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Resolution No. 07-2020

Second Amendment Preservation
Resolution for Cherokee County

The Second Amendment Preservation Resolution for CHEROKEE COUNTY, KANSAS.

SECTION 1. TITLE

The title of this resolution shall be known as the "Second Amendment Preservation Resolution"

SECTION 2. FINDINGS

The people of CHEROKEE COUNTY, KANSAS, find and declare:

A. The primary duty of representative government was clearly spelled out in the Lee Resolution also known as the Declaration of Independence, that the people are "endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness—That to secure these Rights, Governments are instituted among Men..."

B. The oath of office pledged by all elected officials before entering office declares, "I, [name], do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.";

C. 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", it reserves to the people, individually, the right to keep and bear arms as that right was understood at the time that Kansas was admitted to statehood in 1861, and the guaranty of that right is a matter of contract between the state and people of Kansas and the United States as of the time that the compact with the United States was agreed upon and adopted by Kansas in 1859 and the United States in 1861.;

D. Article 4 of the Kansas Bill of Rights, which states, "A person has the right to keep and bear arms for the defense of self, family, home and state, for lawful hunting and recreational use, and for any other lawful purpose; but standing armies, in time of peace, are dangerous to liberty, and shall not be tolerated, and the military shall be in strict subordination to the civil power", it secures to Kansas citizens, and prohibits government interference with, the right of individual Kansas citizens to keep and bear arms. This constitutional protection is unchanged from the constitution of the state of Kansas, which was approved by congress and the people of Kansas, and the right exists as it was understood at the time that the compact with the United States was agreed upon and adopted by Kansas in 1859 and the United States in 1861.

E. Kansas Statutes Chapter 50-1207 states, "It is unlawful for any official, agent or employee of the government of the United States, or employee of a corporation providing services to the government of the United States to enforce or attempt to enforce any act, law, treaty, order, rule or regulation of the government of the United States regarding a firearm, a firearm accessory, or ammunition that is manufactured commercially or privately and owned in the state of Kansas and that remains within the borders of Kansas."

F. The right of the people to keep and bear arms is further protected from infringement by State and Local Governments under the Ninth and Tenth Amendments to the Constitution of the United States of America,"

G. The ninth amendment to the constitution of the United States guarantees to the people rights not granted in the constitution and reserves to the people of Kansas certain rights as they were understood at the time that Kansas was admitted to statehood in 1861. The guaranty of those rights is a matter of contract between the state and people of Kansas and the United States as of the time that the compact with the United States was agreed upon and adopted by Kansas in 1859 and the United States in 1861.

H. The tenth amendment to the constitution of the United States guarantees to the states and their people all powers not granted to the federal government elsewhere in the constitution and reserves to the state and people of Kansas certain powers as they were understood at the time that Kansas was admitted to statehood in 1861. The guaranty of those powers is a matter of contract between the state and people of Kansas and the United States as of the time that the compact with the United States was agreed upon and adopted by Kansas in 1859 and the United States in 1861.

I. 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 U.S. Supreme Court in *Printz v. United States* are predicated upon the advice of James Madison, who in *Federalist #46* advised "a refusal to cooperate with officers of the Union" in response to either unconstitutional federal measures or constitutional but unpopular federal measures;

J. 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, firearms accessories, and ammunition are a violation of the Second Amendment;

K. Local governments have the 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;

L. Therefore, through the enactment of this document, CHEROKEE COUNTY, KANSAS, is hereby a Second Amendment Sanctuary County.

SECTION 3. PROHIBITIONS

A. Notwithstanding any other law, regulation, rule or order to the contrary, no agent, department, employee or official of CHEROKEE COUNTY, a political subdivision of the State of KANSAS, while acting in their official capacity, shall:

B. Knowingly and willingly, participate in any way in the enforcement of any Unlawful Act, as defined herein, regarding personal firearms, firearm accessories, or ammunition.

C. Knowingly and willingly, utilize any assets, county funds, or funds allocated by any entity to the 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 4. DEFINITIONS

A. An "Unlawful Act" shall consist of any federal or state act, law, order, rule, or regulation, which restricts an individual's constitutional right to keep and bear arms, including any federal or

state 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.

Any such "Unlawful Act" is invalid in the COUNTY and shall not be recognized by CHEROKEE COUNTY, is specifically rejected by the voters of this COUNTY, and shall be considered null, void and of no effect in CHEROKEE COUNTY, KANSAS, and this includes, but shall not be limited to the following:

B. 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;

C. Any registration or tracking of firearms, firearm accessories, or ammunition;

D. Any registration or tracking of the owners of firearms, firearm accessories, or ammunition;

E. 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 dealer

F. Any act ordering the confiscation of firearms, firearm accessories, or ammunition from citizens;

G. Any prohibition, regulation, and/or use restriction related to ownership or the constitutionally guaranteed lawful use or carry of non-fully automatic firearms; and

H. 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.

SECTION 5. PENALTIES

A. Anyone within the jurisdiction of CHEROKEE COUNTY, KANSAS, accused to be in violation of this resolution may be sued in the district court of the state of KANSAS for declaratory and injunctive relief, damages, and attorneys' fees. Neither sovereign nor official or qualified immunity shall be an affirmative defense in cases pursuant to this section.

B. A judgement finding a violation of this resolution, may result in a maximum fine of \$2,000.00 for an individual and \$4,000 for a corporation.

C. Any peace officer, with lawful jurisdiction, may enforce this resolution.

SECTION 6. EXCEPTIONS

A. The protections provided to citizens by this resolution do not apply to persons who have been convicted of felony crimes or who are otherwise prohibited from possessing firearms under federal and state law in effect as of the date of its passage.

B. This resolution is not intended to prohibit or affect in any way the prosecution of any crime for which the use or possession of a firearm is an aggregating factor or enhancement to an otherwise independent crime.

C. This resolution does not affect or otherwise allow the possession of firearms in Federal buildings.

D. This resolution does not prohibit individuals in this 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 7. SEVERABILITY

A. The provisions of this resolution are hereby declared to be severable, and if any provision of this resolution 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 resolution.

SECTION 8. EFFECTIVE DATE

A. The effective date of this resolution, The Second Amendment Preservation Resolution, shall be effective immediately upon approval by the Cherokee County Commissioners.

Myra Carlisle-Frazier
Myra Carlisle-Frazier, Chair

Cory Moates
Cory Moates, Commissioner

Neal Anderson
Neal Anderson, Commissioner

ATTEST:

2-10-2020
Date

Kyle Rennie
Kyle Rennie, County Clerk

