RESOLUTION NO. 26-38

RESOLUTION OF THE COCHISE COUNTY BOARD OF SUPERVISORS PROCLAIMING COCHISE COUNTY A SECOND AMENDMENT COUNTY

WHEREAS, Cochise County was created in 1881, with Tombstone serving as its first county seat, and the County's territorial history is intertwined with frontier law enforcement, ranching, mining, military service, hunting, and the practical need for self-reliance in a rural community; and

WHEREAS, from the earliest days of Arizona statehood to the present, generations of Cochise County residents have lawfully owned and used firearms for self-defense, defense of family and property, hunting, predator and wildlife control within lawful limits, livestock and ranch protection, sport shooting, youth education, marksmanship, and the ordinary incidents of rural life; and

WHEREAS, Cochise County's firearms tradition is reflected in the life of Technical Sergeant Arthur J. Benko, who moved to Bisbee as a boy, graduated from Bisbee High School in 1928, worked as a mining electrician, served as president of the Bisbee Rifle and Pistol Club, placed sixth in a national rifle competition in 1937, and won the 1941 Arizona rifle championship before volunteering for military service after the attack on Pearl Harbor; and

WHEREAS, Sergeant Benko later served as the top-turret gunner aboard the B-24 Liberator *The Goon* with the 374th Bomb Squadron in the China-Burma-India theater, where his skill as a marksman was credited with sixteen confirmed enemy aircraft kills before his death in 1943; and

WHEREAS, Cochise County also honors the Buffalo Soldiers, whose service forms an enduring part of the history of Fort Huachuca and the County's military heritage, and whose legacy reflects the longstanding connection between military service, individual marksmanship, and the defense of the Nation; and

WHEREAS, the Board recognizes that safe and responsible firearms ownership is not lawlessness, but rather a civic tradition that respects neighbors, private property, livestock, roads, trails, law enforcement, and the safety of every person who may be within range of a fired projectile; and

WHEREAS, the Second Amendment to the United States Constitution provides that "the right of the people to keep and bear Arms, shall not be infringed," and Article II, § 26 of the Arizona Constitution provides that “[t]he right of the individual citizen to bear arms in defense of himself or the state shall not be impaired”; and

WHEREAS, the United States Supreme Court has recognized that the Second and Fourteenth Amendments protect an individual right to keep and bear arms for self-defense, and in *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1, 17, 24 (2022), the Court held that when the Second Amendment's plain text covers an individual's conduct, that conduct is presumptively protected and the government bears the burden of demonstrating consistency with the Nation's historical tradition of firearm regulation; and

WHEREAS, the Supreme Court further stated in *Bruen* that “[t]he constitutional right to bear arms in public for self-defense is not a ‘second-class right,’” *id*. at 70, and that law-abiding citizens with ordinary self-defense needs may not be required to demonstrate a special need before exercising that right; and

WHEREAS, the Board also recognizes, consistent with *Bruen* and *United States v. Rahimi*, 602 U.S. 680, 691 (2024), that the right to keep and bear arms is fundamental but not unlimited, and that this resolution is not intended to impair the enforcement of constitutionally valid laws that disarm persons who are prohibited from possessing firearms or who have been found by a court to pose a credible threat to the physical safety of another; and

WHEREAS, in *Rahimi*, the Supreme Court confirmed that courts applying Bruen should consider the principles underlying the Nation's regulatory tradition and that the Second Amendment does not require the law to be “trapped in amber,” *id*., while also reaffirming that firearm regulations must remain consistent with the Constitution's text and historical understanding; and

WHEREAS, in *Wolford v. Lopez*, 609 U.S. ___ (2026), Justice Amy Coney Barrett, concurring with Justices Clarence Thomas and Neil Gorsuch, made clear that states may not disguise firearms restrictions as neutral property rules, invoke a generalized “Aloha Spirit,” or rummage through the post-Civil War Black Codes for historical cover; and

WHEREAS, the Second Amendment is not defeated by etiquette, majority discomfort, or "vile laws" born of racial subordination; and

WHEREAS, Arizona and Cochise County embrace the opposite tradition: lawful firearms ownership and self-defense are rights of the people—not boutique privileges curated for fashionable jurisdictions and not constitutional rights that dim whenever a state decides the Bill of Rights is too inconvenient for the civic "spirit" of the day; and

WHEREAS, Arizona has enacted statewide firearm preemption in A.R.S. § 13-3108, which provides, except as authorized by state law, that political subdivisions shall not enact ordinances, rules, or taxes relating to the transportation, possession, carrying, sale, transfer, purchase, acquisition, gift, devise, storage, licensing, registration, discharge, or use of firearms, ammunition, firearm components, ammunition components, or related accessories; and

WHEREAS, A.R.S. § 13-3108 further provides that a political subdivision may not enact a firearm-related rule or ordinance that is more prohibitive than, or carries a penalty greater than, state law, and that inconsistent or more restrictive rules or ordinances are null and void; and

WHEREAS, the Board recognizes that A.R.S. § 13-3108 does not authorize a political subdivision, through zoning, to prohibit or otherwise regulate the otherwise lawful discharge of a firearm or maintenance or improvements directly related to discharge on a private lot or parcel not open to the public on a commercial or membership basis, or on land used for agriculture or other noncommercial purposes; and

WHEREAS, A.R.S. § 13-3108(G)(3) preserves the authority of a political subdivision to regulate commercial land and structures, including businesses relating to firearms or ammunition and commercial shooting ranges, in the same manner as other commercial businesses, while also limiting local regulation of otherwise lawful firearm discharge on qualifying private, agricultural, and other noncommercial property; and

WHEREAS, the Board further recognizes that the County's current regulations do not contain a county ordinance of general applicability that bans otherwise lawful recreational shooting on private property in unincorporated Cochise County, but this recognition does not apply inside incorporated municipalities, on property owned or controlled by another, on lands subject to federal or state jurisdiction, or where private covenants, easements, leases, or other lawful restrictions may apply; and

WHEREAS, firearms and ammunition sold at retail in Arizona are generally included within the state's transaction privilege tax structure applicable to personal property, and the Cochise County Board of Supervisors expresses its concern that imposing a tax upon the purchase of firearms and ammunition burdens the exercise of rights protected by the Second Amendment to the United States Constitution and Article II, Section 26 of the Arizona Constitution; and

WHEREAS, although A.R.S. § 13-3108(G)(1) presently permits generally applicable privilege or use taxes upon the retail sale, lease, or rental of firearms, ammunition, and related components, the Board believes that the taxation of constitutionally protected arms warrants renewed examination in light of new Second Amendment case law and Arizona's constitutional protection of the individual right to bear arms; and

WHEREAS, the Board is not aware of any Arizona statute or Cochise County ordinance that, standing alone, makes the mere sound of otherwise lawful gunfire a categorical prohibition on recreational shooting on private property in unincorporated Cochise County, but the Board expressly recognizes that A.R.S. § 13-2904 and other laws may apply when the facts and required mental state establish unreasonable noise, reckless handling, display, or discharge of a deadly weapon, or other prohibited conduct; and

WHEREAS, A.R.S. § 13-1201 provides that a person commits endangerment by recklessly endangering another person with a substantial risk of imminent death or physical injury, and nothing in this resolution shall be construed to excuse conduct that creates a genuine danger to neighbors, motorists, hikers, livestock handlers, first responders, or any other person; and

WHEREAS, A.R.S. § 13-3102 identifies specific forms of misconduct involving weapons, including possession of prohibited weapons, possession by prohibited possessors, carrying a weapon in connection with certain criminal offenses, possession of defaced firearms, and possession of weapons in certain restricted locations; and

WHEREAS, A.R.S. § 13-3107 separately addresses criminally negligent discharge of a firearm within or into the limits of a municipality, subject to statutory exceptions, and nothing in this resolution is intended to apply to or modify municipal law, municipal boundaries, or any statutory exception or offense; and

WHEREAS, the Board finds that affirming constitutional rights and responsible firearms safety are complementary, and that voluntary education, safe shooting practices,

and compliance with existing law help preserve public peace, rural custom, and individual liberty in Cochise County.

NOW, THEREFORE, BE IT RESOLVED, by the Cochise County Board of Supervisors that:

1. Cochise County is hereby proclaimed a Second Amendment County, in recognition of the rights secured by the Second Amendment to the United States Constitution and Article II, § 26 of the Arizona Constitution.

2. The Board affirms its support for the right of law-abiding citizens to keep and bear arms for lawful purposes, including self-defense, defense of family and property, hunting, lawful predator and wildlife control, ranch and livestock protection, sport shooting, training, and marksmanship.

3. The Board recognizes that otherwise lawful recreational shooting on private property in unincorporated Cochise County is part of the County's rural heritage and remains subject to all applicable federal, state, and local laws, court orders, land ownership restrictions, private covenants, leases, easements, and safety obligations.

4. The Board opposes the adoption of any county ordinance, rule, policy, tax, fee, zoning regulation, or enforcement practice that would burden the lawful possession, carrying, storage, discharge, or use of firearms or ammunition in a manner inconsistent with the United States Constitution, the Arizona Constitution, A.R.S. § 13-3108, *Bruen, Rahimi*, or other controlling law.

5. The Board expresses its view that the imposition of transaction privilege or similar taxes upon the retail acquisition of firearms and ammunition raises substantial concerns under the Second Amendment to the United States Constitution and Article II, Section 26 of the Arizona Constitution.

6. The Board respectfully requests that the Arizona Legislature, the Arizona Department of Revenue, and all other appropriate state agencies review and evaluate Arizona statutes, administrative rules, and tax guidance relating to the taxation of firearms, ammunition, and firearm components, including A.R.S. § 13-3108(G)(1), and consider whether amendments or exemptions are appropriate to ensure that Arizona’s tax laws remain consistent with constitutional protections governing the bearing of arms

7. The Board directs that any future proposed county policy, ordinance, or land-use regulation touching upon firearms, ammunition, shooting ranges, recreational shooting, or related accessories be reviewed for consistency with state firearm preemption, constitutional protections, public safety, and the County's authority as a political subdivision of the State of Arizona.

8. Nothing in this Resolution shall be construed to alter, reverse, impair, invalidate, reconsider, or express a contrary opinion regarding any prior decision, order, enforcement action, zoning determination, or other official action of the Cochise County Board of Supervisors, a County Hearing Officer, or another authorized County official. Nothing in this Resolution shall affect any pending or existing zoning violation, code enforcement matter, administrative proceeding, or civil action, each of which shall be determined independently based upon its particular facts, evidentiary record, and applicable law. A.R.S. § 13-3108(G)(3) and other applicable law preserves the County's regulatory authority over commercial land and structures, including firearm-related businesses, commercial shooting ranges, training facilities, educational operations, or other commercial or nonresidential land uses, in the same manner as comparable commercial or nonresidential uses.

9. The Board requests that county public safety communications regarding recreational shooting emphasize both constitutional rights and legal responsibilities, including the continuing applicability of A.R.S. §§ 13-1201, 13-2904, 13-3102, 13-3107, 13-3108, and any other applicable federal, state, municipal, public land, or private property restrictions.

10. Nothing in this resolution shall be interpreted to authorize, excuse, immunize, or encourage any violation of federal law, state law, municipal ordinance, a lawful court order, a lawful condition of release, a lawful protective order, a lawful probation or parole condition, or any other legally enforceable restriction on firearm possession, carrying, discharge, or use.

11. Nothing in this resolution shall be interpreted to limit the authority or discretion of law enforcement officers, prosecutors, courts, probation officers, or other public officials to investigate, charge, prosecute, adjudicate, or enforce any firearm-related offense, public safety offense, prohibited possessor law, domestic violence restriction, protective order, endangerment law, disorderly conduct law, unlawful discharge law, criminal damage law, trespass law, or other applicable law.

12. Nothing in this resolution shall be interpreted as a declaration of nullification, an instruction to disobey federal or state law, or a direction to any County officer or employee to act outside the lawful authority of Cochise County.

13. This resolution does not create, expand, or diminish any private right, civil right, cause of action, claim, entitlement, immunity, defense, remedy, or enforceable legal duty against Cochise County, the Board of Supervisors, any County officer or employee, or any other person or entity.

14. The Board directs the Clerk of the Board to transmit a copy of this resolution to the Governor of Arizona, the Attorney General of Arizona, the Arizona state legislators serving Cochise County, the County's congressional delegation, the Cochise County Sheriff, and such other officials as the Board may designate.

ADOPTED this 11th day of November, 2026.

SIGNED:

_____
Frank Antenori
Chairman

ATTEST:

_____
Lara Loewenheim
Clerk of the Board

APPROVED AS TO FORM:



10/21/2026
Dylan Hendel
Civil Deputy County Attorney