

## ORDINANCE NO. 2018-\_\_\_\_\_

AN ORDINANCE PERTAINING TO FIREARM PURCHASES IN ORANGE COUNTY, FLORIDA; CREATING SECTIONS 26-91 THROUGH 26-99; PROVIDING A TITLE FOR THE DIVISION; PROVIDING AUTHORITY AND PURPOSE; SPECIFYING JURISDICTION; PROVIDING FOR CONSTRUCTION; PROVIDING DEFINITIONS; PROVIDING FOR A WAITING PERIOD AND CRIMINAL HISTORY CHECK; PROVIDING EXEMPTIONS FROM THE WAITING PERIOD; PROVIDING FOR INSPECTION OF RECORDS OF FIREARM SALES; PROVIDING FOR PENALTIES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2011 the Florida Legislature amended section 790.33, Florida Statutes, to preempt the regulation of firearms, ammunition and components thereof; and

WHEREAS, as a result of the draconian penalties aimed at elected officials to deter violation of the preemption and rights related to firearms, the Board amended/repealed firearm related provisions in several sections of the Orange County Code, including sections 26-91 through 26-98 ("The Handgun Ordinance") which contained a 3-day waiting period for the purchase of a handgun; and

WHEREAS, Art. VIII, Sec. 5(b), Florida Constitution, provides counties with the authority to require a criminal history records check and waiting period in connection with the purchase of any firearm occurring within such county; and

WHEREAS, it is the intent of this ordinance to enact requirements connected with the purchase of any firearm consistent with Art. VIII, Sec. 5(b), Florida Constitution.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE

COUNTY, FLORIDA:

*Section 1. Recreation of Division 2, Firearm Purchase Waiting Period, Orange*

*County Code.* Division 2, Firearm Purchase Waiting Period, of the Orange County Code is recreated to read as follows:

**DIVISION 2**

**FIREARM PURCHASE WAITING PERIOD**

**Sec. 26-91. Title.**

This division may be cited as "The Firearm Ordinance."

**Sec. 26-92. Authority and purpose.**

This division is enacted pursuant to the home rule powers granted to the county pursuant to Article VIII, Section 1(g) and Article VIII, Section 5 of the Florida Constitution, subsection 125.01(1)(t), Florida Statutes, and Article I, Section 103, Orange County Charter, to provide a waiting period between the purchase and delivery of firearms in the interest of the health, safety and welfare of the citizens of the county.

**Sec. 26-93. Jurisdiction.**

This division shall be effective in the incorporated and unincorporated areas of the county.

**Sec. 26-94. Construction.**

The provisions of this division shall be liberally construed to effectuate the purposes of this division.

**Sec. 26-95. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Firearm* means any weapon, including a starter gun or handgun, which will or is designed to or may readily be converted

68 to expel a projectile by the action of an explosive; the frame or  
70 receiver of any such weapon; any firearm muffler or firearm  
72 silencer; any destructive device; or any machine gun. The term  
"firearm" does not include an antique firearm as defined in section  
790.001, Florida Statutes.

74 *Property to which the public has a right of access* means  
any real or personal property to which the public has a right of  
76 access, including property owned by either public or private  
individuals, firms and entities and expressly includes flea markets,  
78 gun shows and firearms exhibitions.

80 *Sale* shall mean the transfer of money or other valuable  
consideration for any firearm when any part of the transaction is  
82 conducted on property to which the public has the right of access.  
For purposes of the foregoing, private residences shall be deemed  
84 property to which the public does not have the right of access.

86 **Sec. 26-96. Waiting period; criminal history background**  
88 **check.**

90 (a) No firearm shall be delivered to any person for a  
period of three (3) working days after the sale of such firearm.

92 (b) No person shall deliver a firearm to another person  
to consummate a sale when the transaction is subject to the waiting  
94 period in subsection (a) until the seller has complied with all of the  
provisions set forth in section 790.065, Florida Statutes, requiring a  
96 criminal history check of the potential buyer.

98 **Sec. 26-97. Exemptions from waiting period.**

100 The following shall be exempt from the waiting period set  
102 forth in Section 26-96 above.

104 (1) Individuals who are licensed to carry concealed  
firearms under the provisions of section 790.06, Florida Statutes,  
or who are licensed to carry concealed firearms under any other  
106 provision of state law and who show a valid license.

108 (2) A law enforcement or correctional officer as  
defined in section 943.10, Florida Statutes.

110 (3) A law enforcement agency as defined in section  
934.02, Florida Statutes.

(4) Sales to a licensed dealer, licensed importer or  
licensed manufacturer.

(5) A trade-in of another firearm.

**Sec. 36-98. Inspection of records of firearm sales.**

Records of firearm sales must be available for inspection,  
during normal business hours, by any law enforcement agency as  
defined in section 934.02, Florida Statutes.

**Sec. 26-99. Penalty.**

Violation of any requirement or provision of this division  
shall be punishable by a fine not to exceed \$500.00 or by  
imprisonment in the county jail not to exceed 60 days or by both  
such a fine and imprisonment as provided in Section 1-9, Orange  
County Code.

**Secs. 26-100-26-110. Reserved.**

**Section 2. Effective date.** This ordinance shall become effective pursuant to general

law.

**ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.**

**ORANGE COUNTY, FLORIDA**

By: Board of County Commissioners

By: \_\_\_\_\_  
Teresa Jacobs,  
Orange County Mayor

**ATTEST:** Phil Diamond, CPA, County Comptroller  
As Clerk of the Board of County Commissioners

By: \_\_\_\_\_  
Deputy Clerk