

RESOLUTION NO. 2018-155

ORDINANCE NO. 2018-01

PROHIBITING THE CARRYING OF FIREARMS IN MISSOULA COUNTY OWNED BUILDINGS, SCHOOLS, AND CERTAIN AREAS OF PUBLIC ASSEMBLY

I. STATEMENT OF PURPOSE.

The purpose of this Ordinance is to rescind and replace Missoula County Ordinance Resolution No. 95035 with an updated Ordinance that accounts for Missoula County property ownership changes since 1995 and to prohibit firearms at public schools and voting locations during elections.

II. RECITALS.

WHEREAS, Montana Code Annotated § 45-8-351 authorizes the County to prevent and suppress the carrying of concealed and unconcealed weapons to public assemblies, publicly owned buildings, parks under its jurisdiction, and schools;

WHEREAS, Montana Code Annotated § 45-8-328(1)(a) prohibits the carrying of concealed weapons with or without a permit in any portion of a building used for state or local government offices and related areas in buildings that have been restricted;

WHEREAS, Montana Code Annotated § 45-8-361 prohibits the carrying of a weapon in school buildings except by law enforcement personnel and those with advance permission;

WHEREAS, the U.S. Supreme Court recognized in *District of Columbia v. Heller*, 554 U.S. 570 (2008) the importance of forbidding the carrying of firearms in sensitive places such as in schools and public buildings;

WHEREAS, in 1995, Missoula County adopted County Ordinance Resolution No. 95-035, which prohibited the carrying of weapons, firearms, and explosives on certain County-owned properties;

WHEREAS, since 1995, the County has purchased, sold, or otherwise changed its campus of operation rendering Ordinance No. 95-035 outdated and incomplete.

NOW, THEREFORE BE IT RESOLVED, the Board of County Commissioners rescinds County Ordinance Resolution No. 95-035 and replaces it, in its entirety, with the following ordinance:

III. ORDINANCE:

Section 1. Definitions.

- a. **"Concealed weapon"** means a firearm that is wholly or partially covered by the clothing or wearing apparel of the person carrying or bearing the weapon. Mont. Code Ann. § 45-8-315.
- b. **"Firearm"** means any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; or any firearm muffler or firearm silencer. 18 U.S.C. § 921(a)(3).
- c. **"Public Assembly,"** for the purpose of this ordinance, means:
 - i. Public meetings of public governing bodies;

- j. The premises of a polling place on the day of an election or while early voting is in progress; and
- k. Public events at the Missoula County Fairgrounds, Missoula City-County Library, or Historical Museum at Fort Missoula to which the public is invited or allowed to enter including, but not limited to, the Western Montana Fair, sporting events, arts and crafts markets, and holiday celebrations.
- d. **“Public Meeting”** means the convening of public or governmental bodies, boards, bureaus, commissions, agencies of the state, or any political subdivision of the state for the purpose of hearing, discussing or acting upon a matter over which the agency has supervision, control, jurisdiction, or advisory power.

Section 2. Prohibitions.

- a. Except as provided in Section 3, no person shall wear, bear, or otherwise carry any firearm, whether concealed or unconcealed, to a public assembly, building owned in whole or in part by Missoula County, or into any public school located in Missoula County.

Section 3. Exceptions.

This section shall not apply to:

- a. Peace officers of the State of Montana or the United States government;
- b. Buildings and facilities of the University of Montana;
- c. Persons specifically authorized in advance by Missoula County or a school district to carry firearms on its premises;
- d. A historical demonstration or theatrical presentation at the Historical Museum at Fort Missoula or the Missoula County Fairgrounds which involves use of blank ammunition only;
- e. Persons participating in hunter education or gun safety courses sanctioned by Montana Fish, Wildlife and Parks; and
- f. Firearms locked within a private vehicle.

Section 4. Penalty.

- a. A person commits an offense under this ordinance if the person purposely or knowingly wears, bears, or otherwise carries a firearm in violation of Section 2(a).
- b. Any person convicted of a violation of this ordinance shall be subject to a fine of up to five hundred dollars (\$500.00) or be imprisoned in the Missoula County Detention Facility for a term not to exceed six (6) months, or both.

Section 5. Effective Date.

Pursuant to Montana Code Annotated § 7-5-105, this ordinance is effective 30 days from the date of the second and final adoption by the Board of County Commissioners.

Section 6. Severability.

If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this

ordinance. Missoula County hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase and words thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, phrase or word of this ordinance would be declared invalid or unconstitutional for any reason, and Missoula County also hereby declares the remaining portions of this ordinance will be in full force and effect.

First reading and preliminary adoption on the 4th day of October, 2018 by a vote of: 2 ayes, 0 nays; 0 abstentions; and 1 absent.

Second and final reading and adoption on the 25th day of October, 2018 by a vote of: 3 ayes, 0 nays; 0 abstentions; and 0 absent.

ATTEST:

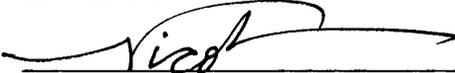

Tyler Gernant, County Clerk and Recorder



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