

TITLE 2

COUNTY GOVERNMENT; ADMINISTRATION

CHAPTER 292

VOTER INITIATIVE LINN COUNTY SECOND AMENDMENT PRESERVATION ORDINANCE

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292.001 Title

This Chapter, LCC 292.001 to 292.999, shall be known and may be cited as the "Voter Initiative Linn County Second Amendment Preservation Ordinance" or simply as the "Second Amendment Preservation Ordinance," adopted by voter initiative petition.

[Title added to Codification Pursuant to LCC Chapter 120]

292.100 Ordaining Clause

THE PEOPLE OF LINN COUNTY DO ORDAIN that the following ordinance shall be known and may be cited as the Second Amendment Preservation Ordinance.

[Adopted Measure 22-174 §1 10/6/2018]

292.200 Purpose; Declaration; Resolution

This Second Amendment Preservation Ordinance:

(A) Preserves the right of the People of, on and in Linn County to:

(1) Keep and bear arms as originally understood; in self-defense and preservation, and in defense of one's community and country.

(2) Freely manufacture, transfer, sell and buy firearms, firearm accessories and ammunition, which are designed primarily for the same purposes.

(B) These rights are retained by the People and protected by the Constitution of these United States, and the Constitution of the State of Oregon as follows:

(1) Whereas 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."

(2) Whereas The Ninth Amendment to the Constitution of the United States of America states: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people," - protects ancillary rights that are closely related to the right to keep and bear arms protected by the Second Amendment; including the right to manufacture, transfer, buy and sell firearms, firearm accessories and ammunition. Hereinafter these shall be referred to as "ancillary firearm rights."

(3) Whereas the Tenth Amendment to the Constitution of the United States of America 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."

(4) Whereas Article 1, section 27 of the Constitution of the State of Oregon states: "The people shall have the right to bear arms for the defense of themselves, and the State, but the

Military shall be kept in strict subordination to the civil power."

(5) Whereas Article 1, section 33 of the Constitution of the State of Oregon states: "This enumeration of rights and privileges shall not be construed to impair or deny others retained by the people." This section protects ancillary firearms rights that are closely related to the right to keep and bear arms protected by Article 1, section 27 of the Constitution of the State of Oregon.

(C) Therefore, any regulation of the right to keep and bear arms or ancillary firearms rights that violate the Second, Ninth, or Tenth Amendments to the Constitution of the United States of America, or Article 1, sections 27 and 33 of the Constitution of the State of Oregon, as articulated herein, shall be regarded by the People on and in Linn County as unconstitutional; a transgression of the Supreme Law of the Land and its spirit of Liberty, and therefore by necessity void ab initio.

(D) It shall be the duty of the Sheriff of Linn County to determine as a matter of internal policy and county concern per ORS 203.035, whether any federal, state or local regulation affecting firearms, firearms accessories and ammunition, that is enforceable within his/her jurisdiction, violates the Second, Ninth, or Tenth Amendments to the Constitution of these United States, or Article 1, sections 27 and 33 of the Constitution of the State of Oregon, as articulated herein.

(E) The People on and in Linn County do resolve by this instrument that the Linn County Government shall not authorize or appropriate governmental funds, resources, employees, agencies, contractors, buildings, detention centers or offices for the purpose of enforcing any element of such acts, laws, orders, mandates, rules or regulations, that the Sheriff of Linn County has determined violates the United States Constitution or the Oregon Constitution pursuant to Subsection (D) of this Section.

[Adopted Measure 22-174 §2 10/6/2018]

292.300 Severability Clause

If any provision of this ordinance or the application of any such provision to any person or

circumstance should be held invalid by a Court of competent jurisdiction, the remainder of this ordinance or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

[Adopted Measure 22-174 §4 10/6/2018]

292.400 Effective Date

This The Second Amendment Preservation Ordinance shall be effective immediately upon certification of approval by the voters of Linn County.

[Adopted Measure 22-174 §5 10/6/2018]

292.900 Penalties

(A) Anyone within the jurisdiction of Linn County, Oregon found in violation of this Chapter may be made a defendant in a civil proceedings by the county seeking redress of the violation, per ORS 203.065.

(B) Fines recovered under ORS 203.030 - 203.075 shall be paid to the clerk of the court in which recovery is had. After first deducting court costs in the proceedings, the clerk shall pay the remainder to the treasurer of the county for the general fund of the county, per ORS 203.065.

(C) A civil offense against this ordinance is a Class A violation, per ORS 203.065, with a maximum fine of \$2,000 for an individual, and \$4,000 for a corporation, per ORS 153.018.

(D) Any peace officer, as defined by ORS 161.015, may enforce this ordinance, adopted under ORS 203.035.

(E) Under county authority per ORS 203.035, enforcement of this ordinance is in alliance with the oath to uphold and defend the Constitution of these United States, and the Constitution of the State of Oregon, which the elected officials and officers of Linn County are being held to by the People of this county. It is primary in their scope of duties, and may indemnify them against certain liability per ORS 30.285.

[Adopted Measure 22-174 §3 10/6/2018]

Statutory References and Other Authorities:
Oregon Constitution Article IV Section 1; ORS
166.170; ORS 203.035; ORS 250.155 to 250.235

Legislative History of Chapter 292:
Adopted Measure 22-174 by Voter Initiative
Petition at November 6, 2018 General Election, by
a vote of 26,394 (51.28%) Yes to 25,078
(48.72%) No. Codified April 11, 2019
Amendments to Measure 22-174:
#1 none
