

RESOLUTION NO.

19-11

**TITLE: A RESOLUTION DECLARING THE TOWN OF HUDSON TO BE
A SECOND AMENDMENT PRESERVATION TOWN**

WHEREAS, § 31-15-401, C.R.S. provides that municipalities have the authority to adopt and enforce ordinances and resolutions regarding general police powers, including health, safety, and welfare issues;

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;

WHEREAS, the Supreme Court in the *District of Columbia v. Heller*, 554 U.S. 570 (2008), held that "[t]he Second Amendment...is the very product of an interest balancing by the people...(which) surely elevates above all other interests the rights of law-abiding, responsible citizens to use arms in defense of hearth and home;"

WHEREAS, the 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 "infringement by the States;"

WHEREAS, the Supreme Court, in *United States v. Miller*, 307 U.S. 174 (1939), opined that firearms that could "contribute to the common defense" are protected by the Second Amendment;

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;"

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;"

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;"

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;"

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;

WHEREAS, House Bill 19-1177 infringes upon the inalienable rights of the citizens of the Town of Hudson by allowing for family members and law enforcement to petition for the temporary removal of weapons *ex parte* and without notice to lawful gun owners, contemplating search warrants that order peace officers to forcibly enter premises and seize a citizen's property with no evidence of a crime and shifting the burden of proof to gun owners accused under this law to prove themselves not a danger by clear and convincing evidence after an order for removal;

WHEREAS, by allowing for confiscation of concealed handgun permits by court order, House Bill 19-1177, improperly inserts the judiciary into the purview of the elected Sheriff of Weld County in administering his or her concealed handgun permit program under existing Colorado law;

WHEREAS, House Bill 19-1177 is woefully off target in that it fails to address the heart of the mental health crisis in our community, to wit: the failure of communities to fund and provide services to the people in need, instead of penalizing them and criminalizing otherwise lawful conduct;

WHEREAS, the Town Council of the Town of Hudson recognizes that the government needs to be more, not less, judicious in how we use force in encounters with those suffering mental health issues;

WHEREAS, the best way to prevent gun violence is to address the growing mental health crisis, and not to limit the inalienable rights of law-abiding citizens; and

WHEREAS, the members of this Town Council 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 and by implication question the constitutionality of legislation that infringes upon constitutional rights.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF HUDSON, COLORADO, AS FOLLOWS:

Section 1. The Town Council hereby determines to stand and defend those rights and liberties, which are guaranteed by the United States and Colorado Constitutions, and hereby declares this Resolution to be a Second Amendment Preservation Resolution.

Section 2. The Town Council hereby pledges not to appropriate funds, resources, employees, or agencies to initiate unconstitutional seizures in the Town of Hudson.

Section 3. The Town Council further commits to actively resist House Bill 19-1177 in its current form, to protect the Second Amendment rights of all lawful gun owners in the state. We invite all like-minded municipalities to join us in this effort.

Section 4. The Town Council demands that the legislature cease and desist any further actions restricting the Second Amendment rights of citizens and instead address the real and fundamental challenges of mental illness in our communities.

INTRODUCED, READ and PASSED this 3 day of April, 2019.



TOWN OF HUDSON, COLORADO

Laura Hargis
Laura Hargis, Mayor

(SEAL)

ATTEST:

Charity Young
Charity Young, Town Clerk

