antonin Scalia's prevailing opinion in that case stated that the second amendment protects an individual's right to possess a firearm unconnected with service in a militia, and the right to use that firearm for traditionally lawful purposes, such as self-defense within the home; and
- D. Justice Thomas M. Cooley in the *People v. Hurlbut* 24 Mich. 44, page 108 (1871), states: "The State may mold local institutions according to its views of policy or expediency: but local government is a matter of absolute right; and the state cannot take it away"; and
- E. The right to be free from the commandeering hand of government has been 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." The anti-commandeering principles recognized by the Supreme Court in *Printz v. United States* are predicated upon the advice of James Madison, who in *Federalist Paper* No. 46 advised "a refusal to cooperate with officers of the Union" in response to either unconstitutional federal measures or constitutional but unpopular federal measures; and
- F. Therefore, 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, firearm accessories, and ammunition are a violation of the second amendment; and
- G. Local governments have the legal authority to refuse to cooperate with state and federal firearm laws that violate those rights and to proclaim a Right to Keep and Bear Arms for law-abiding citizens in their cities and counties; and
- H. Therefore, through the enactment of this document, Greenville County is hereby a Right to Keep and Bear Arms jurisdiction.

Section 2. Prohibitions.

A. Notwithstanding any other law, regulation, rule or order to the contrary, no agent, department, employee or official of Greenville 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, as defined herein, regarding personal firearms, firearms accessories, or ammunition.
2. Utilize any assets, Greenville County funds, or funds allocated by any entity to Greenville County, in whole or in part, to engage in any activity that aids in the enforcement or investigation relating to an Unlawful Act in connection with personal firearms, firearm accessories, or ammunition.

Section 3. Penalties.

A. An "Unlawful Act" shall consist of any act, law, order, rule, or regulation, which restricts an individual's constitutional right to keep and bear arms, including any act, law, order, rule, or regulation which bans or effectively bans, registers or effectively registers, or limits the lawful use of firearms, firearm accessories or ammunition (other than a fully automatic firearm which is made unlawful by federal law). Any such "Unlawful Act" is invalid in Greenville County and shall not be recognized by Greenville County, and shall be considered null, void and of no effect in Greenville County, SC, and this includes, but shall not be limited to the following:

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;
2. Any registration or tracking of firearms, firearm accessories, or ammunition;
3. Any registration or tracking of the owners of firearms, firearm accessories, or ammunition;
4. Any 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, other than pursuant to federal law background check requirements for transfers or purchases through FFL dealers;
5. Any act ordering the confiscation of firearms, firearm accessories, or ammunition from citizens;
6. Any prohibition, regulation, and/or use restriction related to ownership or the constitutionally guaranteed lawful use or carry of non-fully automatic firearms; and
7. Any prohibition, regulation, and/or use restriction limiting hand grips, stocks, flash suppressors, bayonet mounts, magazine capacity, clip capacity, internal capacity, bump stocks, suppressors, or types of ammunition available for sale, possession or use by citizens.

B. Any peace officer may enforce this ordinance.

C. Upon conviction for violation of this ordinance, a person must be imprisoned for up to 30 days or fined up to \$500.

D. Exceptions:

1. The protections provided to citizens by this ordinance do not apply to persons who have been convicted of felony crimes or who are prohibited from possessing firearms under federal law.
2. 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.
3. This ordinance does not permit or otherwise allow possession of firearms in federal buildings.
4. This ordinance does not prohibit individuals in Greenville County from voluntarily participating in, assisting in permitting, licensing, registration or other processing of applications for concealed carry permits, or other firearm, firearm accessory, or ammunition licensing or registration processes that may be required by law.

Section 5. Severability.

Severability is intended throughout and within the provisions of this Ordinance. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Ordinance.

Section 6. Effective Date.

This ordinance shall take effect upon adoption.

DONE IN REGULAR MEETING THIS _____ DAY OF _____, 2021.

GREENVILLE COUNTY

Willis H. Meadows, Chairman
County Council

ATTEST:

Regina McCaskill
Clerk to Council

Joseph M. Kernell
County Administrator