

**ORDINANCE NO. 99-9**

**AN ORDINANCE OF HERNANDO COUNTY, FLORIDA, REQUIRING A CRIMINAL HISTORY RECORDS CHECK AND THREE-DAY WAITING PERIOD IN CONNECTION WITH THE SALE OF ANY FIREARM; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on November 3, 1998, Florida voters passed an amendment to Article VIII, Section 5 of the Florida Constitution titled Firearms Purchases: Local Option for Criminal History Records Check and Waiting Period; and

**WHEREAS**, Article VIII, Section 5(b), of the Florida Constitution, gives the County the authority to require a criminal history records check and a three to five day waiting period in connection with the sale of any firearm occurring within such county and

**WHEREAS**, the Board of County Commissioners has determined that adoption of an ordinance providing for a criminal history records check and a three-day waiting period in connection with the sale of any firearm occurring in Hernando County is in the public interest and will promote the health, safety, and welfare of Hernando County residents.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA:**

**SECTION 1. APPLICABILITY**

This ordinance shall be of countywide force and effect.

**FILED**  
1999 JUN 22 PM 4:04  
DEPARTMENT OF STATE  
TALLAHASSEE, FLORIDA

## **SECTION 2. DEFINITIONS**

As used in this ordinance:

A. *"Any part of the transaction"* means any part of the sales transaction, including but not limited to, the offer of sale, negotiations, the agreement to sell, the transfer of consideration, or the transfer of the firearm.

B. *"Buyer"* means the person or persons taking delivery of or transferring money or other valuable consideration for a firearm in any sale.

C. *"Firearm"* means any weapon (including a starter gun) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive and the frame or receiver of any such weapon.

D. *"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 or private individuals, firms, and entities and expressly includes, but is not limited to, flea markets, gun shows, garage or yard sales, and firearms exhibitions.

E. *"Sale"* means the transfer of money or other valuable consideration for any firearm when any part of the transaction is conducted on property in Hernando County, Florida, to which the public has the right of access.

F. *"Seller"* means the person or persons delivering a firearm in any sale.

G. *"Section 790.065, Florida Statutes"* means the form of that statute as it exists as of the effective date of this ordinance, or as it may be amended from time to time, or as it may be transferred, renumbered or redesignated.

**SECTION 3. WAITING PERIOD**

There shall be a mandatory three-day waiting period, which shall be three (3) full days, excluding weekends and legal holidays, in connection with the sale of firearms occurring within the County when the sale involves a transfer of money or other valuable consideration, and any part of the sale transaction is conducted on property to which the public has the right of access. Some examples of properties to which the public has the right of access include, but are not limited to: gun shows, firearms exhibits, wholesale and retail stores, and flea markets. An uninterrupted, continuous, and cumulative aggregate of seventy two (72) hours must elapse between such sale and receipt of the firearm, excluding the hours of weekends and legal holidays.

**SECTION 4. CRIMINAL HISTORY**

A. It is the intent of this section that a criminal history records check be conducted for every buyer that is not a licensed firearm dealer, importer, or manufacturer in connection with the sale of any firearm and that no firearm be delivered to any such buyer for whom a unique approval number, as referenced in Section 790.065, Florida Statutes, has not been issued by the Florida Department of Law Enforcement in connection with a background records check for the sale of a firearm to that buyer. As of the effective date of this ordinance, state law allows only licensed firearm dealers, importers, and manufacturers to utilize the Florida Department of Law Enforcement telephone background check referenced in Section 790.065, Florida Statutes. Therefore, a seller who is not a licensed firearm dealer, importer, or manufacturer may use a licensed

firearm dealer, importer, or manufacturer as an intermediary or otherwise ensure that a criminal history records check is conducted in a manner consistent with the requirements and provisions of this ordinance for every buyer that is not a licensed firearm dealer, importer, or manufacturer in connection with the sale of any firearm.

B. No seller shall deliver any firearm to a buyer that is not a licensed firearm dealer, importer, or manufacturer until the seller conducts or causes to be conducted a criminal history records check of the buyer in connection with any sale of a firearm. Such criminal history records check shall comply with all procedures and requirements of Section 790.065, Florida Statutes.

#### **SECTION 5. EXCEPTIONS**

A. The requirements and provisions of Sections 3 and 4 of this ordinance are not applicable upon confirmation by either the Florida Department of State or Florida Department of Law Enforcement that the buyer of a firearm is a holder of a license to carry concealed firearms issued by the Florida Department of State. However, if there is more than one buyer of a firearm, Sections 3 and 4 of this ordinance are applicable unless each buyer is a holder of a license to carry concealed firearms issued by the Florida Department of State, but no criminal history records check is required pursuant to this ordinance for a buyer of a firearm who is a holder of a license to carry concealed firearms issued by the Florida Department of State.

B. The requirements and provisions of Sections 3 and 4 of this ordinance are not applicable when the buyer of a firearm is a "law enforcement officer," as that phrase

is defined for purposes of Chapter 790, Florida Statutes, upon presentation of both personal and agency identification and verification of employment by the law enforcement agency which employs the officer.

**SECTION 6. PENALTIES**

Any violation by any person of any requirement or provision of this ordinance shall be prosecuted in the same manner as misdemeanors are prosecuted. Upon conviction, any person violating any requirement or provision of this ordinance shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the County jail not to exceed sixty (60) days or by both such fine and imprisonment.

**SECTION 7. INCLUSION IN THE CODE**

It is the intention of the Board of County Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, the sections of this ordinance may be renumbered or relettered to accomplish such intention, and that the word "ordinance" may be changed to "section," "article," or other appropriate designation.

**SECTION 8. SEVERABILITY**

If any section, sentence, clause, part, or provision of this ordinance is held to be invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be

affected thereby, but shall remain in full force and effect.

**SECTION 9. EFFECTIVE DATE**

This ordinance shall take effect upon receipt by the County of notice that a copy of this ordinance has been filed with the Department of State.

**ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA** in Regular Session this 15th day of June, 1999 A.D.

(SEAL)

**BOARD OF COUNTY COMMISSIONERS  
HERNANDO COUNTY, FLORIDA.**

Attest:

  
KAREN NICOLAI  
Clerk

By:

  
PAT NOVY  
Chairman