



## **CITY COUNCIL AGENDA ITEM COVER SHEET**

**MEETING DATE:**

**May 15, 2018**

### **AGENDA TITLE**

Third Reading and consideration of a motion to adopt Ordinance 8245 adding additional firearm regulations to the Boulder Revised Code

### **PRIMARY STAFF CONTACT**

Thomas Carr, City Attorney

### **REQUESTED ACTION OR MOTION LANGUAGE**

Motion to adopt on third reading Ordinance 8245 imposing additional firearm restrictions in the City of Boulder and setting forth related details.

### **ATTACHMENTS:**

#### **Description**

- ▣ **Memo and Attachments**



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: May 15, 2018**

**AGENDA TITLE:** Third Reading and consideration of a motion to adopt Ordinance 8245 adding additional firearm regulations to the Boulder Revised Code.

**PRESENTERS**

Jane S. Brautigam, City Manager  
Thomas A. Carr, City Attorney

**EXECUTIVE SUMMARY**

On April 5, 2018, the city council considered first reading of ordinance 8245, relating to firearm regulation in Boulder including banning certain weapons, magazines and other devices. Council heard testimony from over 100 individuals over five and one-half hours. Because of the lateness of the hour when the public hearing concluded, council did not have any opportunity to discuss the proposed ordinance. At second reading, on May 1, 2018, council amended the ordinance as follows:

1. Added recitals clarifying the council's intent;
2. Added language to exclude rim-fire rifles and ammunition;
3. Added a definition of "pistol grip;"
4. Clarified which pistols are included as assault weapons;
5. Added language referencing shotguns to the definition of assault weapon;
6. Limited the exemption for public safety officers and military to weapons necessary for their duties;
7. Added an exemption for individuals covered by the Federal Law Enforcement Officers Safety Act;
8. Deleted an exemption for competitive shooters;

9. Raised the age for possession of any firearm to 21;
10. Amended the definition of carrying case to include a holster for a pistol;
11. Created a certification system and eliminated a proposed registration system for gun owners to prove that they owned a weapon prior to the effective date of the ban;
12. Allowed for compliance with the assault weapon and large magazine ban by December 31, 2018; and
13. Allowed for compliance with the multi-burst trigger activator ban by thirty days after the effective date.

This memorandum describes the amendments and provides a version of the ordinance as passed on second reading.

### **STAFF RECOMMENDATION**

**Suggested Motion Language:**

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to adopt on third reading Ordinance 8245 imposing additional firearm restrictions in the City of Boulder and setting forth related details.

### **COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- Economic – There are two businesses in Boulder that sell the products that the council is considering for a ban. Tax revenue from these businesses will likely decrease, although one study suggests that the true cost of gun violence far exceeds the economic impact of gun sales and manufacture.<sup>1</sup>
- Environmental – None identified.
- Social – Public safety is among the city’s highest priorities. Any reduction or prevention of gun violence will have a positive social impact.

### **OTHER IMPACTS**

- Fiscal – All work for drafting will be performed within existing department budgets. The final ordinance may require additional funding to implement.
- Staff time – All work for drafting will be performed with existing staff. The final ordinance may require additional staff to implement.

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<sup>1</sup> <https://www.motherjones.com/politics/2015/04/true-cost-of-gun-violence-in-america/>

## **BOARD AND COMMISSION FEEDBACK**

Not Applicable.

## **PUBLIC FEEDBACK**

Council held a five and one-half hour public hearing at which over 100 persons spoke. Council also has received several hundred emails regarding the issue.

The background for the ordinance was provided in detail in the [agenda packet](#) for the April 5, 2018 public hearing and in the [agenda packet](#) for the May 1, 2018 second reading.

### **1. Recitals Clarifying Council's Intent**

Council included a more extensive purpose statement in the ordinance. Many who commented both in person and via email asked why the council is considering this ordinance. Including a clear legislative statement in the proposed ordinance will help to answer this question. The additional recitals are recitals D through N.

### **2. Language to Exclude Rim-Fire Rifles and Ammunition**

Council added language that excluded rim-fire rifles and ammunition from the scope of the ordinance. Council added the words "center-fire" to modify the word "rifles" in the first sentence of the definition of "Assault Weapon." In the definition of "Large-capacity magazine" council added the words "rim-fire" before the word "ammunition" in subsection (b). Rim-fire ammunition travels at a lower velocity than center-fire ammunition and is not generally considered part of a military style weapon.

### **3. Definition of "pistol grip"**

The ordinance that council passed on first reading used the term "pistol grip," but did not define it. Council added a definition in section 5-8-2. The definition is as follows:

"Pistol Grip" means a grip that protrudes conspicuously beneath the action of the weapon and that allows for a pistol style grasp in which the web of the trigger hand (between the thumb and index finger) can be placed below the top of the exposed portion of the trigger while firing.

### **4. Clarification Regarding Pistols**

The ordinance passed on first reading included pistols with a protrusion allowing for control of the weapon with two hands. A community member expressed concern that the pistol grip itself could be considered such a feature, since most pistols can be fired with both hands on the grip. Council modified the definition of assault weapons to include pistols with a "secondary" protrusion.

## **5. Language Regarding Shotguns**

In the definition of “Assault Weapon” council added language to include shotguns that have characteristics increasing lethality much like other military style weapons. Council noted that one of the weapons used in the Columbine High School mass killing was a shotgun. The language added was as follows:

- (c) Semi-automatic shotgun that has one or more of the following
  - (1) A pistol grip or thumbhole stock;
  - (2) Any feature capable of functioning as a protruding grip that can be held by the non-trigger hand;
  - (3) A folding or telescoping stock;
  - (4) A fixed magazine capacity in excess of 5 rounds; or
  - (5) An ability to accept a detachable magazine.

## **6. Exemption for Public Safety Officers and Members of the Military**

Council reinstated language from the current code limiting the exemption for public safety officers and members of the military to weapons used in the course of their duties in section 5-8-25(a).

## **7. Exemption for individuals covered by the Federal Law Enforcement Officers Safety Act**

Under the Law Enforcement Officers Safety Act, passed by congress in 2004, certain law enforcement officers and retired law enforcement officers are permitted to carry a concealed weapon anywhere in the country. 18 U.S.C. § 926b. To qualify a law enforcement officer must meet the following criteria:

- (1) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice);
- (2) is authorized by the agency to carry a firearm;
- (3) is not the subject of any disciplinary action by the agency which could result in suspension or loss of police powers;
- (4) meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm;
- (5) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(6) is not prohibited by Federal law from receiving a firearm.

18 U.S.C. § 926b(c). Council added an exemption for covered individuals in section 5-8-25(b).

## **8. Exemption for Competitive Shooters**

Council deleted a proposed exemption for competitive shooters.

## **9. Age for Possession of a Firearm**

Council raised the age for possession of a firearm in Boulder to 21 years of age. The ordinance passed on second reading amended the definition of “minor” in section 5-8-2, “Definitions,” to change “eighteen years of age” to “twenty-one years of age.” This change affects the following code provisions, which use the word “minor:”

- The definition of “Provide” in section 5-8-2, “Definitions,” which includes placing a weapon in a place where a minor would have access.
- Section 5-8-12, “Providing Firearm to Intoxicated Persons or Minors.”
- Section 5-8-16, “Possession - of firearm by minor prohibited.”
- Section 5-8-17, “Providing Rifle or Shotgun to Minor Prohibited.”
- Section 5-8-18, “Unlawful Storage of Assault Weapons.”
- Section 5-8-19, “Unlawful Storage of Firearms Where There is Personal Injury.”
- Section 5-8-20, “Parent or Legal Guardian Liability for Illegal Possession of Firearms by a Minor.”

Copies of these code provisions are in Attachment B.

## **10. Open Carry Provisions**

Council added amendments to section 5-8-21, “Open Carriage of Firearms in Carrying Cases Required.” Council added a provision making explicit a long-standing police department interpretation that a holster qualifies as a legal carrying case for a pistol. Council also clarified that an exemption for holders of state-issued concealed carry permits does not include assault weapons.

## **11. Certification System**

Council decided not to prohibit continued ownership of assault weapons owned legally before the effective date of the ordinance. If passed on May 15, the effective date will be June 15. Council deleted a proposal that would have required individuals with such weapons to register them with the police department. Instead, council created a system under which such individuals would receive a certificate from the police department, certifying that the person owned the weapon prior to June 15, 2018. The police department will issue two duplicate originals for each weapon. One is to be kept with the

weapon at all times. The other is to be maintained in safe storage in case the first certificate is lost. The police will not maintain any records of the certificates and will not replace lost certificates.

### **12. Compliance with the Assault Weapon and Large Magazine Bans**

Council required compliance with the assault weapon and large magazine bans by December 31, 2018.

### **13. Compliance with the Multi-Burst Trigger Activator Ban**

Council required compliance with the multi-burst trigger activator ban by thirty days after the effective date or July 15, 2018.

A copy of the ordinance passed on second reading is Attachment A.

### **Changes on Third Reading**

If Council wishes to make changes on third reading, there are two options. Council could amend the ordinance and pass the final ordinance on fourth reading on June 5, 2018. In the alternative, council could amend and pass the ordinance as an emergency ordinance. Staff recommends the first option. In the event that council decides to amend the ordinance and pass it as an emergency measure, staff has included as Attachment C, a version of the ordinance passed with the appropriate emergency language.

### **ATTACHMENTS**

Attachment A – Ordinance 8245 as Passed on Second Reading

Attachment B – Code Provisions Affected by the Change in the Definition of “Minor”

Attachment C – Ordinance 8245 (Emergency Version)

ORDINANCE 8245

AN ORDINANCE AMENDING CHAPTER 5, "GENERAL OFFENSES," B.R.C. 1981, TO BAN THE SALE AND POSSESSION OF ASSAULT WEAPONS, LARGE-CAPACITY MAGAZINES AND MULTI-BURST TRIGGER ACTIVATORS, AND SETTING FORTH RELATED DETAILS.

THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, FINDS AND RECITES THE FOLLOWING:

A. The City of Boulder is an urban, densely populated city, with a population density similar to that of Denver, Colorado. With a population of 682,545 in 155 square miles, Denver has a density of 4,213 residents per square mile. Boulder's population of 108,707 resides in 25.8 square miles with a population density of 4,031 residents per square mile.

B. There has been a significant increase in mass shootings over the last two decades. Mass shootings occur most often at in public places and at schools and involve assault weapons.

C. Boulder is home to the main campus of the University of Colorado, with an enrollment of 33,246 students and the campus of Naropa University, with 932 students enrolled. In addition, Boulder is home to Boulder Valley School District elementary, middle and high schools, with 14,357 students enrolled. In addition, the city is home to private schools with approximately 1,500 students. Boulder's estimated population is 108,707. Boulder has one of the highest ratios of students per capita in the country. Students are disproportionately victims of mass shootings. Thus, the presence of a large number of students in the city of Boulder creates a higher than normal level of risk for the community.

D. Assault weapons are semi-automatic firearms designed with military features to allow rapid spray firing for the quick and efficient killing of humans.

Attachment A - Ordinance 8245 as Passed on Second Reading

1 E. Large capacity ammunition magazines (generally defined as magazines capable of  
2 holding more than 10 rounds) are feeding devices that and may hold as many as 100 rounds of  
3 ammunition.

4 F. Multi-Burst Trigger activators are devices that effectively increase the rate at which  
5 a weapon can be fired.

6 G. Assault weapons and/or large capacity ammunition magazines have been the tools  
7 of choice in many mass shootings of innocent civilians, including those described below:

- 8 1. Parkland, Florida, February 14, 2018: a shooter killed 17 and wounded 17 at Marjory  
9 Stoneman Douglas High School with an AR-15-style assault rifle.
- 10 2. Sutherland Springs, Texas, November 5, 2017: a shooter killed 26 and wounded 20 at  
11 the First Baptist Church with a Ruger AR-556 assault rifle.
- 12 3. Las Vegas, Nevada, October 1, 2017: a shooter killed 59 and wounded 527 armed with  
13 23 guns, including both AR-15s and AK-47s as well as at least one gun modified with  
14 a bump stock. The following weapons were found inside of the killer's hotel room:
  - 15 a. Colt M4 Carbine AR-15 .223/5.56 with a bump stock, vertical fore grip and 100  
16 round magazine.
  - 17 b. Noveske N4 AR-15 .223/5.56 with a bump stock, vertical fore grip and 40  
18 round magazine.
  - 19 c. LWRC M61C AR-15 .223/5.56 with a bump stock, vertical fore grip and 100  
20 round magazine.
  - 21 d. POF USA P-308 AR-10 .308/7.62 with a bipod, scope and 25 round magazine.
  - 22 e. Christensen Arms CA-15 AR-15 .223 Wylde with a bump stock, vertical fore  
23 grip and 100 round magazine.
  - 24
  - 25

Attachment A - Ordinance 8245 as Passed on Second Reading

- 1 f. POF USA P-15 P AR-15 .223/5.56 with a bump stock, vertical fore grip and  
2 100 round magazine.
- 3 g. Colt Competition AR-15 .223/5.56 with a bump stock, vertical fore grip and  
4 100 round magazine.
- 5 h. Smith & Wesson 342 AirLite .38 caliber revolver with 4 cartridges and 1  
6 expended cartridge case.
- 7 i. LWRC M61C AR-15 .223/5.56 with a bump stock, vertical fore grip and 100  
8 round magazine.
- 9 j. FNH FM15 AR-10 .308/7.62 with a bipod, scope and 25 round magazine.
- 10 k. Daniel Defense DD5V1 AR-10 .308/7.62 with a bipod, scope and 25 round  
11 magazine.
- 12 l. FNH FN15 AR-15 .223/5.56 with a bump stock, vertical fore grip and 100  
13 round magazine.
- 14 m. POF USA P15 AR-15 .223/5.56 with a bump stock, vertical fore grip and 100  
15 round magazine.
- 16 n. Colt M4 Carbine AR-15 .223/5.56 with a bump stock, vertical fore grip and 100  
17 round magazine.
- 18 o. Daniel Defense M4A1 AR-15 .223/5.56 with a bump stock, vertical fore grip  
19 and 100 round magazine.
- 20 p. LMT Def. 2000 AR-15 .223/5.56 with a bump stock, vertical fore grip and 100  
21 round magazine.
- 22 q. Daniel Defense DDM4V11 AR-15 .223/5.56 with a bump stock, vertical fore  
23 grip. No magazine. EOTech optic.  
24  
25

Attachment A - Ordinance 8245 as Passed on Second Reading

- 1 r. Sig Sauer SIG716 AR-10 .308/7.62 with a bipod, red dot optic and 25 round
- 2 magazine.
- 3 s. Daniel Defense DD5V1 AR-10 .308/7.62 with a bipod and scope. No
- 4 magazine.
- 5 t. FNH FN15 AR-15 .223/5.56 with a bump stock, vertical fore grip and 100
- 6 round magazine.
- 7 u. Ruger American .308 caliber bolt action rifle with scope.
- 8 v. LMT LM308MWS AR-10 .308/7.62 with a bipod and red dot scope. No
- 9 magazine.
- 10 w. Ruger SR0762 AR-10 .308/7.62 with a bipod, scope and 25 round magazine.
- 11 x. LMT LM308MWS AR-10 with a bipod, scope and 25 round magazine.
- 12

- 13 4. Orlando, Florida, June 12, 2016: a shooter killed 49 and wounded 58 at the Pulse
- 14 Nightclub with an AR-15-style assault rifle and a Glock 17 9mm handgun.
- 15 5. San Bernardino, California, December 2, 2015: two shooters killed 14 and wounded 22
- 16 using a DPMS AR-15-style assault rifle and a Smith and Wesson M&P 15.
- 17 6. Newtown, Connecticut, December 14, 2012: a shooter killed 26 and wounded 2 at
- 18 Sandy Hook Elementary School with an AR-15-style assault rifle. The killer murdered
- 19 his mother with a .22 caliber rimfire rifle. He also had a Glock 10mm and a Sig Sauer
- 20 9mm.
- 21 7. Aurora, Colorado, July 20, 2012: a shooter killed 12 and wounded 58 armed with a
- 22 Smith & Wesson M&P15 assault rifle and 100-round ammunition magazines and a
- 23 Remington 870 pump shotgun. He also had a Glock 22 .40 caliber pistol.
- 24
- 25

Attachment A - Ordinance 8245 as Passed on Second Reading

1 8. Carson City, Nevada, September 6, 2011: a shooter killed 4 and wounded 7 armed with  
2 a Norinco Mak 90, that had been altered from a semi-automatic assault weapon to a  
3 fully-automatic machine gun.

4 9. Washington D.C. area, October 2002: shooters killed 10 and wounded 3 during a 3-  
5 week rampage armed with a Bushmaster XM-15 assault rifle.

6 10. Columbine, Colorado, April 20, 1999: shooters killed 13 and wounded 21 at Columbine  
7 High School armed with a TEC-9 assault pistol and several large capacity ammunition  
8 magazines. The killers also had two shotguns.

9 11. San Francisco, California, July 1, 1993: a shooter killed 8 and wounded 6 armed with  
10 TEC-9 assault pistols and 40- and 50-round ammunition magazines. The suspect used  
11 a Hell-Fire trigger, which is a type of multi-burst trigger activator.  
12

13 H. The City Council intends a narrow ban that respects the constitutionally guaranteed  
14 right to bear arms.

15 I. Americans constitute 4.4 percent of the global population and own 42 percent of  
16 the world's guns.

17 J. Worldwide a country's rate of gun ownership correlates with the occurrence of  
18 mass shootings.

19 K. This ordinance is a reasonable exercise of the city's police powers to restrict access  
20 to weapons that are of the type used in mass shootings and that are designed to kill large numbers  
21 of people quickly.

22 L. Because of Boulder's dense population and high concentration of students the  
23 council believes that it is necessary for the public safety to adopt this ordinance.  
24  
25

1 M. Boulder hosts a large number of public events creating crowds that are uniquely  
2 vulnerable to mass shooters.

3 N. This ordinance will impact only a small percentage of the weapons possessed by  
4 Boulder residents.

5 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER,  
6 COLORADO:

7 Section 1. Section 5-1-1, "Definitions," B.R.C. 1981, is amended to delete the definition  
8 of "Illegal weapon."

9 ...  
10 ~~Illegal weapon means a blackjack, gas gun, metallic knuckles, gravity knife or switchblade~~  
11 ~~knife.~~

12 Section 2. Section 5-8-2, "Definitions," B.R.C. 1981, is amended to read as follows:

13 **5-8-2. – Definitions.**

14 The following terms used in this chapter have the following meanings unless the context clearly  
15 requires otherwise:

16 *About the person* means sufficiently close to the person to be readily accessible for immediate  
17 use.

18 *Assault weapon* means:

19 (a) All semi-automatic firearms—center-fire rifles that have the capacity to accept a  
20 detachable magazine and that have with any of the following characteristics:

21 (1a) A pistol grip or thumbhole stock—semiautomatic action rifles with a detachable  
22 magazine with a capacity of twenty one or more rounds.;

23 (2b) All semiautomatic shotguns with a folding or telescoping stock or a magazine  
24 capacity of more than six rounds or both.; or

25 (3e) Any protruding grip or other device to allow the weapon to be stabilized with  
the non-trigger hand.—All semiautomatic pistols that are modifications of rifles  
having the same make, caliber, and action design but a short barrel or  
modifications of automatic weapons originally designed to accept magazines  
with a capacity of twenty one or more rounds.

Attachment A - Ordinance 8245 as Passed on Second Reading

1 (b) All semi-automatic center-fire pistols that have any of the following characteristics:

2 (1) Have the capacity to accept a magazine other than in the pistol grip; or

3 (2) Have a secondary protruding grip or other device to allow the weapon to be  
4 stabilized with the non-trigger hand.

4 (c) All semi-automatic shotguns that have any of the following characteristics:

5 (1) A pistol grip or thumbhole stock;

6 (2) Any feature capable of functioning as a protruding grip that can be held by the  
7 non-trigger hand;

7 (3) A folding or telescoping stock;

8 (4) A fixed magazine capacity in excess of 5 rounds; or

8 (5) The capacity to accept a detachable magazine.

9  
10 (d) Any firearm which has been modified to be operable as an assault weapon as defined  
11 herein.

11 (e) Any part or combination of parts designed or intended to convert a firearm into an  
12 assault weapon, including ~~a detachable magazine with a capacity of twenty-one or~~  
13 ~~more rounds, or~~ any combination of parts from which an assault weapon may be  
14 readily assembled if those parts are in the possession or under the control of the same  
15 person.

14 *Constructive knowledge* means knowledge of facts or circumstances sufficient to cause a  
15 reasonable person to be aware of the fact in question.

16 *Illegal weapon* means an assault weapon, large-capacity magazine, multi-burst trigger  
17 activator, blackjack, gas gun, metallic knuckles, gravity knife or switchblade knife.

17 *Large-capacity magazine* means any ammunition feeding device with the capacity to accept  
18 more than 10 rounds, but shall not be construed to include any of the following:

19 (a) A feeding device that has been permanently altered so that it cannot accommodate  
20 more than 10 rounds.

20 (b) A 22-caliber tube rim-fire ammunition feeding device.

21 (c) A tubular magazine that is contained in a lever-action firearm.

22 (d) A pistol magazine designed to fit into a pistol grip that has a capacity to hold no more  
23 than 15 rounds.

24 *Locked container* means a secure container which is enclosed on all sides and locked by a  
25 padlock, key lock, combination lock, or similar device.

25 *Minor* means a person under ~~eighteen~~ twenty-one years of age.

1 Multi-Burst Trigger Activator means:

- 2 (a) A device that attaches to a firearm to allow the firearm to discharge two or more shots  
3 in a burst when the device is activated; or
- 4 (b) A manual or power-driven trigger-activating device that, when attached to a firearm  
5 increases the rate of fire of that firearm.

6 Pistol Grip means a grip that protrudes conspicuously beneath the action of the weapon and  
7 that allows for a pistol style grasp in which the web of the trigger hand (between the thumb and  
8 index finger) can be placed below the top of the exposed portion of the trigger while firing.

9 Provide means to give, lend, sell, or otherwise place in an unsecured location where a minor  
10 or other unauthorized or incompetent person could foreseeably gain access to a firearm.

11 Semi-automatic means a firearm that fires a single round for each pull of the trigger and  
12 automatically chambers a new round immediately after a round is fired.

13 Section 3. Section 5-8-10, "Possession of Illegal Weapons," B.R.C. 1981, is amended to  
14 read as follows:

15 **5-8-10. – Possession and Sale of Illegal Weapons.**

- 16 (a) No person shall knowingly possess or sell or otherwise transfer an illegal weapon.
- 17 (b) The defendant's knowledge that the weapon was illegal is not an aspect of knowledge  
18 required for violation of this section.
- 19 (c) Nothing in this section shall be construed to forbid any person:
- 20 (1) Holding a Federal Firearms License issued by the United States Government  
21 from possession of any firearm authorized pursuant to such license;
- 22 (2) From possessing a weapon for which the United States Government has issued  
23 a stamp or permit pursuant to the National Firearms Act;
- 24 (3) From possessing a handgun magazine so long as the possession of the handgun  
25 and magazine are in compliance with state law; or
- 26 (4) Selling an illegal weapon to a person identified in Section 5-8-25, "Exemptions  
27 from this Chapter," B.R.C. 1981.
- 28 (d) Nothing in this section shall be deemed to apply to any firearm that has been modified  
29 either to render it permanently inoperable or to permanently make it not an assault  
30 weapon.
- 31 (e) Nothing in this section shall be deemed to restrict a person's ability to travel with a  
32 weapon in a private automobile or other private means of conveyance for hunting or  
33 for lawful protection of a person's or another's person or property while traveling into,

1 though, or within, the City of Boulder, regardless of the number of times the person  
2 stops in the City of Boulder.

3 Section 4. Section 5-8-21, "Open Carriage of Firearms in Carrying Cases Required,"

4 B.R.C. 1981, is amended to read as follows:

5 **5-8-21. - Open Carriage of Firearms in Carrying Cases Required.**

6 Any person carrying a firearm off of the person's property or outside of the person's  
7 business or vehicle shall carry the firearm in a carrying case. The carrying case must be  
8 recognizable as a gun carrying case by a reasonable person. A plain-shaped case must be clearly  
9 marked to be deemed recognizable under this standard. A holster satisfies the requirement of a  
10 carrying case for a pistol. The carrying case must be openly carried and must not be concealed on  
or about the person. This section shall not apply to individuals who have a permit to carry a  
concealed weapon issued pursuant to state law, unless the weapon being carried is an assault  
weapon.

11 Section 5. Section 5-8-22, "Defenses," B.R.C. 1981, is amended to read as follows:

12 **5-8-22. – Defenses.**

13  
14 (a) It is an affirmative defense to a charge of violating sections 5-8-3, "Discharge of  
15 Firearms," 5-8-4, "Possessing and Discharging Firearm or Bow in Park or Open Space,"  
16 5-8-5, "Negligently Shooting Bow or Slingshot," 5-8-6, "Aiming Weapon at Another,"  
5-8-7, "Flourishing Deadly Weapon in Alarming Manner," and 5-8-8, "Possession of  
Loaded Firearms," B.R.C. 1981, that the defendant was:

- 17 (1) Reasonably engaged in lawful self-defense under the statutes of the State of  
18 Colorado; or  
19 (2) Reasonably exercising the right to keep and bear arms in defense of the  
defendant's or another's home, person and property or in aid of the civil power  
when legally thereto summoned.

20 (b) It is a specific defense to a charge of violating sections 5-8-3, "Discharge of Firearms,"  
21 5-8-4, "Possessing and Discharging Firearm or Bow in Park or Open Space," and 5-8-  
22 8, "Possession of Loaded Firearms," B.R.C. 1981, that the events occurred in an area  
designated as a target range by the city manager under section 5-8-26, "City Manager  
23 May Designate Target Ranges," B.R.C. 1981, for the type of weapon involved. It is a  
specific defense to a charge of violating section 5-8-4, "Possessing and Discharging  
24 Firearm or Bow in Park or Open Space," B.R.C. 1981, by possession that the defendant  
was going directly to or returning directly from such a target range.

25 (c) It is an affirmative defense to a charge of violating sections 5-8-8, "Possession of  
Loaded Firearms," 5-8-9, "Carrying a Concealed Weapon," and 5-8-11, "Possessing  
Firearm While Intoxicated," B.R.C. 1981, that the defendant was:

Attachment A - Ordinance 8245 as Passed on Second Reading

- 1 (1) In the defendant's own dwelling or place of business or on property owned or  
2 under the defendant's control at the time; or  
3 (2) In a private automobile or other private means of conveyance at the time and  
4 was carrying the weapon for lawful protection of the defendant's or another's  
5 person or property while traveling; or  
6 (3) Charged with carrying a knife that was a hunting or fishing knife carried by the  
7 defendant for sport use.  
8 (d) It is a specific defense to a charge of violating sections 5-8-8, "Possession of Loaded  
9 Firearms," and 5-8-9, "Carrying a Concealed Weapon," B.R.C. 1981, that the defendant  
10 was carrying the weapon pursuant to a concealed weapons permit valid under the  
11 statutes of the State of Colorado.  
12 (e) It is a specific defense to a charge of violating sections 5-8-3, "Discharge of Firearms,"  
13 and 5-8-8, "Possession of Loaded Firearms," B.R.C. 1981, that the loaded gas or  
14 mechanically operated gun was possessed or discharged in a building with the  
15 permission of the property owner and the projectile did not leave the building.  
16 (f) It is a specific defense to a charge of violating section 5-8-10, "Possession of Illegal  
17 Weapons," B.R.C. 1981;  
18 (1) ~~That the person had a valid permit for such weapon pursuant to federal law at~~  
19 ~~the time of the offense;~~ or  
20 (2) That the illegal weapon was an assault weapon accompanied by a certificate  
21 issued by the Boulder Police Department.  
22 (g) It is a specific defense to a charge of violating section 5-8-4, "Possessing and  
23 Discharging Firearm or Bow in Park or Open Space," B.R.C. 1981, that the firearm,  
24 gas or mechanically operated gun, bow, slingshot or crossbow possessed by the person  
25 was being transported in a motor vehicle. This defense does not apply to a charge of  
violation involving discharge of a missile.

Section 6. Section 5-8-25, "Exemptions from Chapter," B.R.C. 1981, is amended to read

as follows:

**5-8-25. – Exemptions from Chapter.**

The following individuals are exempt from the provisions of this Chapter:

- 22 (a) ~~Nothing in this chapter shall be construed to forbid~~ Any officer of the United States,  
23 including but not limited to federal agents and United States Marshals, any sheriffs,  
24 constables and their deputies; any regular or ex-officio police officer; any other peace  
25 officers; or members of the United States Armed Forces, Colorado National Guard or  
Reserve Officer Training Corps from having in their possession, displaying,  
concealing or discharging such weapons as are necessary in the authorized and proper  
performance of their official duties; or

1 (b) Any person authorized to carry a concealed weapon under the Federal Law  
2 Enforcement Officers Safety Act.

3 Section 7. A new Section 5-8-28, "Assault Weapons," B.R.C. 1981, is added to read as  
4 follows, and remaining sections in Chapter 5-8 are renumbered:

5 **5-8-28. – Assault Weapons.**

6 (a) Any person who, prior to June 15, 2018, was legally in possession of an assault weapon  
7 large capacity magazine shall have until December 31, 2018 to do any of the following  
8 without being subject to prosecution:

- 9 (1) Remove the assault weapon or large capacity magazine from the City of  
10 Boulder;
- 11 (2) Render the assault weapon permanently inoperable;
- 12 (3) Surrender the assault weapon or large capacity magazine to the Boulder Police  
13 Department for destruction; or
- 14 (4) If eligible, obtain a certificate for the assault weapon as provided in subsection  
15 (c).

16 (b) Any person who, prior to June 15, 2018, was legally in possession of multi-burst trigger  
17 activator shall have until July 15, 2018 to do any of the following without being subject  
18 to prosecution:

- 19 (1) Remove the multi-burst trigger activator from the City of Boulder; or
- 20 (2) Surrender the multi-burst trigger activator to the Boulder Police Department for  
21 destruction.

22 (c) Any person seeking to certify an assault weapon that he or she legally possessed prior  
23 to June 15, 2018 must comply with the following requirements:

- 24 (1) Submit to a background check conducted by the appropriate law enforcement  
25 agency to confirm that he or she is not prohibited to possess a firearm pursuant  
to 18 U.S.C. § 922 or C.R.S § 18-12-108;
- (2) Unless the person is currently prohibited by law from possessing a firearm, prior  
to December 31, 2018 apply for a certificate for the assault weapon from the  
Boulder Police Department;
- (3) Safely and securely store the assault weapon pursuant to the regulations adopted  
by the appropriate law enforcement agency;
- (4) Possess the assault weapon only on property owned or immediately controlled  
by the person, or while on the premises of a licensed gunsmith for the purpose  
of lawful repair, or while engaged in the legal use of the assault weapon at a  
duly licensed firing range, or while traveling to or from these locations,  
provided that the assault weapon is stored unloaded in a locked container during

Attachment A - Ordinance 8245 as Passed on Second Reading

1 transport. The term “locked container” does not include the utility  
2 compartment, glove compartment, or trunk of a motor vehicle; and

- 3 (5) Report the loss or theft of a certified assault weapon to the appropriate law  
4 enforcement agency within 48 hours of the time the discovery was made or  
5 should have been made.
- 6 (d) If a certified assault weapon is used in the commission of a crime, the owner shall be  
7 civilly liable for any damages resulting from that crime. The liability imposed by this  
8 subsection shall not apply if the assault weapon was stolen and the certified owner  
9 reported the theft of the firearm to law enforcement within 48 hours of the time the  
10 discovery was made or should have been made.
- 11 (e) Certified assault weapons may not be purchased, sold or transferred in the City of  
12 Boulder, except for transfer to a licensed gunsmith for the purpose of lawful repair, or  
13 transfer to the appropriate law enforcement agency for the purpose of surrendering the  
14 assault weapon for destruction.
- 15 (f) Persons acquiring an assault weapon by inheritance, bequest, or succession shall,  
16 within 90 days of acquiring title, do one of the following:
- 17 (1) Modify the assault weapon to render it permanently inoperable;
  - 18 (2) Surrender the assault weapon to the Boulder Police Department for destruction;
  - 19 (3) Transfer the assault weapon to a firearms dealer who is properly licensed under  
20 federal, state and local laws; or
  - 21 (4) Permanently remove the assault weapon from the City of Boulder.
- 22 (g) The owner of a certified assault weapon may not possess in the City of Boulder any  
23 assault weapons purchased after June 15, 2018.
- 24 (h) The city manager shall charge a fee for each certificate sufficient to cover the costs of  
25 administering the certificate program.
- (i) The city manager shall issue to qualified applicants two original copies of each  
certificate issued. The City of Boulder shall not maintain any records of certificates  
issued. The person receiving the certificate shall keep one copy with the weapon  
certified and the second copy in a secure place to replace the certificate maintained with  
the weapon.

21 Section 8. This ordinance is necessary to protect the public health, safety, and welfare  
22 of the residents of the city, and covers matters of local concern.

23 Section 9. The city council deems it appropriate that this ordinance be published by title  
24 only and orders that copies of this ordinance be made available in the office of the city clerk for  
25 public inspection and acquisition.

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INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
TITLE ONLY this 5<sup>th</sup> day of April, 2018.

\_\_\_\_\_  
Suzanne Jones  
Mayor

Attest:

\_\_\_\_\_  
Lynnette Beck  
City Clerk

READ ON SECOND READING AND AMENDED this 1<sup>st</sup> day of May, 2018.

\_\_\_\_\_  
Suzanne Jones  
Mayor

Attest:

\_\_\_\_\_  
Lynnette Beck  
City Clerk

READ ON THIRD READING, PASSED AND ADOPTED this 15<sup>th</sup> day of May, 2018.

\_\_\_\_\_  
Suzanne Jones  
Mayor

Attest:

\_\_\_\_\_  
Lynnette Beck  
City Clerk

**5-8-2. - Definitions.**

The following terms used in this chapter have the following meanings unless the context clearly requires otherwise:

*Provide* means to give, lend, sell, or otherwise place in an unsecured location where a minor or other unauthorized or incompetent person could foreseeably gain access to a firearm.

**5-8-12. - Providing Firearm to Intoxicated Persons or Minors.**

No person shall provide any firearm to any person whose ability is impaired by intoxicating liquor, as defined by state law, or any controlled substance, as defined by state law; or to any person in a condition of agitation and excitability; or to any minor unless the person providing the firearm has obtained the consent of the minor's parent or legal guardian. Knowledge of the minor's age shall not be an element of this offense.

**5-8-16. Possession - of firearm by minor prohibited.**

- (a) No minor shall knowingly possess a firearm.
- (b) This section does not apply to a second or subsequent offense by the minor if the firearm in both instances was a handgun, or if the possession is otherwise a felony under state law.
- (c) It is a specific defense to a charge of violating this section that the minor was, with the consent of his or her parent or legal guardian:
  - (1) In attendance at a hunter's safety course or a firearms safety course;
  - (2) Engaging in practice in the use of a firearm or target shooting in an area designated as a target range by the city manager under section 5-8-26, "City Manager May Designate Target Ranges," B.R.C. 1981, for the type of weapon involved;
  - (3) Engaging in an organized competition involving the use of a firearm or participating in or practicing for a performance by an organized group exempt from payment of income tax under 26 U.S.C. §501(c)(3) as determined by the federal internal revenue service which uses firearms as a part of such performance;
  - (4) Hunting or trapping pursuant to a valid license issued to such person pursuant to article 4 of title 33, C.R.S.;
  - (5) Traveling with an unloaded firearm in such minor's possession to or from any activity described in paragraph (c)(1), (c)(2), (c)(3) or (c)(4) of this section or to or from an established range authorized by the governing body of the jurisdiction in which such range is located or any other area outside the city where target practice is legal and the minor has permission from the landowner for such practice;
  - (6) Possessing a firearm at such minor's residence for the purpose of exercising the rights contained in §§ 18-1-704 or 18-1-704.5, C.R.S.; and
  - (7) For the purposes of paragraph (c)(5) of this section, a firearm is *loaded* if:
    - (A) There is a cartridge in the chamber or cylinder of the firearm or in a clip in the firearm; or
    - (B) The firearm, and the ammunition for such firearm, is carried on the person of the minor or is in such close proximity to the minor that the minor could readily gain access to the firearm and the ammunition and load the firearm.

**5-8-17. - Providing Rifle or Shotgun to Minor Prohibited.**

- (a) No person shall provide a rifle or shotgun with or without remuneration to any minor under circumstances which cause the minor to be in violation of section 5-8-16, "Possession of Firearm by Minor Prohibited," B.R.C. 1981. Knowledge of the minor's age shall not be an element of this offense.
- (b) No parent or legal guardian of a minor shall provide a rifle or shotgun to the minor for any purpose or shall permit the minor to possess a rifle or shotgun for any purpose if the parent or guardian has actual or constructive knowledge of a substantial risk that the minor will use the rifle or shotgun to violate a federal, state or local law.
- (c) No parent or legal guardian of a minor shall provide a rifle or shotgun to, or permit the minor to possess a rifle or shotgun, for any purpose, if the minor has been convicted of a crime of violence, as defined in § 16-11-309, C.R.S., or if the minor has been adjudicated a juvenile delinquent for an act which would have constituted a crime of violence, as so defined, if committed by an adult.
- (d) It is a specific defense to a charge of violating this section by providing a firearm that had been stolen from the defendant either by the minor or by another person who subsequently provided the firearm to the minor.

**5-8-18. - Unlawful Storage of Assault Weapons.**

- (a) No person shall store, control or possess any assault weapon within any premises of which that person has an ownership interest, custody or control, in such a manner that the person knows, or has constructive knowledge, that a minor is likely to gain possession of the assault weapon and in fact does obtain possession of the assault weapon.
- (b) It is a specific defense to a charge or violation of this section that:
  - (1) The assault weapon was located within a room or closet from which all minors were excluded by locks; or
  - (2) The assault weapon was stored in a locked container.
- (c) It is an affirmative defense to civil negligence liability that the assault weapon was stored in a locked container.

**5-8-19. - Unlawful Storage of Firearms Where There is Personal Injury.**

- (a) No person shall store, control or possess any firearm within any premises of which that person has an ownership interest, custody or control, in such manner that the person knows, or has constructive knowledge, that a minor is likely to gain possession of the firearm and in fact does obtain control of the firearm and either injures or kills himself or herself or another person with the firearm or uses the firearm in violation of federal, state or local law.
- (b) It is a specific defense to a charge of violation of this section that:
  - (1) The firearm was located within a room or closet from which all minors were excluded by locks; or
  - (2) The firearm was stored in a locked container.
- (c) It is an affirmative defense to civil negligence liability that the firearm was stored in a locked container.

## Attachment B - Code Provisions Affected by the Change in the Definition of "Minor"

- (d) It is an affirmative defense that the firearm was used by a minor at such minor's residence with the permission of the minor's parent or legal guardian, for the purpose of exercising the rights contained in §§ 18-1-704 or 18-1-704.5, C.R.S.

### **5-8-20. - Parent or Legal Guardian Liability for Illegal Possession of Firearms by a Minor.**

- (a) No parent or legal guardian, having actual or constructive knowledge of illegal possession of a firearm by a minor shall fail to either:
  - (1) Immediately take possession of the firearm; or
  - (2) Immediately notify law enforcement authorities of the details of the illegal possession so that law enforcement authorities can act to take possession of the firearm.
- (b) This section does not create a duty on a parent or legal guardian to search the bedroom of a minor for firearms.
- (c) As used in this section, illegal possession of a firearm by a minor means possession in violation of section 5-8-16, "Possession of Firearm by Minor Prohibited," B.R.C. 1981, or any provision of state or federal law concerning possession of a firearm by a minor.

ORDINANCE 8245

AN EMERGENCY ORDINANCE AMENDING CHAPTER 5, "GENERAL OFFENSES," B.R.C. 1981, TO BAN THE SALE AND POSSESSION OF ASSAULT WEAPONS, LARGE-CAPACITY MAGAZINES AND MULTI-BURST TRIGGER ACTIVATORS, AND SETTING FORTH RELATED DETAILS.

THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, FINDS AND RECITES THE FOLLOWING:

A. The City of Boulder is an urban, densely populated city, with a population density similar to that of Denver, Colorado. With a population of 682,545 in 155 square miles, Denver has a density of 4,213 residents per square mile. Boulder's population of 108,707 resides in 25.8 square miles with a population density of 4,031 residents per square mile.

B. There has been a significant increase in mass shootings over the last two decades. Mass shootings occur most often at in public places and at schools and involve assault weapons.

C. Boulder is home to the main campus of the University of Colorado, with an enrollment of 33,246 students and the campus of Naropa University, with 932 students enrolled. In addition, Boulder is home to Boulder Valley School District elementary, middle and high schools, with 14,357 students enrolled. In addition, the city is home to private schools with approximately 1,500 students. Boulder's estimated population is 108,707. Boulder has one of the highest ratios of students per capita in the country. Students are disproportionately victims of mass shootings. Thus, the presence of a large number of students in the city of Boulder creates a higher than normal level of risk for the community.

D. Assault weapons are semi-automatic firearms designed with military features to allow rapid spray firing for the quick and efficient killing of humans.

1 E. Large capacity ammunition magazines (generally defined as magazines capable of  
2 holding more than 10 rounds) are feeding devices that and may hold as many as 100 rounds of  
3 ammunition.

4 F. Multi-Burst Trigger activators are devices that effectively increase the rate at which  
5 a weapon can be fired.

6 G. Assault weapons and/or large capacity ammunition magazines have been the tools  
7 of choice in many mass shootings of innocent civilians, including those described below:

- 8 1. Parkland, Florida, February 14, 2018: a shooter killed 17 and wounded 17 at Marjory  
9 Stoneman Douglas High School with an AR-15-style assault rifle.
- 10 2. Sutherland Springs, Texas, November 5, 2017: a shooter killed 26 and wounded 20 at  
11 the First Baptist Church with a Ruger AR-556 assault rifle.
- 12 3. Las Vegas, Nevada, October 1, 2017: a shooter killed 59 and wounded 527 armed with  
13 23 guns, including both AR-15s and AK-47s as well as at least one gun modified with  
14 a bump stock. The following weapons were found inside of the killer's hotel room:
  - 15 a. Colt M4 Carbine AR-15 .223/5.56 with a bump stock, vertical fore grip and 100  
16 round magazine.
  - 17 b. Noveske N4 AR-15 .223/5.56 with a bump stock, vertical fore grip and 40  
18 round magazine.
  - 19 c. LWRC M61C AR-15 .223/5.56 with a bump stock, vertical fore grip and 100  
20 round magazine.
  - 21 d. POF USA P-308 AR-10 .308/7.62 with a bipod, scope and 25 round magazine.
  - 22 e. Christensen Arms CA-15 AR-15 .223 Wylde with a bump stock, vertical fore  
23 grip and 100 round magazine.
  - 24
  - 25

Attachment C - Ordinance 8245 (Emergency Version)

- 1 f. POF USA P-15 P AR-15 .223/5.56 with a bump stock, vertical fore grip and  
2 100 round magazine.
- 3 g. Colt Competition AR-15 .223/5.56 with a bump stock, vertical fore grip and  
4 100 round magazine.
- 5 h. Smith & Wesson 342 AirLite .38 caliber revolver with 4 cartridges and 1  
6 expended cartridge case.
- 7 i. LWRC M61C AR-15 .223/5.56 with a bump stock, vertical fore grip and 100  
8 round magazine.
- 9 j. FNH FM15 AR-10 .308/7.62 with a bipod, scope and 25 round magazine.
- 10 k. Daniel Defense DD5V1 AR-10 .308/7.62 with a bipod, scope and 25 round  
11 magazine.
- 12 l. FNH FN15 AR-15 .223/5.56 with a bump stock, vertical fore grip and 100  
13 round magazine.
- 14 m. POF USA P15 AR-15 .223/5.56 with a bump stock, vertical fore grip and 100  
15 round magazine.
- 16 n. Colt M4 Carbine AR-15 .223/5.56 with a bump stock, vertical fore grip and 100  
17 round magazine.
- 18 o. Daniel Defense M4A1 AR-15 .223/5.56 with a bump stock, vertical fore grip  
19 and 100 round magazine.
- 20 p. LMT Def. 2000 AR-15 .223/5.56 with a bump stock, vertical fore grip and 100  
21 round magazine.
- 22 q. Daniel Defense DDM4V11 AR-15 .223/5.56 with a bump stock, vertical fore  
23 grip. No magazine. EOTech optic.  
24  
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Attachment C - Ordinance 8245 (Emergency Version)

- r. Sig Sauer SIG716 AR-10 .308/7.62 with a bipod, red dot optic and 25 round magazine.
  - s. Daniel Defense DD5V1 AR-10 .308/7.62 with a bipod and scope. No magazine.
  - t. FNH FN15 AR-15 .223/5.56 with a bump stock, vertical fore grip and 100 round magazine.
  - u. Ruger American .308 caliber bolt action rifle with scope.
  - v. LMT LM308MWS AR-10 .308/7.62 with a bipod and red dot scope. No magazine.
  - w. Ruger SR0762 AR-10 .308/7.62 with a bipod, scope and 25 round magazine.
  - x. LMT LM308MWS AR-10 with a bipod, scope and 25 round magazine.
4. Orlando, Florida, June 12, 2016: a shooter killed 49 and wounded 58 at the Pulse Nightclub with an AR-15-style assault rifle and a Glock 17 9mm handgun.
  5. San Bernardino, California, December 2, 2015: two shooters killed 14 and wounded 22 using a DPMS AR-15-style assault rifle and a Smith and Wesson M&P 15.
  6. Newtown, Connecticut, December 14, 2012: a shooter killed 26 and wounded 2 at Sandy Hook Elementary School with an AR-15-style assault rifle. The killer murdered his mother with a .22 caliber rimfire rifle. He also had a Glock 10mm and a Sig Sauer 9mm.
  7. Aurora, Colorado, July 20, 2012: a shooter killed 12 and wounded 58 armed with a Smith & Wesson M&P15 assault rifle and 100-round ammunition magazines and a Remington 870 pump shotgun. He also had a Glock 22 .40 caliber pistol.

1 8. Carson City, Nevada, September 6, 2011: a shooter killed 4 and wounded 7 armed with  
2 a Norinco Mak 90, that had been altered from a semi-automatic assault weapon to a  
3 fully-automatic machine gun.

4 9. Washington D.C. area, October 2002: shooters killed 10 and wounded 3 during a 3-  
5 week rampage armed with a Bushmaster XM-15 assault rifle.

6 10. Columbine, Colorado, April 20, 1999: shooters killed 13 and wounded 21 at Columbine  
7 High School armed with a TEC-9 assault pistol and several large capacity ammunition  
8 magazines. The killers also had two shotguns.

9 11. San Francisco, California, July 1, 1993: a shooter killed 8 and wounded 6 armed with  
10 TEC-9 assault pistols and 40- and 50-round ammunition magazines. The suspect used  
11 a Hell-Fire trigger, which is a type of multi-burst trigger activator.

12  
13 H. The City Council intends a narrow ban that respects the constitutionally guaranteed  
14 right to bear arms.

15 I. Americans constitute 4.4 percent of the global population and own 42 percent of  
16 the world's guns.

17 J. Worldwide a country's rate of gun ownership correlates with the occurrence of  
18 mass shootings.

19 K. This ordinance is a reasonable exercise of the city's police powers to restrict access  
20 to weapons that are of the type used in mass shootings and that are designed to kill large numbers  
21 of people quickly.

22 L. Because of Boulder's dense population and high concentration of students the  
23 council believes that it is necessary for the public safety to adopt this ordinance.  
24  
25

1 M. Boulder hosts a large number of public events creating crowds that are uniquely  
2 vulnerable to mass shooters.

3 N. This ordinance will impact only a small percentage of the weapons possessed by  
4 Boulder residents.

5 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER,  
6 COLORADO:

7 Section 1. Section 5-1-1, “Definitions,” B.R.C. 1981, is amended to delete the definition  
8 of “Illegal weapon.”

9 ...  
10 ~~Illegal weapon means a blackjack, gas gun, metallic knuckles, gravity knife or switchblade~~  
11 ~~knife.~~

12 Section 2. Section 5-8-2, “Definitions,” B.R.C. 1981, is amended to read as follows:

13 **5-8-2. – Definitions.**

14 The following terms used in this chapter have the following meanings unless the context clearly  
15 requires otherwise:

16 *About the person* means sufficiently close to the person to be readily accessible for immediate  
17 use.

18 *Assault weapon* means:

19 (a) All semi-automatic firearms—center-fire rifles that have the capacity to accept a  
20 detachable magazine and that have with any of the following characteristics:

21 (1a) A pistol grip or thumbhole stock—semiautomatic action rifles with a detachable  
22 magazine with a capacity of twenty one or more rounds.;

23 (2b) All semiautomatic shotguns with a folding or telescoping stock or a magazine  
24 capacity of more than six rounds or both.; or

25 (3e) Any protruding grip or other device to allow the weapon to be stabilized with  
the non-trigger hand.—All semiautomatic pistols that are modifications of rifles  
having the same make, caliber, and action design but a short barrel or  
modifications of automatic weapons originally designed to accept magazines  
with a capacity of twenty one or more rounds.

1 (b) All semi-automatic center-fire pistols that have any of the following characteristics:

2 (1) Have the capacity to accept a magazine other than in the pistol grip; or

3 (2) Have a secondary protruding grip or other device to allow the weapon to be  
4 stabilized with the non-trigger hand.

5 (c) All semi-automatic shotguns that have any of the following characteristics:

6 (1) A pistol grip or thumbhole stock;

7 (2) Any feature capable of functioning as a protruding grip that can be held by the  
8 non-trigger hand;

9 (3) A folding or telescoping stock;

10 (4) A fixed magazine capacity in excess of 5 rounds; or

11 (5) The capacity to accept a detachable magazine.

12 (d) Any firearm which has been modified to be operable as an assault weapon as defined  
13 herein.

14 (e) Any part or combination of parts designed or intended to convert a firearm into an  
15 assault weapon, including ~~a detachable magazine with a capacity of twenty-one or~~  
16 ~~more rounds, or~~ any combination of parts from which an assault weapon may be  
17 readily assembled if those parts are in the possession or under the control of the same  
18 person.

19 *Constructive knowledge* means knowledge of facts or circumstances sufficient to cause a  
20 reasonable person to be aware of the fact in question.

21 *Illegal weapon* means an assault weapon, large-capacity magazine, multi-burst trigger  
22 activator, blackjack, gas gun, metallic knuckles, gravity knife or switchblade knife.

23 *Large-capacity magazine* means any ammunition feeding device with the capacity to accept  
24 more than 10 rounds, but shall not be construed to include any of the following:

25 (a) A feeding device that has been permanently altered so that it cannot accommodate  
26 more than 10 rounds.

27 (b) A 22-caliber tube rim-fire ammunition feeding device.

28 (c) A tubular magazine that is contained in a lever-action firearm.

29 (d) A pistol magazine designed to fit into a pistol grip that has a capacity to hold no more  
30 than 15 rounds.

31 *Locked container* means a secure container which is enclosed on all sides and locked by a  
32 padlock, key lock, combination lock, or similar device.

33 *Minor* means a person under ~~eighteen~~ twenty-one years of age.

1 Multi-Burst Trigger Activator means:

- 2 (a) A device that attaches to a firearm to allow the firearm to discharge two or more shots  
3 in a burst when the device is activated; or
- 4 (b) A manual or power-driven trigger-activating device that, when attached to a firearm  
5 increases the rate of fire of that firearm.

6 Pistol Grip means a grip that protrudes conspicuously beneath the action of the weapon and  
7 that allows for a pistol style grasp in which the web of the trigger hand (between the thumb and  
8 index finger) can be placed below the top of the exposed portion of the trigger while firing.

9 Provide means to give, lend, sell, or otherwise place in an unsecured location where a minor  
10 or other unauthorized or incompetent person could foreseeably gain access to a firearm.

11 Semi-automatic means a firearm that fires a single round for each pull of the trigger and  
12 automatically chambers a new round immediately after a round is fired.

13 Section 3. Section 5-8-10, "Possession of Illegal Weapons," B.R.C. 1981, is amended to  
14 read as follows:

15 **5-8-10. – Possession and Sale of Illegal Weapons.**

- 16 (a) No person shall knowingly possess or sell or otherwise transfer an illegal weapon.
- 17 (b) The defendant's knowledge that the weapon was illegal is not an aspect of knowledge  
18 required for violation of this section.
- 19 (c) Nothing in this section shall be construed to forbid any person:
- 20 (1) Holding a Federal Firearms License issued by the United States Government  
21 from possession of any firearm authorized pursuant to such license;
- 22 (2) From possessing a weapon for which the United States Government has issued  
23 a stamp or permit pursuant to the National Firearms Act;
- 24 (3) From possessing a handgun magazine so long as the possession of the handgun  
25 and magazine are in compliance with state law; or
- 26 (4) Selling an illegal weapon to a person identified in Section 5-8-25, "Exemptions  
27 from this Chapter," B.R.C. 1981.
- 28 (d) Nothing in this section shall be deemed to apply to any firearm that has been modified  
29 either to render it permanently inoperable or to permanently make it not an assault  
30 weapon.
- 31 (e) Nothing in this section shall be deemed to restrict a person's ability to travel with a  
32 weapon in a private automobile or other private means of conveyance for hunting or  
33 for lawful protection of a person's or another's person or property while traveling into,

1 though, or within, the City of Boulder, regardless of the number of times the person  
2 stops in the City of Boulder.

3 Section 4. Section 5-8-21, "Open Carriage of Firearms in Carrying Cases Required,"

4 B.R.C. 1981, is amended to read as follows:

5 **5-8-21. - Open Carriage of Firearms in Carrying Cases Required.**

6 Any person carrying a firearm off of the person's property or outside of the person's  
7 business or vehicle shall carry the firearm in a carrying case. The carrying case must be  
8 recognizable as a gun carrying case by a reasonable person. A plain-shaped case must be clearly  
9 marked to be deemed recognizable under this standard. A holster satisfies the requirement of a  
10 carrying case for a pistol. The carrying case must be openly carried and must not be concealed on  
or about the person. This section shall not apply to individuals who have a permit to carry a  
concealed weapon issued pursuant to state law, unless the weapon being carried is an assault  
weapon.

11 Section 5. Section 5-8-22, "Defenses," B.R.C. 1981, is amended to read as follows:

12 **5-8-22. – Defenses.**

13  
14 (a) It is an affirmative defense to a charge of violating sections 5-8-3, "Discharge of  
15 Firearms," 5-8-4, "Possessing and Discharging Firearm or Bow in Park or Open Space,"  
16 5-8-5, "Negligently Shooting Bow or Slingshot," 5-8-6, "Aiming Weapon at Another,"  
5-8-7, "Flourishing Deadly Weapon in Alarming Manner," and 5-8-8, "Possession of  
Loaded Firearms," B.R.C. 1981, that the defendant was:

- 17 (1) Reasonably engaged in lawful self-defense under the statutes of the State of  
18 Colorado; or  
19 (2) Reasonably exercising the right to keep and bear arms in defense of the  
defendant's or another's home, person and property or in aid of the civil power  
when legally thereto summoned.

20 (b) It is a specific defense to a charge of violating sections 5-8-3, "Discharge of Firearms,"  
21 5-8-4, "Possessing and Discharging Firearm or Bow in Park or Open Space," and 5-8-  
22 8, "Possession of Loaded Firearms," B.R.C. 1981, that the events occurred in an area  
designated as a target range by the city manager under section 5-8-26, "City Manager  
23 May Designate Target Ranges," B.R.C. 1981, for the type of weapon involved. It is a  
specific defense to a charge of violating section 5-8-4, "Possessing and Discharging  
24 Firearm or Bow in Park or Open Space," B.R.C. 1981, by possession that the defendant  
was going directly to or returning directly from such a target range.

25 (c) It is an affirmative defense to a charge of violating sections 5-8-8, "Possession of  
Loaded Firearms," 5-8-9, "Carrying a Concealed Weapon," and 5-8-11, "Possessing  
Firearm While Intoxicated," B.R.C. 1981, that the defendant was:

- 1 (1) In the defendant's own dwelling or place of business or on property owned or  
2 under the defendant's control at the time; or  
3 (2) In a private automobile or other private means of conveyance at the time and  
4 was carrying the weapon for lawful protection of the defendant's or another's  
5 person or property while traveling; or  
6 (3) Charged with carrying a knife that was a hunting or fishing knife carried by the  
7 defendant for sport use.  
8 (d) It is a specific defense to a charge of violating sections 5-8-8, "Possession of Loaded  
9 Firearms," and 5-8-9, "Carrying a Concealed Weapon," B.R.C. 1981, that the defendant  
10 was carrying the weapon pursuant to a concealed weapons permit valid under the  
11 statutes of the State of Colorado.  
12 (e) It is a specific defense to a charge of violating sections 5-8-3, "Discharge of Firearms,"  
13 and 5-8-8, "Possession of Loaded Firearms," B.R.C. 1981, that the loaded gas or  
14 mechanically operated gun was possessed or discharged in a building with the  
15 permission of the property owner and the projectile did not leave the building.  
16 (f) It is a specific defense to a charge of violating section 5-8-10, "Possession of Illegal  
17 Weapons," B.R.C. 1981;  
18 (1) ~~That the person had a valid permit for such weapon pursuant to federal law at~~  
19 ~~the time of the offense;~~ or  
20 (2) That the illegal weapon was an assault weapon accompanied by a certificate  
21 issued by the Boulder Police Department.  
22 (g) It is a specific defense to a charge of violating section 5-8-4, "Possessing and  
23 Discharging Firearm or Bow in Park or Open Space," B.R.C. 1981, that the firearm,  
24 gas or mechanically operated gun, bow, slingshot or crossbow possessed by the person  
25 was being transported in a motor vehicle. This defense does not apply to a charge of  
violation involving discharge of a missile.

Section 6. Section 5-8-25, "Exemptions from Chapter," B.R.C. 1981, is amended to read

as follows:

**5-8-25. – Exemptions from Chapter.**

The following individuals are exempt from the provisions of this Chapter:

- 22 (a) ~~Nothing in this chapter shall be construed to forbid~~ Any officer of the United States,  
23 including but not limited to federal agents and United States Marshals, any sheriffs,  
24 constables and their deputies; any regular or ex-officio police officer; any other peace  
25 officers; or members of the United States Armed Forces, Colorado National Guard or  
Reserve Officer Training Corps from having in their possession, displaying,  
concealing or discharging such weapons as are necessary in the authorized and proper  
performance of their official duties; or

1 (b) Any person authorized to carry a concealed weapon under the Federal Law  
2 Enforcement Officers Safety Act.

3 Section 7. A new Section 5-8-28, "Assault Weapons," B.R.C. 1981, is added to read as  
4 follows, and remaining sections in Chapter 5-8 are renumbered:

5 **5-8-28. – Assault Weapons.**

6 (a) Any person who, prior to June 15, 2018, was legally in possession of an assault weapon  
7 large capacity magazine shall have until December 31, 2018 to do any of the following  
8 without being subject to prosecution:

- 9 (1) Remove the assault weapon or large capacity magazine from the City of  
10 Boulder;
- 11 (2) Render the assault weapon permanently inoperable;
- 12 (3) Surrender the assault weapon or large capacity magazine to the Boulder Police  
13 Department for destruction; or
- 14 (4) If eligible, obtain a certificate for the assault weapon as provided in subsection  
15 (c).

16 (b) Any person who, prior to June 15, 2018, was legally in possession of multi-burst trigger  
17 activator shall have until July 15, 2018 to do any of the following without being subject  
18 to prosecution:

- 19 (1) Remove the multi-burst trigger activator from the City of Boulder; or
- 20 (2) Surrender the multi-burst trigger activator to the Boulder Police Department for  
21 destruction.

22 (c) Any person seeking to certify an assault weapon that he or she legally possessed prior  
23 to June 15, 2018 must comply with the following requirements:

- 24 (1) Submit to a background check conducted by the appropriate law enforcement  
25 agency to confirm that he or she is not prohibited to possess a firearm pursuant  
to 18 U.S.C. § 922 or C.R.S § 18-12-108;
- (2) Unless the person is currently prohibited by law from possessing a firearm, prior  
to December 31, 2018 apply for a certificate for the assault weapon from the  
Boulder Police Department;
- (3) Safely and securely store the assault weapon pursuant to the regulations adopted  
by the appropriate law enforcement agency;
- (4) Possess the assault weapon only on property owned or immediately controlled  
by the person, or while on the premises of a licensed gunsmith for the purpose  
of lawful repair, or while engaged in the legal use of the assault weapon at a  
duly licensed firing range, or while traveling to or from these locations,  
provided that the assault weapon is stored unloaded in a locked container during

1 transport. The term “locked container” does not include the utility  
2 compartment, glove compartment, or trunk of a motor vehicle; and

3 (5) Report the loss or theft of a certified assault weapon to the appropriate law  
4 enforcement agency within 48 hours of the time the discovery was made or  
5 should have been made.

6 (d) If a certified assault weapon is used in the commission of a crime, the owner shall be  
7 civilly liable for any damages resulting from that crime. The liability imposed by this  
8 subsection shall not apply if the assault weapon was stolen and the certified owner  
9 reported the theft of the firearm to law enforcement within 48 hours of the time the  
10 discovery was made or should have been made.

11 (e) Certified assault weapons may not be purchased, sold or transferred in the City of  
12 Boulder, except for transfer to a licensed gunsmith for the purpose of lawful repair, or  
13 transfer to the appropriate law enforcement agency for the purpose of surrendering the  
14 assault weapon for destruction.

15 (f) Persons acquiring an assault weapon by inheritance, bequest, or succession shall,  
16 within 90 days of acquiring title, do one of the following:

17 (1) Modify the assault weapon to render it permanently inoperable;

18 (2) Surrender the assault weapon to the Boulder Police Department for destruction;

19 (3) Transfer the assault weapon to a firearms dealer who is properly licensed under  
20 federal, state and local laws; or

21 (4) Permanently remove the assault weapon from the City of Boulder.

22 (g) The owner of a certified assault weapon may not possess in the City of Boulder any  
23 assault weapons purchased after June 15, 2018.

24 (h) The city manager shall charge a fee for each certificate sufficient to cover the costs of  
25 administering the certificate program.

(i) The city manager shall issue to qualified applicants two original copies of each  
certificate issued. The City of Boulder shall not maintain any records of certificates  
issued. The person receiving the certificate shall keep one copy with the weapon  
certified and the second copy in a secure place to replace the certificate maintained with  
the weapon.

26 Section 8. This ordinance is necessary to protect the public health, safety, and welfare  
27 of the residents of the city, and covers matters of local concern.

28 Section 9. The City Council finds that the passage of this ordinance is necessary for  
29 the preservation of the public peace, health or property and justify the adoption of this ordinance  
30 as an emergency measure. The nature of the urgency for the adoption as an emergency measure

1 is described, in part, by the findings of fact set forth in this ordinance. The City Council further  
2 finds that the purpose of this ordinance is to limit the ability of individuals to obtain military style  
3 weapons. On any given day there is a chance that an individual will seek to obtain such a weapon.  
4 The cost of delay could be that an individual could commit a mass shooting. Although, statistically  
5 the risk is low, the cost of such an event is so high that immediate action is necessary. Therefore,  
6 the City Council orders that this ordinance shall be effective immediately upon its passage.

7 Section 9. The city council deems it appropriate that this ordinance be published by title  
8 only and orders that copies of this ordinance be made available in the office of the city clerk for  
9 public inspection and acquisition.  
10

11 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
12 TITLE ONLY this 5<sup>th</sup> day of April, 2018.  
13  
14

15 \_\_\_\_\_  
Suzanne Jones  
Mayor

16 Attest:

17 \_\_\_\_\_  
18 Lynnette Beck  
City Clerk  
19  
20  
21  
22  
23  
24  
25

1 READ ON SECOND READING AND AMENDED this 1<sup>st</sup> day of May, 2018.

2  
3  
4 Suzanne Jones  
Mayor

5 Attest:

6 Lynnette Beck  
City Clerk

8 READ ON THIRD READING, AMENDED, PASSED AND ADOPTED AS AN  
9 EMERGENCY MEASURE BY TWO-THIRDS COUNCILMEMBERS PRESENT this 15<sup>th</sup> day  
10 of May, 2018.

11  
12  
13 Suzanne Jones  
Mayor

14 Attest:

15  
16 Lynnette Beck  
City Clerk