

1 ALACHUA COUNTY
2 BOARD OF COUNTY COMMISSIONERS
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5 **ORDINANCE 2018-**
6

7 AN ORDINANCE OF THE BOARD OF COUNTY
8 COMMISSIONERS OF ALACHUA COUNTY, FLORIDA,
9 CREATING CHAPTER 82, SALE OF FIREARMS, RELATING
10 TO THE SALE OF FIREARMS; PROVIDING AN INTENT AND
11 PURPOSE; PROVIDING DEFINITIONS; PROVIDING FOR
12 APPLICATION AND ENFORCEMENT OF ORDINANCE;
13 PROVIDING A REQUIREMENT FOR A FIVE-DAY WAITING
14 PERIOD IN CONNECTION WITH THE SALE OF FIREARMS
15 IN ALACHUA COUNTY; PROVIDING A REQUIREMENT FOR
16 A CRIMINAL HISTORY RECORDS CHECK IN CONNECTION
17 WITH THE SALE OF FIREARMS IN ALACHUA COUNTY;
18 PROVIDING FOR NON- APPLICABILITY OF THE
19 ORDINANCE TO HOLDERS OF FLORIDA CONCEALED
20 WEAPON PERMITS OR A CURRENTLY CERTIFIED LAW
21 ENFORCEMENT OFFICER WHEN HOLDERS ARE
22 PURCHASING A FIREARM; PROVIDING FOR PENALTY;
23 PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR
24 MODIFICATION; PROVIDING FOR ORDINANCE TO BE
25 LIBERALLY CONSTRUED; PROVIDING FOR
26 SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE
27 DATE.
28

29 WHEREAS, Section 5(b), Article VIII, Florida Constitution, authorizes counties to adopt
30 ordinances that require a criminal history records check and a 3 to 5-day waiting period in
31 connection with the sale of any firearm occurring within such county; and

32 WHEREAS, the Florida Constitution specifically exempts holders of concealed weapons
33 permits from the requirements of such ordinances; and

34 WHEREAS, on March 13, 2018, the Alachua County Board of County Commissioners
35 directed the County Attorney's Office to return with an ordinance requiring a criminal history
36 records check and imposing a 5-day waiting period on the sale of any firearm in Alachua
37 County; and

1 WHEREAS, the Alachua County Board of County Commissioners finds that it is in the
2 best interest of the residents of Alachua County to adopt this Ordinance.

3 NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
4 COMMISSIONERS OF ALACHUA COUNTY, FLORIDA:

5 SECTION 1. Chapter 82 of the Alachua County Code of Ordinances is created as
6 follows:

7 **Title 7. – Health and Safety**

8 **Chapter 82. SALE OF FIREARMS**

9 **Sec. 82-01. - Intent and purpose.**

10 It is the intent of this Chapter to implement the constitutionally granted authority of the County
11 to ensure that no firearm is sold, offered for sale, transferred or delivered where any part of the
12 transaction is conducted on property to which the public has a right of access unless there is a
13 waiting period of five full days and a criminal history records check of the potential purchaser
14 is conducted. This Chapter applies to both sellers and purchasers of firearms.

15 **Sec. 82-02. - Definitions.**

16 For purposes of this Chapter, the following terms shall be defined as:

17 *Any part of the transaction* means any part of the sales transaction, including but not limited to,
18 the offer of sale, negotiations, the agreement to sell, the transfer of consideration, the transfer
19 or delivery of the firearm, or the transfer of any ownership or possessory interest in the
20 firearm.

21 *Firearm* means any weapon (including a starter gun) which will, is designed to, or may readily
22 be converted to expel a projectile by the action of an explosive; the frame or receiver of any
23 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 that term is defined in Section 790.001, Florida Statutes.

Property to which the public has the right of access means any real or personal property to which the public has a right of access, including property owned by either public entities or private individuals, firms and entities and expressly includes, but is not limited to, flea markets, gun shows and firearms exhibitions.

Sale means 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.

Sec. 82-03. - Application and enforcement of Chapter.

Law enforcement officers shall enforce the provisions of this Chapter against any person found violating this Chapter within their jurisdiction.

Sec. 82-04. - Five-day waiting period.

There shall be a mandatory five-day waiting period, which shall be five full days, excluding weekends and legal holidays, in connection with the sale of any firearm occurring within the County. An uninterrupted, continuous, and cumulative aggregate of 120 hours must elapse between such sale and receipt of the firearm, excluding the hours of weekends and legal holidays.

Sec. 82-05. - Criminal history records check.

There shall be a criminal history records check conducted in connection with the sale of firearms occurring within the County. No person may transfer or receive a firearm when any part of the sale transaction is conducted on property to which the public has the right of access until all procedures and requirements of Section 790.065, Florida Statutes, have been complied with by a person statutorily authorized to request that a background information check on the

1 purchaser be conducted by the Florida Department of Law Enforcement (“FDLE”), and such
2 statutorily authorized person has received an approval number for the purchaser from FDLE
3 and documented same, as provided by Section 790.065, Florida Statutes. In case of repeal or
4 amendment of Section 790.065, Florida Statutes, no person shall transfer or receive a firearm
5 by sale when any part of the sale transaction is conducted on property to which the public has a
6 right of access until all procedures, requirements and prohibitions set forth in other federal or
7 state laws relating to criminal history records checks have been complied with by persons
8 selling or buying firearms.

9 **Sec. 82-06. - Non-applicability to holders of Florida concealed weapon permits or currently**
10 **certified law enforcement officers as defined under Florida Law.**

11 The requirements of this Chapter do not apply if the purchaser in the sale of a firearm is a
12 holder of a Florida concealed weapons or firearms permit or license issued pursuant to general
13 law, or a currently certified law enforcement officer as defined under Florida Law. However,
14 this exemption shall not relieve such purchasers from compliance with otherwise applicable
15 state or federal law requirements.

16 **Sec. 82-07. – Effective areas.**

17 This Chapter shall be effective in the incorporated as well as unincorporated areas of Alachua
18 County.

19 **Sec. 82-08. - Penalty.**

20 A seller or purchaser of a firearm who violates any provision of this Chapter is guilty of a
21 violation of a county ordinance, punishable as provided in Section 125.69, Florida Statutes,
22 and the violation shall be prosecuted in the same manner as misdemeanors are prosecuted.
23

1 SECTION 2. Inclusion in the Code, Scrivener's Error. It is the intention of the Board of
2 County Commissioners of Alachua County, Florida, and it is hereby provided that the provisions
3 of this ordinance shall become and be made a part of the Code of Laws and Ordinances of
4 Alachua County, Florida; that the sections of this ordinance may be renumbered or relettered to
5 accomplish such intention; and that the word "ordinance" may be changed to "section," "article,"
6 or other appropriate designation. The correction of typographical errors which do not affect the
7 intent of the ordinance may be authorized by the County Manager or designee without public
8 hearing, by filing a corrected or recodified copy of the same with the Clerk of the Circuit Court.

9 SECTION 3. Modification. It is the intent of the Board of County Commissioners that the
10 provisions of this ordinance may be modified as a result of considerations that may arise during
11 public hearings. Such modifications shall be incorporated into the final version of the ordinance
12 adopted by the Board and filed by the Clerk to the Board.

13 SECTION 4. Ordinance to be Liberally Construed. This ordinance shall be liberally
14 construed in order to effectively carry out the purposes hereof which are deemed not to adversely
15 affect public health, safety, or welfare.

16 SECTION 5. Severability. It is the declared intent of the Board of County
17 Commissioners that, if any section, subsection, sentence, clause, phrase, or provision of this
18 ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity
19 or unconstitutionality shall not be so construed as to render invalid or unconstitutional the
20 remaining provisions of this ordinance.

21 SECTION 6. Effective Date. A certified copy of this ordinance shall be filed with the
22 Department of State by the Clerk of the Board of County Commissioners within ten (10) days
23 after enactment by the Board of County Commissioners, and shall take effect upon filing with

1 the Department of State.

2 DULY ADOPTED in regular session, this ____ day of _____, 2018 A.D.

3 BOARD OF COUNTY COMMISSIONERS OF
4 ALACHUA COUNTY, FLORIDA
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7 By: _____
8 Lee Pinkoson, Chair
9

10
11
12 ATTEST:

13
14 _____
15 Jesse K. Irby, II
16 Clerk of Court

17 (SEAL)
18

APPROVED AS TO FORM

Alachua County Attorney