

A Resolution Declaring Burnet County Supports the 2nd Amendment

On behalf of the citizens of Burnet County, Texas, the Commissioners Court accepts as true, the following:

WHEREAS, removing Texans' right to bear arms and restricting the opportunity to protect themselves and their property is in contradiction to the U.S. Constitution; and

WHEREAS, a criminal's intent to harm others is a selfish act that is destined to occur regardless of whether firearms are available or not. By disarming the law abiding individuals, the criminal element that is intent on not adapting to the society in which they live is given the advantage; and

WHEREAS, the Declaration of Independence states that people are "endowed by their Creator with certain unalienable Rights... to secure these rights, Governments are instituted among Men... deriving their just powers from the consent of the governed"; and

WHEREAS, John Adam wrote in 1a Dissertation on the Canon and Feudal Law (1765):

I say RIGHTS, for such they (the people) have, undoubtedly, antecedent to all earthly government, Rights that cannot be repealed or restrained by human laws, Rights derived from the great Legislator of the universe.

Natural Law Rights, given to each of us by Our Creator, are the basis of our Constitution by which they are protected and secured to each of us. Natural Law Rights, including that of self-protection, are guaranteed by our Laws, our History, and our Traditions.

It is the natural tendency of civil government to expand beyond the limits of its rightful Constitutional authority and to usurp powers which have not been given to it through the delegated consent of the governed.

Whenever the uses of government are perverted, individual sovereignty is overtly endangered or threatened, and all other means of redress are ineffective, the People may, and in fact ought to, force the reestablishment of the original constitutional limits of government.

WHEREAS, resistance against arbitrary power and oppression is the obligation of every Patriot, as not to do so is destructive to the good and happiness of mankind. In fact, it is the duty of the People of Burnet County, Texas through the actions of their lesser magistrates, namely local elected officials and sheriffs, to challenge the civil government when and where it exceeds or threatens to exceed its bounds.

WHEREAS, the Constitution of the United States is the Supreme Law of our nation; and

WHEREAS, the Second Amendment to the Constitution of the United States of America states: "A well-regulated Militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed."; and

WHEREAS, the U.S. Supreme Court found in *Miranda v. Arizona* (1966) that “Where rights secured by the constitution are involved, there can be no rule making or legislation which would abrogate them.”
And

WHEREAS, the U.S. Supreme Court in *District of Columbia v. Heller* (2008) affirmed that the Second Amendment right to keep and bear arms is not connected in any way to service in a militia; and

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

WHEREAS, the Fourteenth Amendment to the Constitution of the United States, Section 1, states “No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”; and

WHEREAS, the U.S. Supreme Court in *McDonald v. City of Chicago* (2010) affirmed that a person’s Second Amendment rights to “keep and bear arms” is further secured by the “due process: and the “privileges and immunities” clauses of the Fourteenth Amendment. The decision also protects rights closely related to the Second Amendment, namely the right to manufacture, transfer, purchase, and sell firearms, accessories, and ammunition; and

WHEREAS, the Texas Constitution, Article 1. Bill of rights, provides:

Sec. 1. Freedom and Sovereignty of State. “Texas is a free and independent State, subject only to the Constitution of the United States, and the maintenance of our free institutions and the perpetuity of the Union depend upon the preservation of the right of local self-government, unimpaired to all the States.”

Sec. 23. Right to Keep and Bear Arms. Every citizen shall have the right to keep and bear arms in the lawful defense of himself or the State; but the Legislature shall have power, by law, to regulate the wearing of arms, with a view to prevent crime.

Sec. 24. Military Subordinate To Civil Authority. The military shall at all times be subordinate to the civil authority; and

WHEREAS, the Texas penal Code Sec. 46.04. Unlawful Possession of Firearm, states

- (a) A person who has been convicted of a felony commits an offense if he possesses a firearm:
 - (1) After conviction and before the fifth anniversary of the person’s release from confinement following conviction of the felony or the person’s release from supervision under community supervision, parole, or mandatory supervision, whichever date is later; or
 - (2) After the period described by Subdivision (1), at any location other than the premises at which the person lives.
- (b) A person who has been convicted of an offense under Section 22.01, punishable as a Class A misdemeanor and involving a member of the person’s family or household, commits an offense if the person possesses a firearm before the fifth anniversary of the later of:
 - (1) The date of the person’s release from confinement following conviction of the misdemeanor; or

- (2) The date of the person's release from community supervision following conviction of the misdemeanor.

NOW THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS COURT OF BURNET COUNTY, TEXAS, the following:


1. The people of Burnet County, Texas, through their duly elected Commissioners Court and their Sheriff, resolve that Burnet County, Texas hereby supports the 2nd Amendment.
2. Burnet County, Texas, acknowledges the responsibility of allowing the residents the right to keep and bear arms by supporting the 2nd Amendment.
3. Burnet County, Texas acknowledges
 - a. The unalienable right to keep and bear arms, as specified in the Second Amendment to the US Constitution, the Constitution of, and further upheld by subsequent decisions of the US Supreme Court ;
 - b. The right, as originally written and understood, to keep and bear arms for self-defense, personal safety, protection of one's family, and in defense of one's community and county;
 - c. The right to manufacture, transfer, purchase, and sell firearms and ammunition designed for those purposes outlined above, rights guaranteed by the US Constitution and the Constitution of Texas;
 - d. Furthermore, any regulation of the right to keep and bear arms or affiliated firearm rights that violates the Second, Ninth, Tenth, or Fourteenth amendments to the US Constitution, that violates Article I, Sections 1, 23, 24 Code of the Texas Constitution and/or bypasses the Texas Penal Code Section 46.04 (1), (2) including Section 22.01 (1) and (2), or that violates numerous related U.S. Supreme Court decisions including those listed above shall be regarded by the People of, on, or in Burnet County to be unconstitutional, a transgression of the Supreme Law of the Land and its spirit of individual sovereignty.
4. Moreover, the criminal misuse of firearms is due to the fact that criminals do not obey laws and this is not a reason to abrogate or abridge the unalienable, constitutionally-guaranteed rights of law abiding citizens. The last protectors of the US Constitution are WE the People of the United States and our ability to fulfill that role successfully rests on our Second Amendment rights.
5. Burnet County, Texas will not authorize or appropriate government funds, resources, employees, agencies, contractors, buildings, detention centers or offices for the purpose of enforcing or assisting in the enforcement of any element of such acts, laws, orders, mandates, rules, or regulations, that infringe on the right by the people to keep and bear arms as described and defined in detail above.

PASSED ON The 9th day March, 2021 by the Commissioners Court of Burnet County, Texas at a duly posted and called meeting.

BURNET COUNTY, TEXAS




James Oakley, County Judge




Jim Luther, Commissioner, Pct. 1



Damon Beierle, Commissioner, Pct. 2




Billy Wall, Commissioner, Pct. 3



Joe Don Dockery, Commissioner, Pct. 4

Attest:



Janet Parker, County Clerk

This resolution was assembled and written by Charlie Riley, Montgomery County, Commissioner, using constitutional law internet references and is based in part on similar ordinances and resolutions from Columbia and Josephine Counties, Oregon and Cherokee County, North Carolina.