

BCC Mtg. Date: May 8, 2018

EFFECTIVE DATE: May 11, 2018

CORRECTED ORDINANCE NO. 2018-09

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aimed at elected officials to deter violation of the preemption and rights related to firearms, the Board amended/repealed firearm related provisions in several sections of the Orange County Code, including sections 26-91 through 26-98 ("The Handgun Ordinance") which contained a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 to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm 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.

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

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

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

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

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

(c) In the case of a seller who is not a licensed importer, licensed manufacturer or licensed dealer:

1. Compliance with section 790.065, Florida Statutes, shall be achieved by the seller requesting that a licensed importer, licensed manufacturer or licensed dealer complete all the requirements of section 790.065, Florida Statutes.

2. Licensed importers, manufacturers and dealers may charge a fee of an unlicensed seller as established by the Florida Department of Law Enforcement to cover costs associated with completing the requirements of section 790.065, Florida Statutes.

3. An unlicensed seller must prominently display next to any firearms being sold on property to which the public has the right of access the following information:

- a. The full legal name of the seller.
- b. The name(s) of the licensed importer, licensed manufacturer, or licensed dealer who will be completing the transaction on behalf of the seller.
- c. The license number of the licensed importer, licensed manufacturer, or licensed dealer who will be completing the transaction on behalf of the seller.
- (d) Sellers who conduct or cause to be conducted history records checks shall maintain records pursuant to Florida Statutes.

Sec. 26-97. Exemptions from waiting period.

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

- (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 provision of state law and who show a valid license.
- (2) A law enforcement or correctional officer as defined in section 943.10, Florida Statutes.
- (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. 26-98. 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 8th DAY OF May, 2018.

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: *Teresa Jacobs*
Teresa Jacobs,
Orange County Mayor

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

By: *Kate Mueck*
Deputy Clerk

