



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: June 7, 2022

AGENDA TITLE

Consideration of the following proposed ordinances related to firearm restrictions in the City of Boulder:

Second reading and consideration of a motion to adopt Ordinance 8494 amending Chapter 5, "General Offenses," B.R.C. 1981, repealing Ordinances 8245 and 8259, banning the sale and possession of assault weapons, large-capacity magazines and rapid-fire trigger activators, raising the age to purchase firearms, amending Section 5-2-26, "Matters of Local and Mixed Concern," B.R.C. 1981, and adding a new Section 5-8-42, "Severability," B.R.C. 1981; and setting forth related details;

AND/OR

Second reading and consideration of a motion to adopt Ordinance 8525 repealing and reenacting Section 5-8-15, "Deadly Weapons in City Buildings Prohibited," B.R.C. 1981, to prohibit the carrying of firearms in certain public places; and setting forth related details;

AND/OR

Second reading and consideration of a motion to adopt Ordinance 8526 amending Chapter 5-8, "Weapons," B.R.C. 1981, by adding new definitions, and a new Section 5-8-39, "Prohibitions," B.R.C. 1981, to regulate the possession of unfinished frames and receivers, and unserialized firearms; and setting forth related details;

AND/OR

Second reading and consideration of a motion to adopt Ordinance 8527 repealing and reenacting Section 5-8-21, "Open Carriage of Firearms in Carrying Cases Required," B.R.C. 1981, to prohibit the open carrying of firearms in public places; and setting forth related details;

AND/OR

Second reading and consideration of a motion to adopt Ordinance 8528 amending Chapter 5-8, "Weapons," B.R.C. 1981, by adding new definitions, and a new Section 5-8-40, "Disclosure," B.R.C. 1981, requiring all firearm dealers to post signs at all locations where firearms transfers take place; and setting forth related details;

AND/OR

Second reading and consideration of a motion to adopt Ordinance 8529 amending Chapter 5-8, "Weapons," B.R.C. 1981, by adding a new definition, and a new Section 5-8-41, "Waiting Period Prior to Firearm Purchase," B.R.C. 1981, requiring a waiting period prior to the sale of firearms; and setting forth related details.

PRESENTERS

Nuria Rivera-Vandermyde, City Manager
Teresa Tate, City Attorney
Luis Toro, Sr. Attorney

EXECUTIVE SUMMARY

The purpose of this agenda item is to repeal ordinances governing assault weapons and large-capacity magazines that have been ruled to impermissibly conflict with state law, and to enact new firearms regulations that comport with § 29-11.7-103, C.R.S. It is also to ban trigger activators, to confirm that the legal age to possess firearms in Boulder is 21, to restrict the possession of firearms that lack serial numbers ("ghost guns"), to regulate the open carry of firearms in sensitive places, to require certain signage at firearms dealers, to impose a waiting period on the purchase of firearms, and to include a new severability clause applicable to all city gun ordinances.

STAFF RECOMMENDATION

Suggested Motion Language:

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to adopt Ordinance 8494 amending Chapter 5, "General Offenses," B.R.C. 1981, repealing Ordinances 8245 and 8259, banning the sale and possession of assault weapons, large-capacity magazines and rapid-fire trigger activators, raising the age to purchase firearms, amending Section 5-2-26, "Matters of Local and Mixed Concern," B.R.C. 1981, and adding a new Section 5-8-42, "Severability," B.R.C. 1981; and setting forth related details;

AND/OR

Motion to adopt Ordinance 8525 repealing and reenacting Section 5-8-15, "Deadly Weapons in City Buildings Prohibited," B.R.C. 1981, to prohibit the carrying of firearms in certain public places; and setting forth related details;

AND/OR

Motion to adopt Ordinance 8526 amending Chapter 5-8, "Weapons," B.R.C. 1981, by adding new definitions, and a new Section 5-8-39, "Prohibitions," B.R.C. 1981, to regulate the possession of unfinished frames and receivers, and unserialized firearms; and setting forth related details;

AND/OR

Motion to adopt Ordinance 8527 repealing and reenacting Section 5-8-21, "Open Carriage of Firearms in Carrying Cases Required," B.R.C. 1981, to prohibit the open carrying of firearms in public places; and setting forth related details;

AND/OR

Motion to adopt Ordinance 8528 amending Chapter 5-8, "Weapons," B.R.C. 1981, by adding new definitions, and a new Section 5-8-40, "Disclosure," B.R.C. 1981, requiring all firearm dealers to post signs at all locations where firearms transfers take place; and setting forth related details;

AND/OR

Motion to adopt Ordinance 8529 amending Chapter 5-8, "Weapons," B.R.C. 1981, by adding a new definition, and a new Section 5-8-41, "Waiting Period Prior to Firearm Purchase," B.R.C. 1981, requiring a waiting period prior to the sale of firearms; and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – There are two businesses in Boulder that sell the products that council is considering for a ban. Tax revenue from these businesses will likely decrease, although the true cost of gun violence may exceed the economic impact of gun sales and manufacturing.
- Environmental – None identified.
- Social – Public safety is among the city’s highest priorities. Any reduction or prevention of gun violence will have a positive social impact.

OTHER IMPACTS

- Fiscal – All work for drafting will be performed within existing department budgets. The final ordinances may require additional funding to implement.
- Staff time – Enforcement of these new ordinances will require police staff time.

BOARD AND COMMISSION FEEDBACK

None.

PUBLIC FEEDBACK

None at this time.

ANALYSIS

In response to the tragedy at Marjorie Stoneman Douglas High School in Parkland, Florida on February 14, 2018, City Council passed two ordinances that, among other things, banned possession of most assault weapons within city limits, banned magazines capable of holding more than 10 rounds of ammunition, and raised the legal age to possess firearms from 18 to 21. Litigation ensued, and on March 12, 2021, the Boulder County District Court ruled that the city’s assault weapons ban and large-capacity magazine restrictions were void as preempted by state law.

On March 22, 2021, a shooter armed with a semi-automatic Ruger AR-556 pistol killed 10 people at the King Soopers on Table Mesa Drive in Boulder. In response to the district court ruling and the shooting, the state legislature repealed the state’s preemption statute. State law now expressly allows municipalities to enact firearms regulations stricter than those found in state statutes. The purpose of the proposed ordinances is to enact new regulations in compliance with the state statute and to expand Boulder’s efforts to prevent gun violence.

Assault weapons are semi-automatic firearms designed with military features to allow rapid spray firing for the quick and efficient killing of humans. An automatic weapon is one that fires multiple rounds with a single pull of the trigger. A semi-automatic weapon fires only one round per trigger pull, but automatically loads a round after each shot.

Assault weapons are civilian versions of military weapons. For example, the difference between a AR-15 and its military counterpart the M-16, is that the M-16 is an automatic weapon while the AR-15 is a semi-automatic weapon. The AR-15 requires the shooter to pull the trigger for each round that is fired. Fully automatic weapons are banned by federal law.

The automatic firing mechanism does not present a significant increase in the lethality of the M-16 when compared to the AR-15. The military trains its personnel to use repeated single shots, which are more accurate. Military training is for personnel to shoot 12 to 15 rounds per minute or one round every four to five seconds.

Assault weapons are deadly because they allow a shooter to fire a high number of rounds quickly, under control. The features that create this lethality are the ability to accept magazines holding as many as 100 rounds. These magazines are designed to be replaced quickly, which increases the number of rounds that can be fired. In addition, assault weapons are designed to maintain stability while firing. A rifle fired from the shoulder recoils and must be brought down and onto a target before another round can be fired. Assault weapons have features such as pistol grips or thumb-hole grips, a forward grip or a barrel shroud, which allow for greater control of the weapon allowing it to be kept pointed at a target while being fired. The pistol grip or thumb-hole grip allows for greater control with the trigger hand. The forward grip or barrel shroud, which is a fitting on the barrel that protects the shooter's hand from the heated barrel allowing the shooter to grip the barrel, both allow for better control with the non-trigger hand. The combination of high-capacity magazines and better control can make semi-automatic assault weapons as lethal as the military counterparts.

Large capacity ammunition magazines are feeding devices that may hold as many as 100 rounds of ammunition. In 2013, the State of Colorado banned magazines capable of holding 15 or more rounds of ammunition. The city's 2018 ordinance banning magazines capable of holding 10 or more rounds was declared preempted by state law by the Boulder County District Court in March 2021. That law has since been repealed and replaced with the new § 29-11.7-103, C.R.S., which authorizes municipalities to enact and enforce firearms laws stricter than state law.

Multi-burst trigger activators increase a weapon's rate of fire. One such device, a bump stock, replaces a rifle's standard stock, which is the part of the rifle held against the shoulder. It allows the weapon to slide back and forth, harnessing the energy from the recoil. The rifle's recoil tube slides inside the bump stock rearward as recoil is induced by cartridge detonation. As the rifle slides forward in recovery from recoil the trigger contacts the trigger finger. On March 26, 2019, a regulation of the Bureau of Alcohol, Tobacco, Firearms and Explosives clarified that bump stock-type devices are banned under the federal law that bans civilian possession of fully automatic machine guns.

Federal law requires that all firearms manufactured after October 22, 1968 bear a serial number. In recent years, the practice of assembling firearms without serial numbers from parts or using 3-D printer technology has become widespread. These firearms without serial numbers are colloquially referred to as "ghost guns." In addition to being

untraceable, ghost guns can be assembled by persons who cannot legally obtain a firearm. On April 11, 2022, the Department of Justice announced that it is enacting a regulatory change to require serial numbers on parts in gun assembly kits and on 3-D printed firearms.

The six proposed ordinances address assault weapons, large capacity magazines, trigger activators, and ghost guns, and otherwise regulate the purchase and sale of firearms in Boulder in ways calculated to reduce threats to residents in public places and the risk of impulsive suicide or crime posed by easy-to-obtain firearms.

Ordinance 8494 repeals the two ordinances that the Boulder District Court found to be partially preempted and enacts new restrictions that comport with the new state preemption law that allows municipalities to enact firearms regulations stricter than state law under certain circumstances. The primary change enacted to comport with state law is the removal of language providing that lack of knowledge of the illegal characteristics of a firearm is not a defense. The new preemption statute provides that “A local ordinance, regulation, or other law governing the sale, purchase, transfer, or possession of a firearm, ammunition, or firearm component or accessory may only impose a criminal penalty for a violation upon a person who knew or reasonably should have known that the person’s conduct was prohibited.” C.R.S. § 29-11.7-103(1).

This ordinance also reinstates the definition of “minor” for purposes of firearms regulation as a person under 21 years of age. This provision was included in the 2018 ordinances and was not struck down by the court.

Finally, Ordinance 8494 includes a severability clause applicable to the entire Chapter. The purpose of the severability clause is to ensure that as much of these ordinances as possible will remain intact in the event that a court were to declare any portion of them to be unlawful.

Ordinance 8525 repeals and reenacts Section 5-8-15, “Deadly Weapons In City Buildings Prohibited,” B.R.C. 1981. It identifies a number of sensitive places (*see Heller v. Dist. of Columbia*, 554 U.S. 570, 626 (2008)) where the carrying of firearms is generally prohibited. These include city facilities, polling locations, places where public demonstrations are occurring, and places licensed to serve alcohol. Ordinance 8525 would also ban possession of firearms without express permission from the owner in hospitals, facilities providing mental health or substance abuse services, places of worship, sporting venues, courthouses, financial institutions, day care centers and preschools, and grocery stores.

Ordinance 8526 bans so-called “ghost guns,” which are firearms that lack federally required serial numbers because they have been assembled from kits or manufactured through the use of 3-D printing technology.

Ordinance 8527 restricts the open carrying of firearms in public places. It requires persons carrying firearms in public to keep them unloaded and locked in a carrying case that is recognizable as a gun carrying case by a reasonable person. It excepts firearms for

use in target shooting, the carrying of firearms in private means of transportation, and carrying firearms on one's own property, business, or home or on other property with permission from the property owner.

Ordinances 8528 and 8529 are meant to address the problem of impulsive crimes or suicides made possible by easy access to firearms. Ordinance 8528 requires gun dealers to post signage in English and Spanish regarding the dangers of firearms possession. Ordinance 8259 requires a 10-day waiting period after a vendor initiates a background check before a purchaser can take delivery of a firearm.

NEXT STEPS

Second reading and public hearing is scheduled for June 7, 2022.

ATTACHMENTS

- A - Proposed Ordinance 8494
- B - Proposed Ordinance 8525
- C - Proposed Ordinance 8526
- D - Proposed Ordinance 8527
- E - Proposed Ordinance 8528
- F - Proposed Ordinance 8529

ORDINANCE 8494

AN ORDINANCE AMENDING CHAPTER 5, "GENERAL OFFENSES," B.R.C. 1981, REPEALING ORDINANCES 8245 AND 8259, BANNING THE SALE AND POSSESSION OF ASSAULT WEAPONS, LARGE-CAPACITY MAGAZINES AND RAPID-FIRE TRIGGER ACTIVATORS, RAISING THE AGE TO PURCHASE FIREARMS, AMENDING SECTION 5-2-26, "MATTERS OF LOCAL AND MIXED CONCERN," B.R.C. 1981, AND ADDING A NEW SECTION 5-8-42, "SEVERABILITY," B.R.C. 1981; AND SETTING FORTH RELATED DETAILS.

THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, FINDS AND RECITES THE FOLLOWING:

A. Gun violence poses a grave public safety threat in Boulder. Statewide in Colorado, guns are the leading cause of death for children ages one through 17 and cause the deaths of nearly two-thirds of women who are killed by intimate partners.

B. Colorado has the 18th highest gun death rate among the 50 states and saw elevated levels of mass shootings in 2020 and early 2021, when a mass shooter killed 10 people at King Soopers in Boulder using an assault weapon and large-capacity magazines.

C. Assault weapons are semiautomatic firearms with large ammunition capacities and specific features that are useful in military and criminal applications yet are unnecessary in shooting sports or self-defense. These weapons include semiautomatic assault rifles that have the ability to accept large-capacity magazines holding up to 100 rounds, and with features that enhance concealability, control, and the ability to fire many dozens of rounds without pause. They also include assault pistols and high capacity "combat" shotguns.

D. Boulder has a higher population density than more rural parts of the state, and is characterized by the presence of traffic and commuters, business districts, the University of

1 Colorado and Naropa University, and entertainment and nightlife venues. These areas have a
2 greater number of potential targets for large-scale school and workplace violence, mass shootings,
3 and interpersonal gun violence, and, therefore, these demographic attributes create a special need
4 to restrict weapons that facilitate mass shootings, including assault weapons, trigger activators,
5 and large-capacity magazines.

6 E. Assault weapons are semiautomatic versions of firearms. Although these
7 semiautomatic versions of military firearms are marketed to civilians, they are military-grade
8 weapons; the U.S. military calls semiautomatic rifle fire the “most important firing technique
9 during fast-moving, modern combat” and “most accurate technique of placing a large volume of
10 fire.” These rifles fire bullets with a velocity three times greater than 9mm handguns, leaving
11 “softball-sized exit wounds” much more likely to kill than to incapacitate victims.

12 F. Perpetrators of the five deadliest shootings in modern U.S. history—Las Vegas,
13 Orlando, Sandy Hook, Sutherland Springs, and El Paso—used assault rifles with military-style
14 features. Colorado’s deadliest mass shooters have also used assault rifles or pistols, including the
15 Aurora movie theater shooter, who used an assault rifle and a 100-round drum magazine; and the
16 King Soopers shooter, who used an AR-style pistol that an ATF expert described as “made for the
17 military and designed for short-range combat.”

18 G. Researchers have found that firearm purchasers with criminal histories are more
19 likely to buy assault weapons, and that probability was even higher if purchasers have more serious
20 criminal histories. These weapons are regularly used in violent crime beyond mass shootings,
21 including violence against police officers.

22 H. Assault weapons are inappropriate for civilian use due to the unique features that
23 allow shooters to rapidly fire a large number of rounds—more than is ever needed for lawful self-
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1 defense—while maintaining control of the firearm in order to accurately target and kill more
2 victims. Specific features that allow an assault weapon to perform this way are:

3 Detachable magazine: Firearms that can accept detachable magazines allow a shooter to
4 attach magazines of any size available for the firearm and quickly reload the weapon with pre-
5 filled magazines. In some cases, magazines can hold as many as 100 rounds.

6 Pistol grip: To counteract the movement that occurs during rapid fire, assault weapons are
7 typically equipped with features that allow the shooter to steady the weapon. A pistol grip, not
8 typically found on a sporting rifle or shotgun (which would be fired from the shoulder), allows the
9 shooter to control the firearm more accurately—and lethally—by maneuvering the weapon or
10 shooting from the hip during rapid fire;

11 Thumbhole stock: As with a pistol grip, a thumbhole stock allows the shooter to control the
12 firearm during rapid fire;

13 Folding or telescoping stock: A folding or telescoping stock folds or collapses to make the
14 weapon easier to conceal and transport;

15 Flash Suppressor: A flash suppressor enables a shooter to mask their location by reducing
16 the visible signature of the firearm when it fires; and

17 Barrel shroud: As with a pistol grip and thumbhole stock, a barrel shroud allows the shooter
18 to steady the firearm during rapid fire. The shroud encircles the barrel of the firearm and allows
19 the shooter to hold it without getting burned.
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21 I. In addition to military-style assault rifles, gun manufacturers have also begun
22 marketing AK-style and AR-style pistols with the same features that enable a shooter to continue
23 shooting the weapon numerous times without losing control over it. These pistols are also
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1 designed to fire rifle rounds capable of penetrating body armor, but which are concealable like
2 handguns.

3 J. AK-style and AR-style pistols pose a similar if not identical threat to public safety
4 as do short-barreled rifles, because of the short length and ability to fire rifle rounds that can
5 penetrate ballistic resistant vests worn by patrol officers. Because the lethality is on par with highly
6 restricted short-barreled rifles, yet have almost entirely evaded regulation, armor-piercing,
7 concealable firearms have been used in murders across the country, including at the 2021 King
8 Soopers shooting and at the 2019 mass shooting in Dayton, Ohio.

9 K. High capacity “tactical” or “combat” shotguns are assault weapons modeled after
10 firearms originally used for riot control by foreign law enforcement. After the Armsel Striker,
11 popular in South Africa and marketed in the U.S. as the Street Sweeper, was designated a
12 “destructive device” under the National Firearms Act, gunmakers designed workaround weapons
13 as powerful as the Street Sweeper that inflict catastrophic injuries by rapidly firing a dozen or more
14 shotgun slugs.
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16 L. At the 2017 Mandalay Bay shooting in Las Vegas, Nevada, the shooter modified
17 semiautomatic assault rifles with bump stocks so they could fire at speeds approaching fully
18 automatic machine guns. Bump stocks, as well as binary triggers, burst triggers, rotating trigger
19 cranks, and other after-market rapid-fire trigger activators enable firing many rounds per second.

20 M. Several years after the Las Vegas shooting drew attention to the dangers of bump
21 stocks that give shooters automatic firepower, the ATF adopted a federal rule effectively banning
22 their possession. However, state and local action is needed to restrict other rapid-fire trigger
23 activators.
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1 N. Large-capacity magazines are ammunition feeding devices that hold more than 10
2 rounds and may hold as many as 100 rounds of ammunition. Mass shootings that involve large-
3 capacity magazines result in nearly five times as many people shot compared to mass shootings
4 that do not involve high capacity magazines. These magazines increase the number of victims
5 injured and killed by enabling shooters to fire more rounds before reloading—a critical moment
6 when many criminal shooters are stopped before they can further increase their death tolls.

7 O. Large-capacity magazines also make gun violence far more lethal in situations other
8 than mass shootings, including interpersonal gun violence and shootings by organized crime or
9 street groups. Firearms equipped with large-capacity magazines account for 22% to 36% of crime
10 guns in most places, and research shows upwards of 40% of crime guns used in serious violent
11 crimes, including murders of police officers, are equipped with large capacity magazines.

12 P. City Council is unaware of any reported incidents where someone engaged in self-
13 defense fired more than 10 rounds of a large capacity magazine to fend off an attack. Despite
14 analyzing several decades of evidence about defensive shootings, gun-rights groups raising legal
15 challenges to magazine restrictions in other jurisdictions have been unable to identify a single
16 incident anywhere in the nation in which someone needed to fire more than ten rounds at once in
17 lawful self-defense. Conversely, numerous high-profile mass shootings nationally and within
18 Colorado have been carried out with LCMs, including the King Soopers shooting and the Aurora
19 movie theater shooting.
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21 Q. In 1994, a federal ban on the manufacture, transfer, and possession of assault
22 weapons and the transfer and possession of large capacity magazines was enacted. The law
23 included a ten-year sunset provision. In 2004, Congress allowed the law to expire.
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1 R. Studies show that the federal assault weapon ban resulted in a marked decrease in
2 the use of assault weapons and large capacity magazines in crime during its effective period. One
3 study found that in several major cities, the share of recovered crime guns that were assault
4 weapons declined by 32% to 40% after the federal ban was adopted. Another study in Virginia
5 found a clear decline in the percentage of crime guns that were equipped with large capacity
6 magazines after the federal ban was enacted. The percentage of guns seized by Virginia police
7 reached a low of 10% in 2004 and then steadily climbed after Congress allowed the ban to expire;
8 by 2010, the percentage was close to 22%.

9 S. The federal law restricting assault weapon and large capacity magazines also had a
10 significant protective effect in lowering mass shooting fatalities. During the 10-year period the
11 law was in effect, mass shooting fatalities were 70% less likely to occur compared to when the ban
12 wasn't in effect. In addition, the number of high-fatality mass shootings fell by 37%, and the
13 number of people dying in such shootings fell by 43%. After the ban lapsed, there was a 183%
14 increase in high-fatality mass shootings and a 239% increase in deaths from such shootings.

15 T. State-level prohibitions on large capacity magazines have been shown to reduce the
16 frequency and lethality of the deadliest mass shootings—strong evidence that regional and local
17 legislation can be effective even absent a federal ban. A peer-reviewed study published in the
18 American Journal of Public Health found that “states without an LCM ban experienced
19 significantly more high-fatality mass shootings and a higher death rate from such incidents,”
20 seeing more than double the number of such shootings and three times the number of deaths from
21 high-fatality mass shootings, as compared to states that ban large capacity magazines.

22 U. Survey data and gun-industry supplied statistics suggest that, at most, only a small
23 fraction of U.S. gun owners possess semiautomatic assault rifles and private ownership of these
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1 weapons is concentrated in the hands of super-owners who have 10 or more firearms. Similar
2 claims about the ubiquity of large capacity magazines is contradicted by the fact that most
3 magazines for handguns—the “quintessential self-defense weapon,” *see District of Columbia v.*
4 *Heller*, 554 U.S. 570, 629 (2008)—hold 10 rounds or fewer.

5 V. Because assault weapons, trigger activators, and large capacity magazines are
6 designed for and have repeatedly been used to inflict mass casualties and enable other violent
7 crimes, and the fact that these weapons and accessories are ill-suited to and unnecessary for
8 responsible self-defense, and are not chosen or used by most law-abiding gun owners for this
9 purpose, City Council finds that it is in the best interests of the health, safety, and welfare of
10 Boulder residents to prohibit the possession, sale, manufacture, and transfer of assault weapons,
11 rapid-fire trigger activators, and large capacity magazines.

12 W. Individuals 18 to 20 commit gun homicides at rates four times higher than those 21
13 and older. Research shows that there are fundamental developmental differences between the
14 minds of adults and teenagers and that regions of the mind governing behavior do not fully mature
15 until the twenties.

16 X. Evidence shows that the firearm suicide rate among young men increases 26.9%
17 between the ages of 20 and 21.

18 Y. This ordinance recognizes the enactment of Senate Bill 21-256 and is intended to
19 be consistent with that law.

20 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER,
21 COLORADO:

22 Section 1. Ordinances 8245 and 8259 are hereby repealed. The provisions of this ordinance
23 shall apply prospectively only.
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1 Section 2. Section 5-1-1, “Definitions,” B.R.C. 1981, is reenacted to read as follows:

2 **5-1-1. – Definitions.**

3 The following terms used in this title have the following meanings unless the context clearly
4 indicates otherwise:

5 *Act* means a bodily movement and includes words and possession of property.

6 *Affirmative defense* means a defense in which the defendant, to raise the issue, presents some
7 credible evidence on that issue, unless the City's evidence raises the issue involving the alleged
8 defense. If the issue involved in an affirmative defense is raised, then the guilt of the defendant
9 must be established beyond a reasonable doubt as to that issue as well as all other elements of the
10 violation.

11 *Age* shall mean the chronological age of a person.

12 *Antipersonnel device* means any assemblage of material that is designed to, or does, kill,
13 injure or trap people when activated.

14 *Approach* means to move closer with any part of the body or any extension thereof.

15 *Blackjack* means any billy club, sand club, sandbag or other hand-operated striking weapon
16 consisting, at the striking end, of an encased piece of lead or other heavy substance and, at the
17 opposite end, a strap or springy shaft that increases the force of impact.

18 *Bias motivated crime* shall mean the commission of any of the underlying offenses specified
19 below if the offense is committed by reason of the actual or perceived race, color, religion,
20 religious expression, national origin, age, disability, sex, sexual orientation, gender, gender
21 identity or gender expression of another individual or group of individuals, regardless of the
22 existence of any other motivating factor or factors. The underlying offenses are Sections 5-3-1,
23 “Assault in the Third Degree,” 5-3-2, “Brawling,” 5-3-3, “Physical Harassment,” 5-3-4,
24 “Threatening Bodily Injury,” 5-3-6, “Use of Fighting Words,” 5-3-9, “Brandishing a Weapon,” 5-
25 4-1, “Damaging Property of Another,” 5-4-14, “Graffiti Prohibited,” 5-4-15, “Posting Signs on
Property of Another Prohibited,” 5-8-6, “Aiming Weapon at Another,” or 5-8-7, “Flourishing
Deadly Weapon in Alarming Manner,” B.R.C. 1981. No “bias motivated crime” finding shall
occur unless the allegation of bias motivation has been specifically charged and sustained by an
in-court admission of a defendant, or by a specific finding established beyond a reasonable doubt
by a judge or jury in a contested trial.

Bodily injury means physical pain, illness or any impairment of physical or mental condition.

Code enforcement officer means any city employee or person employed under independent
contract by the City who is appointed by the city manager to enforce the laws of the City. “Code
enforcement officer” also means an authorized volunteer appointed by the city manager to enforce
the laws concerning parking of vehicles in spaces reserved for the handicapped by issuing parking
tickets.

Conduct means an act or omission and its accompanying state of mind, if any, or, where
relevant, a series of acts or omissions.

1 *Culpable mental state* means intentionally, or with intent, or knowingly, or willfully, or
2 recklessly, or negligently as set forth below:

- 3 (a) *Intentionally* or *with intent* means that one's conscious objective is to cause the specific
4 result proscribed by the provision of this code or the ordinance defining the violation.
5 All violations defined in this code in which the mental culpability requirement is
6 expressed as *intentionally* or *with intent* are specific intent offenses. It is immaterial to
7 the issue of specific intent whether or not the result actually occurred.
- 8 (b) *Knowingly* or *willfully* means, with respect to conduct or to a circumstance described by
9 a section of this code or an ordinance defining a violation, that a person is aware that
10 such person's conduct is of that nature or that the circumstance exists. With respect to a
11 result this means that a person is aware that such person's conduct is practically certain
12 to cause the result. All violations defined in this code in which the mental culpability
13 requirement is expressed as *knowingly* or *willfully* are general intent offenses.
- 14 (c) *Recklessly* means consciously to disregard a substantial and unjustifiable risk that a result
15 will occur or that a circumstance exists.
- 16 (d) *Negligently* means to act with negligence with respect to a result or to a circumstance
17 described by a section of this code by failing to exercise the degree of care that would
18 be exercised by the ordinarily reasonable and prudent inhabitant of the City under the
19 same or similar circumstances.

20 *Deadly physical force* means force, the intended, natural and probable consequence of which
21 is to produce death, and which does, in fact, produce death.

22 *Deadly weapon* means any of the following that in the manner it is used or intended to be
23 used is capable of producing death or serious bodily injury:

- 24 (a) A firearm, whether loaded or unloaded;
- 25 (b) A knife;
- (c) A bludgeon; or
- (d) Any other weapon, device, instrument, material or substance, whether animate or
 inanimate.

Disability shall mean a physical or mental impairment that substantially limits one or more
major life activities, a record of such impairment or being regarded as having such impairment.
The term excludes current use of alcohol or drugs.

Dwelling means a building that is used, intended to be used or usually used by a person for
habitation, but excludes lobbies, boiler rooms, hallways and other common areas of hotels, motels,
apartments, condominiums, nursing homes and similar communal residential buildings.

Firearm means any handgun, automatic revolver, pistol, rifle, shotgun, or other instrument
or device capable or intended to be capable of discharging bullets, cartridges, or other explosive
charges. This definition does not include an antique firearm as defined in 18 U.S.C. § 921(a)(16).

1 *Gas gun* means a device designed for projecting gas-filled projectiles that release their
2 contents after having been projected from the device and includes projectiles designed for use in
such a device.

3 *Gas or mechanically operated gun* means an air or gas operated gun that discharges pellets,
4 BB shots, arrows or darts, including, without limitation, BB guns, spring guns and other similarly
operated guns or weapons.

5 *Gender* shall have the same meaning as the term “sex” defined in Section 12-1-1,
“Definitions,” B.R.C. 1981.

6 *Gender identity* and *gender expression* shall have the meanings defined in Section 12-1-1,
“Definitions,” B.R.C. 1981.

7 *Gravity knife* means any knife with a blade that may be released from the handle or sheath
8 thereof by the force of gravity or the application of centrifugal force, which when released is locked
in place by means of a button, spring, lever or other device.

9 *Health care facility* means a state-licensed general hospital, psychiatric hospital or
10 community clinic, as defined in Colorado state statutes, as they may be amended from time to
time, or a building containing an office or other place where a state-licensed physician practices
11 medicine, on a full- or part-time basis, which is not required to be licensed under Colorado state
statutes, but which is identified by a sign, visible from the adjacent public way.

12 *Knife* means any dagger, dirk, knife or stiletto with a blade over three and one-half inches in
13 length, or any other dangerous instrument capable of inflicting cutting, stabbing or tearing wounds,
but does not include a hunting or fishing knife carried for sports use.

14 *Mall* means the Downtown Boulder Mall as defined in Ordinance No. 4267, as amended by
Ordinance No. 4543.²

15 *Omission* means a failure to perform an act as to which a duty of performance is imposed by
16 law.

17 *Peace officer* means any police officer or city code enforcement officer.

18 *Police officer* means:

- 19 (a) Any city police officer commissioned by the city manager;
20 (b) Any person appointed by the city manager pursuant to Charter Section 72;

21 ² The ordinances generally describe the area included within the mall as the entire right-of-way of Pearl Street
22 from approximately the east curb line of 11th Street to the west curb line of 15th Street except for the roadway at
the intersections at Broadway, 13th and 14th Streets; and, the area directly south of the Boulder County
23 courthouse complex, specifically, the area bounded by the east curb line of 13th Street on the west, the west curb
line of 14th Street on the east, the north boundary line of the Pearl Street right-of-way on the south and, on the
24 north, by a line coinciding with the south wall of the west wing of the County courthouse complex and extending
westerly at a right angle from the west wall thereof to the east curb line of 13th Street and extending easterly at a
25 right angle from the east wall thereof to the west curb line of 14th Street; excepting, however, any buildings or
portions of buildings which are owned by the County of Boulder and located in such area.

- 1 (c) Any peace officer of another jurisdiction who is also commissioned by the city manager to enforce the laws of the City;
- 2 (d) Any city park patrol officer commissioned by the city manager;
- 3 (e) Any city fire chief or fire marshal or firefighter commissioned by the city manager; and
- 4 (f) Any other city employee designated by the city manager to exercise police powers, including the power of arrest, and commissioned by the city manager.

5 *Religious expression* shall have the meaning defined in Section 12-1-1, “Definitions,” B.R.C. 1981.

6 *Serious bodily injury* means bodily injury that involves a substantial risk of death, serious permanent disfigurement or protracted loss or impairment of the function of any part of an organ of the body.

8 *Specific defense* means a defense in which the defendant, to raise the issue, presents some credible evidence on that issue, unless the City's evidence raises the issue involving the defense. If the issue involved in the specific defense is raised, it may be submitted to the trier of fact along with other issues, but the defendant bears the burden of proving the issue by a preponderance of the evidence, although the City must prove all other issues by proof beyond a reasonable doubt in any criminal action.

12 *Switchblade knife* means any knife, the blade of which opens automatically by hand pressure applied to a button, spring or other device in its handle.

14 Section 3. Section 5-2-26, “Matters of Local and Mixed Concern,” B.R.C. 1981, is amended to read as follows:

16 **5-2-26. – Matters of Local and Mixed Concern.**

17 It is the intention of the eCity eCouncil that those ordinances and provisions of this code that deal with matters of “local” concern supersede the laws of the State of Colorado to the extent that they conflict and that those that deal with matters of “mixed” concern apply concurrently with the laws of the State of Colorado. No provision of this code on a matter of “mixed” concern is to be construed expressly or by implication to permit conduct that is illegal under the laws of the State of Colorado ~~or to prohibit conduct that is expressly permitted by the laws of the state.~~ The provisions of this code are to be construed to apply to ~~misdemeanors and other minor and petty offenses only and are not to be interpreted to apply~~ conduct that is defined as a felony under the laws of the State of Colorado subject to the jurisdiction of the City of Boulder.

23 Section 4. Section 5-8-2, “Definitions,” B.R.C. 1981, is reenacted to read as follows:

24 **5-8-2. – Definitions.**

25 The following terms used in this Chapter have the following meanings unless the context

1 clearly requires otherwise:

2 *About the person* means sufficiently close to the person to be readily accessible for immediate
3 use.

4 *Assault weapon* means:

5 (a) All semi-automatic center-fire rifles that have the capacity to accept a detachable
6 magazine and that have any of the following characteristics:

7 (1) A pistol grip or thumbhole stock;

8 (2) A folding or telescoping stock;

9 (3) A flash suppressor; or

10 (4) A shroud attached to the barrel, or that partially or completely encircles the
11 barrel, allowing the bearer to hold the firearms with the non-trigger hand
12 without being burned, but excluding a slide that encloses the barrel.

13 (b) All semi-automatic center-fire pistols that have any of the following characteristics:

14 (1) A threaded barrel;

15 (2) A secondary protruding grip or other device to allow the weapon to be stabilized
16 with the non-trigger hand;

17 (3) A shroud attached to the barrel, or that partially or completely encircles the
18 barrel, allowing the bearer to hold the firearm with the non-trigger hand without
19 being burned, but excluding a slide that encloses the barrel;

20 (4) A flash suppressor;

21 (5) The capacity to accept a detachable ammunition feeding device at some location
22 outside of the pistol grip;

23 (6) A manufactured weight of 50 ounces or more when unloaded;

24 (7) A buffer tube, arm brace, or other part that protrudes horizontally under the
25 pistol grip; or

(8) A fixed magazine that has the capacity to accept more than 10 rounds.

(c) All semi-automatic shotguns that have any of the following characteristics:

(1) A pistol grip or thumbhole stock;

(2) A folding or telescoping stock;

(3) A fixed magazine capacity in excess of five rounds; or

(4) The capacity to accept a detachable magazine.

(d) Any firearm which has been modified to be operable as an assault weapon as defined
herein.

(e) Any part or combination of parts designed or intended to convert a firearm into an
assault weapon, including any combination of parts from which an assault weapon may

1 be readily assembled if those parts are in the possession or under the control of the
2 same person.

3 *Constructive knowledge* means knowledge of facts or circumstances sufficient to cause a
4 reasonable person to be aware of the fact in question.

5 *Illegal weapon* means an assault weapon, large-capacity magazine, rapid-fire trigger
6 activator, blackjack, gas gun, metallic knuckles, gravity knife or switchblade knife.

7 *Large-capacity magazine* means any ammunition feeding device with the capacity to accept
8 more than 10 rounds, but shall not be construed to include any of the following:

- 9 (a) A feeding device that has been permanently altered so that it cannot accommodate more
10 than 10 rounds.
- 11 (b) A 22-caliber tube rim-fire ammunition feeding device.
- 12 (c) A tubular magazine that is contained in a lever-action firearm.

13 *Locked container* means a secure container which is enclosed on all sides and locked by a
14 padlock, key lock, combination lock, or similar device, but does not include the utility
15 compartment, glove compartment, or trunk of a motor vehicle.

16 *Minor* means a person under twenty-one years of age.

17 *Pistol Grip* means a grip that protrudes conspicuously beneath the action of the weapon and
18 that allows for a pistol style grasp in which the web of the trigger hand (between the thumb and
19 index finger) can be placed below the top of the exposed portion of the trigger while firing.

20 *Provide* means to give, lend, sell, or to place in an unsecured location where a minor, an
21 unauthorized person or an incompetent person could foreseeably gain access to a firearm.

22 *Rapid-Fire Trigger Activator* means:

- 23 (a) A device that attaches to a firearm to allow the firearm to discharge two or more shots
24 in a burst when the device is activated; or
- 25 (b) A manual or power-driven trigger-activating device that, when attached to a firearm,
increases the rate of fire of that firearm.

Semi-automatic means a firearm that fires a single round for each pull of the trigger and
automatically chambers a new round immediately after a round is fired.

Section 5. Section 5-8-10, "Possession of Illegal Weapons," B.R.C. 1981, is reenacted to
read as follows:

1 **5-8-10. – Possession and Sale of Illegal Weapons.**

- 2 (a) No person shall knowingly possess or sell or otherwise transfer an illegal weapon.
- 3 (b) Nothing in this section shall be construed to forbid any person:
- 4 (1) Holding a Federal Firearms License issued by the United States Government
- 5 from possession of any firearm authorized pursuant to such license;
- 6 (2) From possessing a firearm for which the United States Government has issued
- 7 a stamp or permit pursuant to the National Firearms Act; or
- 8 (3) Selling an illegal weapon to a person identified in Section 5-8-25, “Exemptions
- 9 from this Chapter,” B.R.C. 1981.
- 10 (c) Nothing in this section shall be deemed to apply to any firearm that has been modified
- 11 either to render it permanently inoperable or to permanently make it not an assault
- 12 weapon.
- 13 (d) Nothing in this section shall be deemed to restrict a person’s ability to travel with a
- 14 firearm in a private motor vehicle or other private means of conveyance for lawful
- 15 hunting, for lawful competition, or for lawful protection of a person or another person
- 16 or property while traveling into, though, or within, the City of Boulder, regardless of
- 17 the number of times the person stops in the City of Boulder.

18 Section 6. Section 5-8-22, “Defenses,” B.R.C. 1981, is reenacted to read as follows:

19 **5-8-22. – Defenses.**

- 20 (a) It is an affirmative defense to a charge of violating Sections 5-8-3, “Discharge of
- 21 Firearms,” 5-8-4, “Possessing and Discharging Firearm or Bow in Park or Open
- 22 Space,” 5-8-5, “Negligently Shooting Bow or Slingshot,” 5-8-6, “Aiming Weapon at
- 23 Another,” 5-8-7, “Flourishing Deadly Weapon in Alarming Manner,” and 5-8-8,
- 24 “Possession of Loaded Firearms,” B.R.C. 1981, that the defendant was:
- 25 (1) Reasonably engaged in lawful self-defense under the statutes of the State of
- Colorado; or
- (2) Reasonably exercising the right to keep and bear arms in defense of the
- defendant’s or another’s home, person and property or in aid of the civil power
- when legally thereto summoned.
- (b) It is a specific defense to a charge of violating Sections 5-8-3, “Discharge of Firearms,”
- 5-8-4, “Possessing and Discharging Firearm or Bow in Park or Open Space,” and 5-8-
- 8, “Possession of Loaded Firearms,” B.R.C. 1981, that the events occurred in an area
- designated as a target range by the city manager under Section 5-8-26, “City Manager
- May Designate Target Ranges,” B.R.C. 1981, for the type of weapon involved. It is a
- specific defense to a charge of violating Section 5-8-4, “Possessing and Discharging
- Firearm or Bow in Park or Open Space,” B.R.C. 1981, by possession that the defendant
- was going directly to or returning directly from such a target range.

- 1 (c) It is an affirmative defense to a charge of violating Sections 5-8-8, "Possession of
2 Loaded Firearms," 5-8-9, "Carrying a Concealed Weapon," and 5-8-11, "Possessing
3 Firearm While Intoxicated," B.R.C. 1981, that the defendant was:
- 4 (1) In the defendant's own dwelling or place of business or on property owned or
5 under the defendant's control at the time; or
 - 6 (2) In a private automobile or other private means of conveyance at the time and was
7 carrying the weapon for lawful protection of the defendant's or another's person
8 or property while traveling; or³
 - 9 (3) Charged with carrying a knife that was a hunting or fishing knife carried by the
10 defendant for sport use.
- 11 (d) It is a specific defense to a charge of violating Sections 5-8-8, "Possession of Loaded
12 Firearms," and 5-8-9, "Carrying a Concealed Weapon," B.R.C. 1981, that the
13 defendant was carrying the weapon pursuant to a concealed weapons permit valid under
14 the statutes of the State of Colorado.
- 15 (e) It is a specific defense to a charge of violating Sections 5-8-3, "Discharge of Firearms,"
16 and 5-8-8, "Possession of Loaded Firearms," B.R.C. 1981, that the loaded gas or
17 mechanically operated gun was possessed or discharged in a building with the
18 permission of the property owner and the projectile did not leave the building.
- 19 (f) It is a specific defense to a charge of violating section 5-8-10, "Possession of Illegal
20 Weapons," B.R.C. 1981:
- 21 (1) That the person had a valid permit for such weapon pursuant to federal law at the
22 time of the offense; or
 - 23 (2) That the illegal weapon was an assault weapon accompanied by a certificate of
24 ownership, issued under Section 5-8-28I, or previously issued prior to December
25 31, 2018, by the Boulder Police Department.
- 26 (g) It is a specific defense to a charge of violating Section 5-8-4, "Possessing and
27 Discharging Firearm or Bow in Park or Open Space," B.R.C. 1981, that the firearm,
28 gas or mechanically operated gun, bow, slingshot or crossbow possessed by the person
29 was being transported in a motor vehicle. This defense does not apply to a charge of
30 violation involving discharge of a missile.
- 31 (h) It is an affirmative defense to any charge of a violation of this Chapter relating to
32 carrying firearms that the defendant was carrying the firearm in a private automobile
33 or other private means of conveyance for hunting while traveling in, into or through
34 the city, as permitted by § 18-12-105.6, C.R.S.

³§ 18-12-105(2)(b), C.R.S.

1 Section 7. Section 5-8-25, “Exemptions from Chapter,” B.R.C. 1981, is reenacted to read as
2 follows:

3 **5-8-25. – Exemptions from Chapter.**

4 Nothing in this Chapter shall be construed to forbid the following persons from having in
5 their possession, displaying, concealing or discharging such weapons as are necessary in the
6 authorized and proper performance of their official duties:

- 7 (a) United States Marshals, any sheriffs, constables, and their deputies.
- 8 (b) Any regular or ex officio police officer.
- 9 (c) Any government agent, officer, or employee, any other peace officer, or Members of
10 the United States Armed Forces, Colorado National Guard or Reserve Officer Training
11 Corps acting in the course and scope of their duties.

12 Section 8. Section 5-8-28, “Assault Weapons,” B.R.C. 1981, is reenacted to read as follows:

13 **5-8-28. – Assault Weapons.**

- 14 (a) Any person who, prior to July 1, 2022, was legally in possession of an assault weapon
15 or large capacity magazine shall have until December 31, 2022 to obtain a certificate for
16 the assault weapon as provided in subsection (c) of this section.
- 17 (b) Any person who, prior to July 1, 2022, was legally in possession of a rapid-fire trigger
18 activator shall have until August 1, 2022 to do any of the following without being subject
19 to prosecution:
 - 20 (1) Remove the rapid-fire trigger activator from the City of Boulder; or
 - 21 (2) Surrender the rapid-fire trigger activator to the Boulder Police Department for
22 destruction.
- 23 (c) Any person seeking to certify an assault weapon that he or she legally possessed prior
24 to July 1, 2022, unless they obtained a certificate of ownership prior to December 31,
25 2018, must comply with the following requirements:
 - 26 (1) Submit to a background check conducted by the appropriate law enforcement
27 agency to confirm that he or she is not prohibited from possessing a firearm
28 pursuant to 18 U.S.C. § 922 or C.R.S § 18-12-108; and
 - 29 (2) Unless the person is currently prohibited by law from possessing a firearm, prior
30 to December 31, 2022 apply for a certificate for the assault weapon from the
31 Boulder Police Department.
- 32 (d) All persons who hold a certificate issued prior to December 31, 2018 or who obtain a
33 certificate pursuant to subsection I of this section shall:
 - 34 (1) Safely and securely store the assault weapon pursuant to the regulations adopted
35 by the appropriate law enforcement agency;

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- (2) Possess the assault weapon only on property owned or immediately controlled by the person, or while on the premises of a licensed gunsmith for the purpose of lawful repair, or while engaged in the legal use of the assault weapon at a duly licensed firing range, or while traveling to or from these locations, provided that the assault weapon is stored unloaded in a locked container during transport. The term “locked container” does not include the utility compartment, glove compartment, or trunk of a motor vehicle; and
- (3) Report the loss or theft of a certified assault weapon to the appropriate law enforcement agency within 48 hours of the time the discovery was made or should have been made.

- (e) If a certified assault weapon is used in the commission of a crime, the owner shall be civilly liable for any damages resulting from that crime. The liability imposed by this subsection shall not apply if the assault weapon was stolen and the certified owner reported the theft of the firearm to law enforcement within 48 hours of the time the discovery was made or should have been made.
- (f) Certified assault weapons may not be purchased, sold or transferred in the City of Boulder, except for transfer to a licensed gunsmith for the purpose of lawful repair, or transfer to the appropriate law enforcement agency for the purpose of surrendering the assault weapon for destruction.
- (g) Persons acquiring an assault weapon by inheritance, bequest, or succession shall, within 90 days of acquiring title, do one of the following:
 - (1) Modify the assault weapon to render it permanently inoperable;
 - (2) Surrender the assault weapon to the Boulder Police Department for destruction;
 - (3) Transfer the assault weapon to a firearms dealer who is properly licensed under federal, state and local laws; or
 - (4) Permanently remove the assault weapon from the City of Boulder.
- (h) The owner of a certified assault weapon may not possess in the City of Boulder any assault weapons purchased on or after July 1, 2022.
- (i) The city manager shall charge a fee for each certificate sufficient to cover the costs of administering the certificate program. The city manager shall issue to qualified applicants two original copies of each certificate issued. The City of Boulder shall not maintain any records of certificates issued. The person who received the certificate shall keep one copy with the weapon certified and the second copy in a secure place to replace the certificate maintained with the weapon.

1 Section 9. A new Section 5-8-42, “Severability,” B.R.C. 1981, is added to read as
2 follows:

3 **5-8-42. – Severability.**

4 If any section, subsection, sentence or clause of this Chapter is for any reason declared
5 unconstitutional or invalid or unenforceable by any court of competent jurisdiction, such decision
6 shall not affect the constitutionality, validity or enforceability of the remaining portions of this
7 Chapter or any part thereof. The City Council hereby declares that it would have adopted this
8 Chapter notwithstanding the unconstitutionality, invalidity or unenforceability of any one or more
9 of its sections, subsections, sentences or clauses.

10 Section 10. This ordinance is necessary to protect the public health, safety, and welfare of
11 the residents of the city, and covers matters of local concern.

12 Section 11. The City Council deems it appropriate that this ordinance be published by title
13 only and orders that copies of this ordinance be made available in the office of the city clerk for
14 public inspection and acquisition.

15 INTRODUCED, READ ON FIRST READING, AND CONTINUED this 10th day of
16 May 2022.

17 _____
18 Aaron Brockett,
19 Mayor

20 Attest:

21 _____
22 City Clerk

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READ ON CONTINUED FIRST READING, AND ORDERED PUBLISHED BY

TITLE ONLY this 24th day of May 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk

READ ON SECOND READING, PASSED AND ADOPTED this 7th day of June 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk

ORDINANCE 8525

AN ORDINANCE REPEALING AND REENACTING SECTION 5-8-15, "DEADLY WEAPONS IN CITY BUILDINGS PROHIBITED," B.R.C. 1981, TO PROHIBIT THE CARRYING OF FIREARMS IN CERTAIN PUBLIC PLACES; AND SETTING FORTH RELATED DETAILS.

THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, FINDS AND RECITES THE FOLLOWING:

A. The City of Boulder respects the rights of law-abiding citizens to carry concealed handguns in public places where it is safe and lawful to do so.

B. There are certain areas where firearms pose an acute risk to the health and well-being of children, office workers, and members of the public.

C. The presence of firearms at government buildings and offices, polling places, ballot counting facilities, and public demonstrations poses a serious threat to First Amendment rights, voting rights, and the functioning of our democracy.

D. People carrying handguns in public buildings and at crowded public events – including financial institutions, sporting venues, courthouses, hospitals and medical or mental health facilities, theaters, houses of worship, and similar locations – create unnecessary risks of intentional or accidental shootings, increase the risk of lethal disputes between members of the public, and increase the risk that a law-abiding citizen's weapon will be stolen and used by someone else to harm or threaten employees or the public.

E. Courthouses and hospitals in particular are the site of high-stakes, emotional events and may be frequented by people in crisis who do not have a choice other than to be there. Allowing the carry of concealed firearms in such locations increases the risk of intentional or

1 reckless violence or violence fueled by mental health crises and raises the possibility that everyday
2 disagreements will escalate into shootouts.

3 F. The presence of firearms in places frequented by children and families – including
4 parks, playgrounds, community and recreation centers, and daycare centers – poses unreasonable
5 risks to children, particularly of unintentional shootings and firearm misuse, as well as trauma that
6 can result from mishandled firearms or gun violence.

7 G. Firearms pose a substantial danger in the vicinity of intoxicated people at facilities
8 that serve alcohol, as research demonstrates a strong link between alcohol use and domestic
9 violence, gun crimes, and self-inflicted firearm injuries.

10 H. The City of Boulder finds it necessary to prohibit the open or concealed carrying of
11 firearms in certain designated public places in order to protect the safety of its residents.
12

13 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER,
14 COLORADO:

15 Section 1. Section 5-8-15, “Deadly Weapons in City Buildings Prohibited,” B.R.C. 1981,
16 is repealed and reenacted to read as follows:

17 **5-8-15. – Prohibition on Possession of Firearms in Sensitive Areas.**
18

- 19 (a) No person shall knowingly carry any firearm, whether in an open or concealed
20 manner, in any of the following locations:
- 21 (1) Any building or real property owned or operated by the City of Boulder, or an
22 entity created or controlled by the City of Boulder, except for City rights-of-
23 way.
 - 24 (2) The portion of any building that is being used for governmental purposes by the
25 City of Boulder or an entity created or controlled by the City of Boulder.
 - (3) Any public parks, playgrounds, or open space.
 - (4) Any recreation or community center facility owned, operated, or managed by
the City of Boulder.
 - (5) At any demonstration as described in this section held on public property.
 - (6) Within 500 feet of any polling location within the City of Boulder on the day

1 of an election or at a place officially designated by the Boulder County Clerk
 2 and Recorder for the counting of ballots on any day when ballots are being
 counted or conducting activities related to a federal, state, or municipal
 election.

3 (7) The area of any facility licensed to serve alcohol pursuant to Title 44, Article 3,
 4 Colorado Revised Statutes.

5 (b) No person shall knowingly carry any firearm, whether in an open or concealed matter,
 in any of the following locations without explicit permission of the operating
 6 authority:

7 (1) A hospital.

8 (2) A facility or office that has medical, mental health, or substance abuse
 professionals to provide screening, evaluation, or treatment for mental health or
 substance abuse disorders.

9 (3) Any property or facility owned or operated by a church, synagogue, mosque,
 temple, or other place of worship.

10 (4) A stadium or arena.

11 (5) A courthouse.

12 (6) A depository financial institution or a subsidiary or affiliate of a depository
 financial institution.

13 (7) A theater.

14 (8) A day care center or preschool.

15 (9) A grocery store.

16 (c) Notice of the prohibitions on the concealed and open carry of firearms shall be
 posted conspicuously at all public entrances to the locations identified in subsection
 (a) and (b) as required by C.R.S. 29-11.7-104 and C.R.S. 18-12-214(c)(2).

17 (1) No later than sixty days after the enactment of this ordinance, the City of
 Boulder shall make compliant signs available for download on a
 publicly accessible website in English and Spanish.

18 (2) No person shall be determined to violate this section if signs are not posted
 as required by this subsection.

19 (d) The provisions of this section do not apply to:

20 (1) Any federal, state, or local law enforcement officer when engaged in official
 duties.

21 (2) Any member of the United States Armed Forces or Colorado National
 Guard when engaged in official duties.

22 (3) Private security guards acting in the course of their duties.

23 (4) The carrying or possession of a firearm in a private motor vehicle in a trunk or
 locked container.

24 (e) As used in this section:

25 (1) "Demonstration" means demonstrating, picketing, speechmaking or marching,
 holding of vigils and all other like forms of conduct occurring in a public place
 which involve the communication or expression of views or grievances
 engaged in by one or more persons, the conduct of which has the effect, intent
 or propensity to draw a crowd or onlookers. Such term shall not include casual

use of property by visitors or tourists which does not have an intent or propensity to attract a crowd or onlookers.

(2) "Firearm" has the same meaning as set forth in 18 U.S.C. sec. 921 (a)(3), as amended.

(f) Anyone violating the provisions of this subsection shall be subject to immediate removal from the premises in addition to any other penalty provided by law.

Section 2. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 3. The city council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND AMENDED this 10th day of May 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk

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READ ON CONTINUED FIRST READING, AND ORDERED PUBLISHED BY

TITLE ONLY this 24th day of May 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk

READ ON SECOND READING, PASSED AND ADOPTED this 7th day of June 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk

ORDINANCE 8526

AN ORDINANCE AMENDING CHAPTER 5-8, "WEAPONS," B.R.C. 1981, BY ADDING NEW DEFINITIONS, AND A NEW SECTION 5-8-39, "PROHIBITIONS," B.R.C. 1981, TO REGULATE THE POSSESSION OF UNFINISHED FRAMES AND RECEIVERS, AND UNSERIALIZED FIREARMS; AND SETTING FORTH RELATED DETAILS.

THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, FINDS AND RECITES THE FOLLOWING:

A. There are gaps in our current law that make it easy for people with dangerous histories to purchase widely available firearms parts without a background check and easily convert them into firearms without a serial number.

B. Untraceable and unserialized firearms, commonly known as "ghost guns," are a public safety risk because they allow people with dangerous histories to avoid background check requirements and assemble guns without serial numbers that cannot be traced by law enforcement.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Section 5-8-2, "Definitions," B.R.C. 1981, is amended to read as follows:

5-8-2. – Definitions.

The following terms used in this Chapter have the following meanings unless the context clearly requires otherwise:

...

Federal licensee means a federally licensed firearms manufacturer, importer, or dealer licensed under 18 U.S.C. 923(a), or other federal licensee authorized to identify firearms with serial numbers.

1 Frame or receiver means the part of a firearm that, when the complete weapon is
2 assembled, is visible from the exterior and provides the housing or structure designed to hold or
3 integrate one or more fire control components, even if pins or other attachments are required to
4 connect those components to the housing or structure. For models of firearms in which multiple
5 parts provide such housing or structure, the part or the parts that the Director of the federal Bureau
6 of Alcohol, Tobacco, Firearms & Explosives has determined are a frame or receiver constitute the
7 frame or receiver. For the purposes of this definition, the term “fire control component” means a
8 component necessary for the firearm to initiate, complete, or continue the firing sequence, and
9 includes a hammer, bolt, bolt carrier, breechblock, cylinder, trigger mechanism, firing pin, striker,
10 or slide rails.

11 ...
12 Unfinished frame or receiver means any forging, casting, printing, extrusion, machined
13 body or similar article that:

- 14 (a) has reached a stage in manufacture where it may readily be completed, assembled
15 or converted to be used as the frame or receiver of a functional firearm; or
16 (b) is marketed or sold to the public to become or be used as the frame or receiver of a
17 functional firearm once completed, assembled or converted.

18 For the purposes of this definition, the term “assemble” means to fit together component
19 parts. In determining whether a forging, casting, printing, extrusion, machined body, or similar
20 article may be readily completed, assembled, or converted to a functional state, the city manager
21 may consider any available instructions, guides, templates, jigs, equipment, tools, or marketing
22 materials.

23 Section 2. A new Section 5-8-39, “Prohibitions,” B.R.C. 1981, is added to read as
24 follows:

25 **5-8-39. – Prohibitions.**

- (a) Except as provided in subsection (c), it shall be a civil offense for any person to possess any firearm that has not been identified with a serial number by a federal licensee.
- (b) A violation of subsection (a) that includes a finding that the person possessed one or more firearms, which have not been identified with a serial number by a federal licensee, with an intent to sell or distribute the firearms unlawfully is a criminal offense.
- (c) Subsection (a) shall not apply to:
- (1) a federal licensee;
 - (2) any firearm made before October 22, 1968 (unless remanufactured after that date); or
 - (3) A local, state, or federal law enforcement officer who possesses a firearm pursuant to their official duties.

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Section 3. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 4. The city council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND CONTINUED this 10th day of May 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk

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READ ON CONTINUED FIRST READING, AND ORDERED PUBLISHED BY
TITLE ONLY this 24th day of May 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk

READ ON SECOND READING, PASSED AND ADOPTED this 7th day of June 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk

ORDINANCE 8527

AN ORDINANCE REPEALING AND REENACTING SECTION 5-8-21, "OPEN CARRIAGE OF FIREARMS IN CARRYING CASES REQUIRED," B.R.C. 1981, TO PROHIBIT THE OPEN CARRYING OF FIREARMS IN PUBLIC PLACES; AND SETTING FORTH RELATED DETAILS.

THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, FINDS AND RECITES THE FOLLOWING:

A. The open carrying of firearms in public places is a dangerous activity that leads to confusion amongst the public and makes law enforcement's job more difficult.

B. The open carrying of firearms has been used to usurp the role of law enforcement or participate in unsanctioned and illegal militias. Open carrying has also been used to intimidate and infringe on the First Amendment rights and political participation of others.

C. The open carrying of firearms has enabled gun rampages in Colorado and elsewhere. In Colorado Springs, a resident reported to police that a suspicious person was open carrying a rifle, but because state law does not prohibit open carry, police were unable to take action until the gun carrier shot and killed three people.

D. Even when open-carry incidents do not end in shootouts as in Colorado Springs, the confusion they cause threatens public safety by diverting law enforcement resources and interfering with police responses to true emergencies.

E. A visible gun has been found to make people more aggressive; therefore, open carry makes it more likely that ordinary disagreements will turn into violent or lethal conflicts.

F. Colorado respects the ability of law-abiding citizens to carry firearms in public by allowing them to carry a concealed handgun in places where they are licensed to do so.

1 G. The City of Boulder finds it necessary to prohibit the open carrying of firearms in
2 order to protect the safety of its residents, conserve law enforcement resources and deter illegal
3 violence, and ensure that people are able to vote and exercise First Amendment rights without
4 fear of intimidation.

5 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER,
6 COLORADO:

7
8 Section 1. Section 5-8-21, “Open Carriage Of Firearms In Carrying Cases Required,”
9 B.R.C. 1981, is repealed and reenacted as follows:

10 **5-8-21. – Prohibition on Openly Carrying Firearms.**

- 11 (a) No person shall knowingly openly carry a firearm on or about their person in a
12 public place.
- 13 (b) This section shall not apply to:
- 14 (1) Any federal, state, or local law enforcement officer when engaged in official
15 duties.
 - 16 (2) Any member of the United States Armed Forces or Colorado National
17 Guard when engaged in official duties.
 - 18 (3) A person carrying a firearm when engaged in target shooting or when
19 engaged in lawful hunting activity.
 - 20 (4) The carrying of a firearm on a person's own property, business, or dwelling
21 or on the property of another with permission from the property owner.
 - 22 (5) The carrying of a firearm in a private motor vehicle or other private means
23 of conveyance while traveling in, into or through the city, as permitted by §
24 18-12-105.6, C.R.S.
 - 25 (6) The carrying of an unloaded firearm in an opaque locked or enclosed case
that must be recognizable as a gun carrying case by a reasonable person. A
plain-shaped case must be clearly marked to be deemed recognizable under
this standard. A holster satisfies the requirement of a carrying case for a
pistol.
 - (7) The carrying of a concealed handgun by a person with a valid permit to
carry issued or recognized pursuant to Title 18, Article 12, Part 2 of the
Colorado Revised Statutes, or the otherwise lawful use of a handgun by a
person with a valid permit to carry.
 - (8) Private security guards acting in the course and scope of their duties.

1 (c) As is used in this section:

2 (1) "Public place" means a place to which the public or a substantial number of
3 the public has access, except for premises where firearms are lawfully sold
4 or repaired.

5 Section 2. This ordinance is necessary to protect the public health, safety, and welfare of
6 the residents of the city, and covers matters of local concern.

7 Section 3. The city council deems it appropriate that this ordinance be published by title
8 only and orders that copies of this ordinance be made available in the office of the city clerk for
9 public inspection and acquisition.

10 INTRODUCED, READ ON FIRST READING, AND AMENDED this 10th day of
11 May 2022.

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13 _____
14 Aaron Brockett,
15 Mayor

16 Attest:

17 _____
18 City Clerk
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READ ON CONTINUED FIRST READING, AND ORDERED PUBLISHED BY

TITLE ONLY this 24th day of May 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk

READ ON SECOND READING, PASSED AND ADOPTED this 7th day of June 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk

ORDINANCE 8528

AN ORDINANCE AMENDING CHAPTER 5-8, "WEAPONS," B.R.C. 1981, BY ADDING NEW DEFINITIONS, AND A NEW SECTION 5-8-40, "DISCLOSURE," B.R.C. 1981, REQUIRING ALL FIREARM DEALERS TO POST SIGNS AT ALL LOCATIONS WHERE FIREARMS TRANSFERS TAKE PLACE; AND SETTING FORTH RELATED DETAILS.

THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, FINDS AND RECITES THE FOLLOWING:

A. According to the Centers for Disease Control and Prevention's (CDC's) Fatal Injury Reports for 2015 through 2019, on average 38,826 people die in the United States as a result of firearms every year. Of these firearm deaths, 38% (14,583) are homicides and 60% (23,437) are suicides. An additional 483 deaths annually result from unintentional shootings. Firearms are the leading cause of death for children and teens in the United States.

B. An analysis of the National Emergency Department Sample indicates that there are twice as many gun injuries as gun deaths, an average of 76,127 nonfatal firearm injuries occur per year in the United States.

C. A meta-analysis published in the Annals of Internal Medicine found that access to a gun doubles a person's risk of death by firearm homicide, and triples a person's risk of death by firearm suicide.

D. A study published in the American Journal of Public Health concluded that access to a firearm during an incident of domestic violence leads to a fivefold risk of homicide to women by their intimate partner.

E. A study published in the American Journal of Preventive Medicine found that higher firearm ownership rates are associated with higher domestic firearm homicide rates among

1 both female and male victims. States in the highest quartile of firearms ownership had a 65%
2 higher domestic firearm homicide rate than states in the lowest quartile.

3 F. A study published in the American Journal of Public Health found a positive and
4 significant association between gun ownership and non-stranger firearm homicide rates, indicating
5 that gun ownership is associated with an increased likelihood of being shot and killed by a family
6 member or acquaintance.

7 G. A study published in the Journal of the American Medical Association found that
8 households that locked both firearms and ammunition were associated with a 78% lower risk of
9 self-inflicted firearm injuries and an 85% lower risk of unintentional firearm injuries among
10 children, compared to those that locked neither.

11 H. A study published in the New England Journal of Medicine of more than 26 million
12 California residents found that women who own a handgun are 35 times more likely to die by
13 firearm suicide than women who do not own one. Men who own a handgun are nearly eight times
14 more likely to die by firearm suicide than men who do not own a handgun. The study also found
15 that the risk of firearm suicide is most pronounced in the year following a person's first acquisition
16 of a handgun but remains elevated for at least 12 years thereafter.

17 I. A study published in the Journal of the American Medical Association found that
18 in King County, Washington, using data from 2011 to 2018, for every self-defense homicide, there
19 were 44 suicides, seven criminal homicides, and one unintentional death.

20 J. Research published in the Annals of Internal Medicine found that only 15% of
21 Americans believe that having a firearm in the home increases the risk of suicide, and fewer than
22 10% of gun owners with children believe that household firearms increase suicide risk.
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1 K. Research published in the American Journal of Preventive Medicine found that
2 nearly six-in-ten (57.6%) gun owners believe that a firearm makes their home safer, while only
3 2.5% believe that guns make their home more dangerous. The same study found that nearly four-
4 in-ten (39.2%) gun owners who believe that guns increase safety store their household firearm(s)
5 loaded and unlocked.

6 L. Research published in Injury Prevention found that people living in households with
7 firearms misperceive their risk of firearm injury as compared to people living in households
8 without firearms. Firearms owners, and non-owners living with firearm owners, are 60% and 46%
9 (respectively) less likely to worry about firearm injury as compared to respondents without guns
10 in the home, despite evidence that firearm access in the home is a strong risk factor for firearm
11 injury.

12 M. A report by the Pew Research Center on Americans' attitudes towards firearms
13 found that three quarters (75%) of American gun owners say they feel safer with a gun in their
14 household than they would without a gun. The same study found that two-thirds (67%) of gun
15 owners cite protection as a major reason for owning a gun.

16 N. A study published in the Russell Sage Foundation Journal of the Social Sciences
17 found that almost two out of three-gun owners (63%) report that a primary reason they own their
18 gun is for protection against people. Among handgun owners, more than three quarters (76%) cite
19 protection against people as a major reason for owning their firearm(s).
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21 O. The firearms industry actively promotes the misleading message to gun owners and
22 potential consumers that ownership and possession of a firearm makes a person and his or her
23 family safer.
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1 P. The firearms industry's print and online media frequently cites a 25-year-old study
2 estimating that Americans use firearms for self-protection approximately 2.5 million times per
3 year. This research has been the subject of widespread criticism that it is methodologically
4 unsound and that its conclusions do not square with measurable public health outcomes such as
5 hospital visits. Notwithstanding, the firearms industry uses this debunked research and a wide
6 range of other claims in advertising and online and other promotional materials to advance a
7 misleading narrative that defensive firearms use is widespread and that firearms are an effective
8 means of ensuring personal safety.

9 Q. Research by Yamane et al. identified a marked increase over time in print media
10 marketing of firearms and firearm-related products specifically for personal protection, home
11 defense, and concealed carry. In these advertisements, firearms and related products are
12 misleadingly marketed and portrayed as effective and/or important means of home-, family-,
13 and/or self-defense. Yamane et al. concluded that this marketing strategy is not only pervasive but
14 is now the dominant method by which firearms and related accessories are marketed in print media
15 to prospective purchasers.

17 R. The efficacy of point-of-sale messaging on consumer behavior is well known and
18 well documented. For example, several meta-analyses have found significant evidence that
19 exposure to point-of-sale tobacco marketing leads to increased smoking behavior. Studies have
20 also found a strong correlation between point-of-sale health warnings and consumer perception
21 and behavior. For example, one study found that point-of-sale tobacco health warnings in retail
22 establishments had a significant impact on consumer awareness of tobacco health risks and on
23 consumer behavior--namely, thoughts of quitting smoking. Another study found that calorie labels
24 on menus have a significant impact on ordering behavior, in particular for diners who are the least
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1 health conscious. A third study found that point of sale health warnings about sugar sweetened
2 beverages significantly lowered consumption.

3 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER,
4 COLORADO:
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6 Section 1. Section 5-8-2, “Definitions,” B.R.C. 1981, is amended to read as follows:

7 **5-8-2. – Definitions.**

8 The following terms used in this eChapter have the following meanings unless the context
9 clearly requires otherwise.

10 . . .

11 Licensed firearms dealer means any person who is a licensed importer, licensed
12 manufacturer, or dealer licensed pursuant to 18 U.S.C. sec. 923, as amended, as a federally licensed
13 firearms dealer and has obtained all necessary state and local licenses to sell firearms in the state.

14 . . .

15 Sale means the actual approval of the delivery of a firearm in consideration of payment or
16 promise of payment.

17 . . .

18 Site means the facility or location where a sale and/or transfer of firearms is conducted.

19 Transfer means the intended delivery of a firearm from a dealer to another person without
20 consideration of payment or promise of payment including, but not limited to, gifts and loans.
21 “Transfer” does not include the delivery of a firearm owned or leased by an entity licensed or
22 qualified to do business in Colorado to, or return of such firearm by, any of that entity’s employees
23 or agents for lawful purposes in the ordinary course of business.

24 Section 2. A new Section 5-8-40, “Disclosure,” B.R.C. 1981, is added to read as follows:

25 **5-8-40. – Disclosure.**

- (a) At any site where firearm sales or transfers are conducted in the City of Boulder, a licensed firearms dealer shall conspicuously display a sign containing the information set forth in subsection (b) in any area where the sales or transfers occur.

1 Such signs shall be posted in a manner so that they can be easily viewed by persons
2 to whom firearms are sold or transferred, and shall not be removed, obscured, or
3 rendered illegible. If the site where the sales or transfers occur are the premises listed
4 on the licensed firearms dealer's federal license(s), an additional such sign shall be
5 placed at or near the entrance.

- 6 (b) Each informational sign shall be at least eight and one-half inches high by eleven
7 inches wide and feature black text against a white background and letters that are at
8 least one-half inch high. The signs shall not contain other statements or markings
9 other than the following text in English and Spanish:

10 **WARNING:** Access to a firearm in the home significantly increases the risk of
11 suicide, death during domestic violence disputes, and the unintentional death of
12 children, household members, or others. If you or a loved one is experiencing distress
13 and/or depression, call 1-844-493-8255. Posted pursuant to Section 5-8-40, B.R.C.
14 1981.

- 15 (c) The City of Boulder shall make available a downloadable sign as described in
16 subsection (b) of this section in English and Spanish and make such sign available on
17 the City's website.
18 (d) The Boulder Police Department is authorized to enforce this chapter consistent with
19 subsection (e) of this section.
20 (e) When violations of this section occur, a warning shall first be given to the licensed
21 firearms dealer or other person in charge of the site. Any subsequent violation is
22 subject to a fine of up to five hundred dollars (\$500). Each day upon which a
23 violation occurs or is permitted to continue constitutes a separate violation.

24 Section 3. This ordinance is necessary to protect the public health, safety, and welfare of
25 the residents of the city, and covers matters of local concern.

Section 4. The city council deems it appropriate that this ordinance be published by title
only and orders that copies of this ordinance be made available in the office of the city clerk for
public inspection and acquisition.

1 INTRODUCTION, READ ON FIRST READING, AND CONTINUED this 10th day of
2 May 2022.

4 _____
Aaron Brockett,
5 Mayor

6 Attest:

7 _____
8 City Clerk

9 READ ON CONTINUED FIRST READING, AND ORDERED PUBLISHED BY
10 TITLE ONLY this 24th day of May 2022.

12 _____
13 Aaron Brockett,
14 Mayor

14 Attest:

15 _____
16 City Clerk

17 READ ON SECOND READING, PASSED AND ADOPTED this 7th day of June 2022.

19 _____
20 Aaron Brockett,
21 Mayor

22 Attest:

23 _____
24 City Clerk

ORDINANCE 8529

AN ORDINANCE AMENDING CHAPTER 5-8, “WEAPONS,” B.R.C. 1981, BY ADDING A NEW DEFINITION AND A NEW SECTION 5-8-41, “WAITING PERIOD PRIOR TO FIREARM PURCHASE,” B.R.C. 1981, REQUIRING A WAITING PERIOD PRIOR TO THE SALE OF FIREARMS; AND SETTING FORTH RELATED DETAILS.

THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, FINDS AND RECITES THE FOLLOWING:

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. One study found that among people who made near-lethal suicide attempts, 24% took less than five minutes between the decision to kill themselves and the actual attempt, and 71% took less than 1 hour.¹

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.

¹ Eberhard A. Deisenhammer, et al., “The Duration of the Suicidal Process: How Much Time is Left for Intervention Between Consideration and Accomplishment of a Suicide Attempt?” *The Journal of Clinical Psychiatry* 70, no. 1 (2008); T. R. Simon, et al., “Characteristics of Impulsive Suicide Attempts and Attempters,” *Suicide and Life Threatening Behavior* 32 no. 1 (Suppl.) (2001): 49–59;

1 D. While some suicidal people who are unable to access a gun may try to kill
2 themselves by other means, the most common alternative methods of suicide are far less lethal, so
3 more survivable, than suicide by firearm. Approximately 90% of gun suicide attempts end in death,
4 while four percent of suicide attempts across all other methods end in death.² The vast majority of
5 people (90%) who survive a suicide attempt recover from their mental health crisis and do not go
6 on to die by suicide.³ But because firearms are so lethal, many of those who pick up a gun do not
7 get the chance to survive and recover.

8 E. Waiting period laws are associated with reduced rates of firearm suicide. These laws
9 have been shown to reduce firearm suicides by up to 11%.⁴ Waiting periods have also been shown
10 to prevent suicide among older populations (who are generally at a heightened risk of attempting
11 suicide). One study found that the “reduction in suicides for persons aged 55 years or older was
12 much stronger in states that had instituted both waiting periods and background checks than in
13 states that only changed background check requirements.”⁵

14 F. Waiting period laws also help reduce gun homicides by providing a cooling-off
15 period that can interrupt some of the factors that incite violence against others, including family
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20 ² Andrew Conner, Deborah Azrael, and Matthew Miller, “Suicide Case-Fatality Rates in the United States, 2007 to 2014: A
21 Nationwide Population-Based Study,” *Annals of Internal Medicine* 171, no. 2 (2019): 885–95, <https://doi.org/10.7326/M19-1324>.

22 ³ David Owens, Judith Horrocks, and Allan House, “Fatal and Non-Fatal Repetition of Self-Harm:
23 Systematic Review,” *British Journal of Psychiatry* 181, no. 3 (2002): 193–199; see also “Attempters’
24 Longterm Survival,” Harvard TH Chan School of Public Health, Means Matter, [http://www.hsph.
25 harvard.edu/means-matter/means-matter/survival](http://www.hsph.harvard.edu/means-matter/means-matter/survival).

26 ⁴ Michael Luca, Deepak Malhotra, and Christopher Poliquin, “Handgun Waiting Periods Reduce Gun Deaths,” *Proceedings of the
27 National Academy of Sciences* 114, no. 46 (2017): 12162–12165; see also Michael D. Anestis and Joye C. Anestis, “Suicide Rates
28 and State Laws Regulating Access and Exposure to Handguns,” *American Journal of Public Health* 105, no. 10 (2015): 2049–
29 2058.

30 ⁵ Jens Ludwig & Philip Cook, “Homicide and Suicide Rates Associated with Implementation of the Brady Handgun Violence
31 Prevention Act,” *JAMA* (Aug. 2, 2000) 284(5):585-91.

1 violence and intimate partner violence.⁶ One study found that waiting periods that delay firearm
2 purchases by a few days can reduce gun homicides by 17%.⁷

3 G. There is no federal waiting period. Nine states and the District of Columbia currently
4 have waiting periods that apply to the purchase of some or all firearms—but Colorado is not among
5 them. California,⁸ Hawaii,⁹ Illinois,¹⁰ Rhode Island,¹¹ Florida,¹² and the District of Columbia¹³
6 impose a statutory waiting period on all firearm purchases. Minnesota¹⁴ imposes five to seven-day
7 waiting periods on purchases of handguns and assault weapons while Washington¹⁵ imposes 10 day
8 waiting periods for semiautomatic rifles. New Jersey¹⁶ and Maryland¹⁷ have waiting periods for
9 handgun purchases only. These waiting periods vary in length from 72 hours (for long guns in
10 Illinois) to 14 days (for a permit to purchase a firearm in Hawaii).

11 H. The American public overwhelmingly supports laws imposing a waiting period prior
12 to the sale of a firearm. A 2020 study found that Americans routinely underestimate public support
13 for gun safety measures including waiting periods: 85% of non-gun owners and 72% of gun owners
14 support mandatory waiting periods for firearm purchases.¹⁸ Another poll from 2017, which asked
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19 ⁶ J. Davidson, K. R. Scherer, and H. H. Goldsmith, “The Role of Affect in Decision Making,” *Handbook of Affective Sciences* (2003): 619–642; David Card and Gordon B. Dahl, “Family Violence and Football: The Effect of Unexpected Emotional Cues on Violent Behavior,” *The Quarterly Journal of Economics* 126, no. 1 (2011): 103–143.

20 ⁷ 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.

21 ⁸ Cal. Penal Code §§ 26815(a), 26950-27140, 27540(a), 27600-27750.

22 ⁹ Haw. Rev. Stat. §§ 134-2(e), 134-3(a).

23 ¹⁰ 720 Ill. Comp. Stat. 5/24-3(A)(g).

24 ¹¹ R.I. Gen. Laws §§ 11-47-35(a)(1), 11-47.35.1, 11-47-35.2.

25 ¹² Fla. Const. art. I, § 8(b); Fla. Stat. § 790.0655.

¹³ D.C. Code Ann. § 22-4508.

¹⁴ Minn. Stat. § 624.7132, subd. 4.

¹⁵ Rev. Code Wash. § 9.41.092

¹⁶ N.J. Rev. Stat. §§ 2C:58-2a(5)(a), 2C:58-3i.

¹⁷ Md. Code Ann., Pub. Safety §§ 5-123(a), 5-124(a).

¹⁸ Graham Dixon et al., “Public Opinion Perceptions, Private Support, and Public Actions of US Adults Regarding Gun Safety Policy,” *JAMA* (Dec. 22, 2020), 3(12):e2029571.

1 participants about their support for a lengthy waiting period of 30 days, found that 75% of
2 Americans favor a 30-day waiting period for firearm purchases.¹⁹

3 I. Waiting periods are consistent with the Second Amendment and fit squarely within
4 the American tradition of ensuring responsible gun ownership through reasonable firearm
5 regulations. The U.S. Court of Appeals for the Ninth Circuit upheld California’s 10-day waiting
6 period law against a constitutional challenge in *Silvester v. Harris*, 843 F.3d 816, 819, 828 (9th Cir.
7 2016), pointing out that there is “nothing new in having to wait for the delivery of a weapon. Before
8 the age of superstores and superhighways, most folks could not expect to take possession of a
9 firearm immediately upon deciding to purchase one. As a purely practical matter, delivery took
10 time.” *Id.* at 828.

11 J. Courts including the U.S. Supreme Court have approved public safety or public
12 welfare regulations that delay the exercise of other constitutionally protected rights, like the First
13 Amendment. For example, in *Cox v. New Hampshire*, 312 U.S. 569 (1941), the Supreme Court
14 upheld a law requiring a religious group to take the time to obtain a permit before holding a parade
15 on a public street, finding the permit requirement was a valid way to maintain public order that did
16 not infringe the religious group’s First Amendment rights. Courts have also upheld state marriage
17 license requirements and voter registration requirements, which can delay one’s ability to marry or
18 vote, even though these are recognized as essential constitutional rights. A waiting period to
19 exercise Second Amendment rights—which is a powerful and necessary tool to help save lives from
20 gun violence and suicide—is constitutional, just like these other policies.
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25 ¹⁹ Gallup, “Americans Widely Support Tighter Regulations on Gun Sales” (Oct. 17, 2017),
<https://news.gallup.com/poll/220637/americans-widely-support-tighter-regulations-gun-sales.aspx>.

1 K. It is the purpose and intent of the City Council to impose a waiting period prior to
2 sale of a firearm in Boulder. The City Council believes that a waiting period is needed to help
3 improve public safety and reduce the risk of suicide and impulsive acts of violence. The intent and
4 effect of the waiting period is to create a cooling-off period that reduces opportunities for impulsive
5 acts of violence and self-harm.

6
7 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER,
8 COLORADO:

9
10 Section 1. Section 5-8-2, "Definitions," B.R.C. 1981, is amended to read as follows:

11 **5-8-2. – Definitions.**

12 The following terms used in this eChapter have the following meanings unless the context
13 clearly requires otherwise.

14 . . .

15 Law enforcement officer means any person employed by the United States, or a state,
16 county, city, municipality, village, town, or other political subdivision as a police officer, peace
17 officer, or in some like position involving the enforcement of the law and protection of the public
18 interest.

19 . . .

20 Section 2. A new Section 5-8-41, "Waiting Period Prior To Firearm Purchase," B.R.C.
21 1981, is added to read as follows:

22 **5-8-41. – Waiting Period Prior To Firearm Purchase.**

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

- 25
- (a) Ten 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.
 - (c) Exceptions. This section does not apply to:

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

18 Section 3. This ordinance is necessary to protect the public health, safety, and welfare of
 19 the residents of the city, and covers matters of local concern.

20 Section 4. The city council deems it appropriate that this ordinance be published by title
 21 only and orders that copies of this ordinance be made available in the office of the city clerk for
 22 public inspection and acquisition.

23 INTRODUCED, READ ON FIRST READING, AND CONTINUED this 10th day of
 24 May 2022.

25 _____
 Aaron Brockett,
 Mayor

Attest:

 City Clerk

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READ ON CONTINUED FIRST READING, AND ORDERED PUBLISHED BY

TITLE ONLY this 24th day of May 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk

READ ON SECOND READING, PASSED AND ADOPTED this 7th day of June 2022.

Aaron Brockett,
Mayor

Attest:

City Clerk