

RESOLUTION

THE COUNTY COMMISSION OF PRESTON COUNTY, WEST VIRGINIA

WHEREAS, the Second Amendment of the United States Constitution reads, “A well-regulated Militia, being necessary to the security of a free state, the right of the people to keep and bear Arms, shall not be infringed”; and

WHEREAS, the United States Supreme Court in *District of Columbia v. Heller*, 554 U.S. 570 (2008), affirmed an individual’s right to possess firearms, unconnected with service in a militia, for traditionally lawful purposes, such as self-defense within the home; and,

WHEREAS, the United State Supreme Court in *McDonald v. Chicago*, 561 U.S. 742 (2010), affirmed that the right of an individual to “keep and bear arms,” as protected under the Second Amendment, is incorporated by the Due Process Clause of the Fourteenth Amendment against the states; and,

WHEREAS, the United States Supreme Court in *United States v. Miller*, 307 U.S. 174 (1939), opined that firearms that are part of ordinary military equipment, or with use could contribute to the common defense, are protected by the Second Amendment; and,

WHEREAS, Article III, Section 21 of the Constitution of West Virginia provides, “A person has the right to keep and bear arms for the defense of self, family, home and state, and for lawful hunting and recreational use”; and,

WHEREAS, Article III, Section 1 of the Constitution of West Virginia reads “All men are, by nature, equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by an compact, deprive or divest their posterity, namely; the enjoyment of life and liberty, with the means of acquiring and possessing property, and of pursuing and obtaining happiness and safety”; and,

WHEREAS, Article III, Section 2 of the Constitution of West Virginia reads “All power is vested in, and consequently derived from the people. Magistrates are their trustees and servants, and at all time amenable to them”; and,

WHEREAS, the County Commission of Preston County, West Virginia recognizes that federal and state laws are presumed constitutional until finally declared otherwise by a court of appropriate jurisdiction; and,

WHEREAS, the County Commission of Preston County, West Virginia is concerned about the passage of any law containing language that would unconstitutionally infringe upon the rights of the citizens of Preston County to keep and bear arms; and,

WHEREAS, in addition to the individual rights to keep and bear arms as enshrined in the United States and West Virginia Constitutions, the County Commission of Preston County, West Virginia is mindful of the deep cultural and historic roots of hunting within Preston County, as well as the many conservation and wildlife management benefits to be derived from responsible game management through hunting; and,

WHEREAS, the County Commission of Preston County, West Virginia wishes to express its deep commitment to the rights of all law-abiding citizens of Preston County to keep and bear arms as constitutionally protected; and,

WHEREAS, the County Commission of Preston County, West Virginia wishes to express opposition to and to discourage the enactment of any law that would unconstitutionally restrict the rights of the citizens of Preston County to keep and bear arms; and,

WHEREAS, the County Commission of Preston County, West Virginia recognizes that the Supreme Court of Appeals of West Virginia has previously held that “the West Virginia legislature may, through the valid exercise of its police power, reasonable regulate the right of a person and keep and bear arms in order to promote the health, safety and welfare of all citizens of this State, provided that the restrictions or regulations imposed do not frustrate the constitutional freedoms guaranteed by article III section 22 of the West Virginia Constitution, known as the “Right to Keep and Bear Arms Amendment” (Syl. Pt.4, *State ex rel. City of Princeton v. Buckner*, 180 W.Va. 457, 377 S.E.2d 139 (1988); and,

WHEREAS, the County Commission of Preston County, West Virginia recognizes that the Supreme Court of Appeals of West Virginia has previously stated that “it is axiomatic that the regulation and control of dangerous and deadly weapons is exclusively within the police power of the State exercising through the Legislature and not the Judiciary.” (Syl. Pt. 3, *In re Application of Daily*, 195 W.Va. 330, 465 S.E.2d 601 (1995); and,

WHEREAS, the County Commission of Preston County, West Virginia wishes to express its intent to stand as a Sanctuary County for Second Amendment rights and to oppose, with the limits of the Constitution of the United States and the State of West Virginia, any efforts to unconstitutionally restrict such rights, and to use such reasonable and legal means as the County Commission of Preston County, West Virginia may hereafter approve to protect the rights of the citizens of Preston County to keep and bear arms.

NOW, THEREFORE, BE IT RESOLVED by the County Commission of Preston County, West Virginia: That the County Commission hereby declares Preston County, West Virginia as a “Second Amendment Sanctuary” for the purpose described above; and,

BE IT FURTHER RESOLVED, that the County Commission of Preston County, West Virginia hereby expresses its intent to uphold the Second Amendment rights of the citizens of Preston County, West Virginia; and,

BE IT FURTHER RESOLVED, that the County Commission of Preston County, West Virginia hereby expresses its desire that public funds are not used to unconstitutionally restrict the Second Amendment rights of the citizens of Preston County, or to aid federal or state agencies in the unconstitutional restriction of said rights; and,

BE IT FURTHER RESOLVED, that the County commission of Preston County, West Virginia hereby declares its intent to oppose, within the limitations imposed by law upon local governments, any unconstitutional infringement of the right of law-abiding citizens to keep and bear arms, using such reasonable and legal means as the County Commission of Preston County, West Virginia by hereafter approve; and,

BE IT FURTHER RESOLVED, that the undersigned Clerk of the County Commission of Preston County, West Virginia, hereby certifies that the resolution set forth above was adopted during an open meeting on January 21, 2020 by the County Commission of Preston County, West Virginia, with the following votes:

	Aye	Nay
Commissioner Samantha Stone, President	—	—
Commissioner Dave Price	—	—
Commissioner Don Smith	—	—

Samantha Stone
Commission President

ATTEST: _____
Linda Huggins
County Clerk