

SPARTANBURG COUNTY SECOND AMENDMENT SANCTUARY ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, SPARTANBURG COUNTY SOUTH CAROLINA, BY ADDING ARTICLE IV TO CHAPTER 46 TITLED SECOND AMENDMENT RIGHTS; AND OTHER MATTERS RELATED THERETO.

WHEREAS, the Second Amendment to the United States Constitution 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

WHEREAS, the Fourth Amendment to the United States Constitution states, “The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures and unreasonable invasions of privacy shall not be violated” and this amendment has been made applicable to the states through the due process clause of the Fourteenth Amendment to the Constitution of the United States by Mapp v. Ohio, 367 U.S. 643 (1961).

WHEREAS, the Ninth Amendment to the United States Constitution states “The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.”

WHEREAS, the Tenth Amendment to the United States Constitution states, “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”, and

WHEREAS, Article 1, Section 20, of the South Carolina Constitution 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”;

District of Columbia v. Heller, 554 U.S. 570 (2008) affirms the individual's right to possess firearms, unconnected with service in a militia, and to use that firearm for traditionally lawful purposes, such as self-defense within the home;

McDonald v. City of Chicago, 561 U.S. 742 (2010) affirms the right of an individual to “keep and bear arms”, as protected under the Second Amendment is a fundamental right, is incorporated by the Due Process Clause of the Fourteenth Amendment against the states; and

WHEREAS, Article 1, Section 1, of the South Carolina Constitution states, “All political power is vested in and derived from the people only, therefore, they have the right at all times to modify their form of government.”, and

WHEREAS, Article 1, Section 3, of the South Carolina Constitution states, “The privileges and immunities of citizens of this State and of the United States under this Constitution shall not be abridged, nor shall any person be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.”

WHEREAS, Article 1, Section 10, of the South Carolina Constitution states, “The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures and unreasonable invasions of privacy shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly

describing the place to be searched, the person or thing to be seized, and the information to be obtained.”

NOW, THEREFORE, be it ordained by Spartanburg County Council in meeting duly assembled that:

1. The Code of Ordinances, Spartanburg County, South Carolina is hereby amended by adding Article IV to Chapter 46, which article reads as follows:

Article IV. Second Amendment Rights (the right to keep and bear arms).

Sec. 46-78. Purpose and Intent.

It is the purpose and intent of this article to express the County’s strong support for the Second Amendment to the United States Constitution and Article I, Section 20 of the South Carolina Constitution, both of which uphold the right of the people to keep and bear arms.

Sec. 46-79. Sanctuary County.

Spartanburg County is hereby declared to be a Second Amendment Sanctuary County.

Sec. 46-80. Regulation of the Right to Keep and Bear Arms

(a) Any regulation of the right to keep and bear firearms, firearm accessories, and ammunition that violate the Second, Fourth, Ninth and Tenth Amendments to the Constitution of the United States and Article I, Section 20 of the South Carolina Constitution beyond such current provisions of federal and state law are violative of the concept of a second amendment sanctuary in Spartanburg County.

(b) Spartanburg County government funds and resources shall not be appropriated for the specific purpose of enforcing any law that infringes upon the right to keep and bear firearms, firearms accessories, and ammunition as described in section (a) herein.

(c) It shall be the duty of the Sheriff of Spartanburg County to determine whether any federal or state regulation of firearms, firearms accessories, and ammunition violates section (a) herein; provided, however, that nothing contained herein prevents the Spartanburg County Sheriff from enforcing any federal or state law found to be constitutional by a court of competent jurisdiction.

(d) The prohibitions contained herein do not prevent the assembly of persons for the purpose of training with, practicing with, or being instructed in the use of any lawful firearm; provided, however, that such activities do not violate any zoning or land use regulation.

Sec. 46-81. Enforcement.

(a) Anyone within the jurisdiction of Spartanburg County found to be in violation of this ordinance is guilty of a misdemeanor and subject to the penalties of Section 1-6 of the Spartanburg County Code.

(b) Enforcement of this ordinance is an alliance with the oath taken by public elected officials to uphold and defend the United States Constitution and the Constitution of South Carolina.

Sec. 46-82. Severability.

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 provisions of this ordinance.

2. The remaining terms and provisions of the Spartanburg County Code of Ordinances not revised or affected hereby remain in full force and effect.

3. Should any part or provision of this Ordinance be deemed unconstitutional or unenforceable by any court of competent jurisdiction, such determination shall not affect the remainder of this Ordinance, all of which is hereby deemed separable.

4. All Ordinances, Orders, Resolutions, and actions of Spartanburg County Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked, and rescinded.

5. This ordinance shall take effect and be in full force upon the Third Reading and Enactment by Spartanburg County Council.