

**NOTICE OF PUBLIC HEARING
ORDINANCE No. 1835, SERIES 2022**

NOTICE IS HEREBY GIVEN that at a regular meeting of the City Council of the City of Louisville, Colorado, to be held on June 7, 2022 at the hour of 6:00 p.m., at Louisville City Hall, 749 Main Street, Louisville, Colorado 80027 or in an electronic meeting, the City Council will hold a Public Hearing on the final passage and adoption of a proposed **ORDINANCE AMENDING TITLE 9, ARTICLE VIII OF THE LOUISVILLE MUNICIPAL CODE TO REQUIRE A WAITING PERIOD PRIOR TO THE SALE OF FIREARMS.**

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Full copies available in the City Clerk's Office, 749 Main Street, Louisville CO 80027.

**ORDINANCE NO. 1835
SERIES 2022**

**AN ORDINANCE AMENDING TITLE 9, ARTICLE VIII OF THE LOUISVILLE
MUNICIPAL CODE TO REQUIRE A WAITING PERIOD PRIOR TO THE SALE OF
FIREARMS**

WHEREAS, 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; and

WHEREAS, 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 percent took less than 5 minutes between the decision to kill themselves and the actual attempt, and 71 percent took less than 1 hour¹; and

WHEREAS, 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; and

WHEREAS, while some suicidal people who are unable to access a gun may try to kill themselves by other means, the most common alternative methods of suicide are far less lethal, so more survivable, than suicide by firearm. Approximately 90 percent of gun suicide attempts end in death, while four percent of suicide attempts across all other methods end in death.² The vast

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;

² Andrew Conner, Deborah Azrael, and Matthew Miller, "Suicide Case-Fatality Rates in the United States, 2007 to 2014: A Nationwide Population-Based Study," *Annals of Internal Medicine* 171, no. 2 (2019): 885–95, <https://doi.org/10.7326/M19-1324>.

majority of people (90 percent) who survive a suicide attempt recover from their mental health crisis and do not go on to die by suicide.³ But because firearms are so lethal, many of those who pick up a gun do not get the chance to survive and recover; and

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

WHEREAS, waiting period laws also help reduce gun homicides by providing a cooling-off period that can interrupt some of the factors that incite violence against others, including family violence and intimate partner violence.⁶ One study found that waiting periods that delay firearm purchases by a few days can reduce gun homicides by 17 percent⁷; and

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

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

⁴ 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; see also Michael D. Anestis and Joye C. Anestis, “Suicide Rates and State Laws Regulating Access and Exposure to Handguns,” *American Journal of Public Health* 105, no. 10 (2015): 2049–2058.

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

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.

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.

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

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

¹⁰ 720 Ill. Comp. Stat. 5/24-3(A)(g).

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

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).

WHEREAS, the American public overwhelmingly supports laws imposing a waiting period prior to the sale of a firearm. A 2020 study found that Americans routinely underestimate public support for gun safety measures including waiting periods: 85 percent of non-gun owners and 72 percent of gun owners support mandatory waiting periods for firearm purchases.¹⁸ Another poll from 2017, which asked participants about their support for a lengthy waiting period of 30 days, found that 75 percent of Americans favor a 30-day waiting period for firearm purchases¹⁹; and

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

WHEREAS, courts, including the U.S. Supreme Court, have approved public safety or public welfare regulations that delay the exercise of other constitutionally protected rights, like the First Amendment. For example, in *Cox v. New Hampshire*, 312 U.S. 569 (1941), the Supreme Court upheld a law requiring a religious group to take the time to obtain a permit before holding a parade on a public street, finding the permit requirement was a valid way to maintain public order that did not infringe the religious group’s First Amendment rights. Courts have also upheld state marriage license requirements and voter registration requirements, which can delay one’s ability to marry or vote, even though these are recognized as essential constitutional rights. A waiting period to exercise Second Amendment rights—which is a powerful and necessary tool to help save lives from gun violence and suicide—is constitutional, just like these other policies; and

WHEREAS, it is the purpose and intent of the City Council to impose a waiting period prior to sale of a firearm in the City of Louisville. The City Council finds that a waiting period is needed to help improve public safety and reduce the risk of suicide and impulsive acts of violence. The intent and effect of the waiting period is to create a cooling-off period that reduces opportunities for impulsive acts of violence and self-harm.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Section 9.80.010 of the Louisville Municipal Code (Definitions) is hereby amended by the addition of the following definitions, to be inserted alphabetically:

Sec. 9.80.010 Definitions.

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.

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>.

For the purposes of this Article the following terms, phrases, words, and their derivatives shall have the meanings given in this section:

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

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

Person means any individual, corporation, company, association, firm, partnership, club, organization, society, joint stock company or other entity.

Section 2. Chapter 9.82 of the Louisville Municipal Code (Firearms) is hereby amended by the addition of a new Section 9.82.080 to read as follows:

Sec. 9.82.080 Waiting period prior to firearm purchase.

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

- (1) 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
- (2) The dealer has received approval for the firearms transfer as required by C.R.S 18-12-112.5.

(b) Exceptions. This section does not apply to:

- (1) Any law enforcement or corrections agency, or law enforcement or corrections officer acting within the course and scope of his or her employment or official duties;
- (2) A United States Marshal or member of the Armed Forces of the United States or the National Guard, or a federal official transferring firearms as required in the operation of his or her official duties;
- (3) Licensed firearms manufacturers, importers or dealers, while engaged in the course and scope of their activities as licensees, provided that the transfers are between licensees and all such licensees are properly licensed under federal, state and local law;
- (4) A gunsmith who receives a firearm for service or repair;

- (5) A properly licensed private security firm, or private security personnel, who acquires the firearms for use in the course and scope of employment; or
- (6) A common carrier, warehouseman, or other person engaged in the business of transporting or storing goods, to the extent that the possession or receipt of any firearm or having on or about the person of any firearm, is in the ordinary course of business and not for the personal use of any such person.

Section 3. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares it would have passed and approved this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 4. The repeal or modification of any provision of the Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 5. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 6. Any person convicted of violating this ordinance may be punished as set forth in 1.28.010 of the Louisville Municipal Code, as may be amended but which currently provides violations shall be punished by a fine of not more than \$2,650.00, as shall be adjusted for inflation on January 1, 2014 and on January 1 of each year thereafter, or by imprisonment not to exceed 364 days, or by both such fine and imprisonment.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this ____ day of _____, 2022.

Ashley Stolzmann, Mayor

ATTEST:
Meredyth Muth, City Clerk

APPROVED AS TO FORM:
Kelly PC City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING, this ____ day of _____, 2022.

Ashley Stolzmann, Mayor

ATTEST:
Meredyth Muth, City Clerk