

ORDINANCE NO. 2022-3

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BOULDER COUNTY REQUIRING A WAITING PERIOD PRIOR TO THE SALE OF FIREARMS

RECITALS

A. Laws imposing a waiting period prior to the sale of a firearm give law enforcement officials adequate time to perform a thorough background check on the prospective purchaser and provide a “cooling off” period to help guard against impulsive acts of violence and prevent firearm suicides.

B. In Boulder County, an average of 26 people per year use a firearm to end their own lives. These suicides are not inevitable. Suicide attempts can be impulsive, singular episodes that involve little planning.

C. A firearm waiting period law helps prevent suicide by creating a buffer between the time of gun purchase and gun acquisition, giving someone in crisis the chance to let the feeling pass or seek help instead of picking up a firearm.

D. While some suicidal people who are unable to access a gun may try to kill themselves by other means, the most common alternative methods of suicide are far less lethal, so more survivable, than suicide by firearm. Studies have shown that a much higher percentage of suicide attempts involving firearms end in death compared to suicide attempts involving other methods, and the vast majority of people who survive a suicide attempt recover from their mental health crisis and do not go on to die by suicide. But because firearms are so lethal, many of those who pick up a gun do not get the chance to survive and recover.

E. Waiting period laws are associated with reduced rates of firearm suicide. According to one study, states with laws requiring waiting periods for the completion of handgun sales had a lower overall suicide rate, a lower firearms suicide rate, and a lower proportion of suicide deaths resulting from firearms. *See* Michael D. Anestis and Joye C. Anestis, “Suicide Rates and State Laws Regulating Access and Exposure to Handguns,” *American Journal of Public Health* 105, no. 10 (2015): 2049–2058.

F. Waiting period laws also help reduce gun homicides by providing a cooling-off period that can interrupt some of the factors that incite violence against others, including family violence and intimate partner violence. One study found that waiting periods that delay firearm purchases by a few days can reduce gun homicides by 17%. *See* Michael Luca, Deepak Malhotra, and Christopher Poliquin, “Handgun Waiting Periods Reduce Gun Deaths,” *Proceedings of the National Academy of Sciences* 114, no. 46 (2017): 12162–12165.

G. Waiting periods are consistent with the Second Amendment and fit squarely within the American tradition and history of ensuring responsible gun ownership through reasonable firearm regulations. The U.S. Court of Appeals for the Ninth Circuit upheld California’s 10-day waiting period law against a constitutional challenge in *Silvester v. Harris*, 843 F.3d 816, 819, 828 (9th Cir. 2016), pointing out that there is “nothing new in having to wait for the delivery of a weapon. Before the age of superstores and superhighways, most folks could not expect to take possession of a firearm immediately upon deciding to purchase one. As a purely practical matter, delivery took time.” *Id.* at 828.

H. It is the purpose and intent of the Boulder County Board of County Commissioners (“Board”) in enacting this Ordinance to impose a waiting period prior to sale of a firearm in Boulder County. The Board believes that a waiting period is needed to help improve public safety and reduce the risk of suicide and impulsive acts of violence. The intent and effect of the waiting period is to create a cooling-off period that reduces opportunities for impulsive acts of violence and self-harm.

I. Pursuant to Section 30-11-101(2) of the Colorado Revised Statutes, a county has the authority to adopt and enforce ordinances regarding issues of health, safety, and welfare.

J. Pursuant to Section 29-11.7-103 of the Colorado Revised Statutes, a county has the authority to adopt and enforce ordinances regulating the sale, purchase, transfer and possession of firearms.

SECTION 1. DEFINITIONS

As used in this Ordinance:

- (a) “Firearm” has the same meaning as set forth in 18 U.S.C. § 921 (a)(3), as amended.
- (b) “Licensed firearms dealer” means any person who is a licensed importer, licensed manufacturer, or dealer licensed pursuant to 18 U.S.C. § 923, as amended, as a federally licensed firearms dealer and has obtained all necessary state and local licenses to sell firearms in the state.
- (c) “Person” means any individual, corporation, company, association, firm, partnership, club, organization, society, joint stock company or other entity.
- (d) “Law enforcement officer” means any person employed by the United States, or a state, county, city, municipality, village, township, or other political subdivision as a deputy sheriff, police officer, peace officer, or in some like position involving the enforcement of the law and protection of the public interest.

SECTION 2. WAITING PERIOD PRIOR TO FIREARM PURCHASE

No licensed firearms dealer shall deliver a firearm, and no person shall take possession of a firearm from a licensed dealer, until both of the following have occurred:

- (a) Ten (10) days have elapsed from the date the dealer initiated the Colorado Bureau of Investigation check of the purchaser pursuant to C.R.S. § 24-33.5-424; and
- (b) The dealer has received approval for the firearms transfer as required by C.R.S § 18-12-112.5.

SECTION 3. EXCEPTIONS

Section 2 of this Ordinance does not apply to:

- (a) Any law enforcement or corrections agency, or law enforcement or corrections officer acting within the course and scope of his or her employment or official duties;
- (b) A United States Marshal or member of the Armed Forces of the United States or the National Guard, or a federal official transferring firearms as required in the operation of his, her, or their official duties;
- (c) Licensed firearms manufacturers, importers or dealers, while engaged in the course and scope of their activities as licensees, provided that the transfers are between licensees and all such licensees are properly licensed under federal, state and local law;
- (d) A gunsmith who receives a firearm for service or repair;
- (e) A properly licensed private security firm, or private security personnel, who acquires the firearms for use in the course and scope of employment; or
- (f) A common carrier, warehouseman, or other person engaged in the business of transporting or storing goods, to the extent that the possession or receipt of any firearm, or having on or about the person of any firearm, is in the ordinary course of business and not for the personal use of any such person.

SECTION 4. VIOLATIONS AND PENALTIES

A violation of the provisions of this Ordinance by a person who knew or reasonably should have known that his or her conduct was prohibited commits a misdemeanor and upon conviction shall be punished by a fine not to exceed \$1,000, a sentence of no more than 364 days in the county jail, or both a fine and imprisonment. Individuals who commit multiple violations of this Ordinance may be subject to any other penalties permitted by law.

SECTION 5. SEVERABILITY

If any section, clause, sentence, or part of this ordinance is adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not affect, impair, or invalidate the other provisions of this ordinance which can be given effect without such invalid provision.

SECTION 6. SAFETY CLAUSE

This ordinance shall take effect immediately upon its adoption. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the county due in part to the need to control the activity subject to this ordinance as soon as possible.

[SIGNATURE ON FOLLOWING PAGE]

ADOPTED ON SECOND AND FINAL READING on _____, 2022.

THE BOARD OF COMMISSIONERS
OF THE COUNTY OF BOULDER,
COLORADO

Marta Loachamin, Chair

ATTEST:

Clerk to the Board