

1 ORDINANCE 8245

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

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

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

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

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

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

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

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

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

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

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

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

12 **5-8-2. – Definitions.**

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

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

17 *Assault weapon* means:

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

20 (1) A pistol grip or thumbhole stock.;

21 (2) A folding or telescoping stock.; or

22 (3) Any protruding grip or other device to allow the weapon to be stabilized with  
23 the non-trigger hand.

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

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

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

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

(1) A pistol grip or thumbhole stock;

- 1 (2) Any feature capable of functioning as a protruding grip that can be held by the  
2 non-trigger hand;  
3 (3) A folding or telescoping stock;  
4 (4) A fixed magazine capacity in excess of 5 rounds; or  
5 (5) The capacity to accept a detachable magazine.

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

8 (e) Any part or combination of parts designed or intended to convert a firearm into an  
9 assault weapon, including any combination of parts from which an assault weapon  
10 may be readily assembled if those parts are in the possession or under the control of  
11 the same person.

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

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

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

- 18 (a) A feeding device that has been permanently altered so that it cannot accommodate  
19 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.

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

*Multi-Burst Trigger Activator* means:

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

1 *Pistol Grip* means a grip that protrudes conspicuously beneath the action of the weapon and  
2 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.

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

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

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

9 **5-8-10. – Possession and Sale of Illegal Weapons.**

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

23 Section 4. Section 5-8-21, "Open Carriage of Firearms in Carrying Cases Required,"  
24 B.R.C. 1981, is amended to read as follows:

25 **5-8-21. - Open Carriage of Firearms in Carrying Cases Required.**



1 Any person carrying a firearm off of the person's property or outside of the person's  
2 business or vehicle shall carry the firearm in a carrying case. The carrying case must be  
3 recognizable as a gun carrying case by a reasonable person. A plain-shaped case must be clearly  
4 marked to be deemed recognizable under this standard. A holster satisfies the requirement of a  
5 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.

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

7 **5-8-22. – Defenses.**

- 8 (a) It is an affirmative defense to a charge of violating sections 5-8-3, "Discharge of  
9 Firearms," 5-8-4, "Possessing and Discharging Firearm or Bow in Park or Open Space,"  
10 5-8-5, "Negligently Shooting Bow or Slingshot," 5-8-6, "Aiming Weapon at Another,"  
11 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:
- 12 (1) Reasonably engaged in lawful self-defense under the statutes of the State of  
Colorado; or
  - 13 (2) Reasonably exercising the right to keep and bear arms in defense of the  
14 defendant's or another's home, person and property or in aid of the civil power  
when legally thereto summoned.
- 15 (b) It is a specific defense to a charge of violating sections 5-8-3, "Discharge of Firearms,"  
16 5-8-4, "Possessing and Discharging Firearm or Bow in Park or Open Space," and 5-8-  
17 8, "Possession of Loaded Firearms," B.R.C. 1981, that the events occurred in an area  
18 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. It is a  
specific defense to a charge of violating section 5-8-4, "Possessing and Discharging  
19 Firearm or Bow in Park or Open Space," B.R.C. 1981, by possession that the defendant  
20 was going directly to or returning directly from such a target range.
- 21 (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  
22 Firearm While Intoxicated," B.R.C. 1981, that the defendant was:
- 23 (1) In the defendant's own dwelling or place of business or on property owned or  
under the defendant's control at the time; or
  - 24 (2) In a private automobile or other private means of conveyance at the time and  
was carrying the weapon for lawful protection of the defendant's or another's  
25 person or property while traveling; or
  - (3) Charged with carrying a knife that was a hunting or fishing knife carried by the  
defendant for sport use.

- 1 (d) It is a specific defense to a charge of violating sections 5-8-8, "Possession of Loaded  
2 Firearms," and 5-8-9, "Carrying a Concealed Weapon," B.R.C. 1981, that the defendant  
3 was carrying the weapon pursuant to a concealed weapons permit valid under the  
4 statutes of the State of Colorado.
- 5 (e) It is a specific defense to a charge of violating sections 5-8-3, "Discharge of Firearms,"  
6 and 5-8-8, "Possession of Loaded Firearms," B.R.C. 1981, that the loaded gas or  
7 mechanically operated gun was possessed or discharged in a building with the  
8 permission of the property owner and the projectile did not leave the building.
- 9 (f) It is a specific defense to a charge of violating section 5-8-10, "Possession of Illegal  
10 Weapons," B.R.C. 1981:
- 11 (1) That the person had a valid permit for such weapon pursuant to federal law at  
12 the time of the offense; or
- 13 (2) That the illegal weapon was an assault weapon accompanied by a certificate  
14 issued by the Boulder Police Department.
- 15 (g) It is a specific defense to a charge of violating section 5-8-4, "Possessing and  
16 Discharging Firearm or Bow in Park or Open Space," B.R.C. 1981, that the firearm,  
17 gas or mechanically operated gun, bow, slingshot or crossbow possessed by the person  
18 was being transported in a motor vehicle. This defense does not apply to a charge of  
19 violation involving discharge of a missile.

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

22 **5-8-25. – Exemptions from Chapter.**

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

- 24 (a) Any officer of the United States, including but not limited to federal agents and  
25 United States Marshals, any sheriffs, constables and their deputies; any regular or ex-  
officio police officer; any other peace 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
- (b) Any person authorized to carry a concealed weapon under the Federal Law  
Enforcement Officers Safety Act.

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

**5-8-28. – Assault Weapons.**

- 1 (a) Any person who, prior to June 15, 2018, was legally in possession of an assault weapon  
2 large capacity magazine shall have until December 31, 2018 to do any of the following  
3 without being subject to prosecution:
- 4 (1) Remove the assault weapon or large capacity magazine from the City of  
5 Boulder;
  - 6 (2) Render the assault weapon permanently inoperable;
  - 7 (3) Surrender the assault weapon or large capacity magazine to the Boulder Police  
8 Department for destruction; or
  - 9 (4) If eligible, obtain a certificate for the assault weapon as provided in subsection  
10 (c).
- 11 (b) Any person who, prior to June 15, 2018, was legally in possession of multi-burst trigger  
12 activator shall have until July 15, 2018 to do any of the following without being subject  
13 to prosecution:
- 14 (1) Remove the multi-burst trigger activator from the City of Boulder; or
  - 15 (2) Surrender the multi-burst trigger activator to the Boulder Police Department for  
16 destruction.
- 17 (c) Any person seeking to certify an assault weapon that he or she legally possessed prior  
18 to June 15, 2018 must comply with the following requirements:
- 19 (1) Submit to a background check conducted by the appropriate law enforcement  
20 agency to confirm that he or she is not prohibited to possess a firearm pursuant  
21 to 18 U.S.C. § 922 or C.R.S § 18-12-108;
  - 22 (2) Unless the person is currently prohibited by law from possessing a firearm, prior  
23 to December 31, 2018 apply for a certificate for the assault weapon from the  
24 Boulder Police Department;
  - 25 (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  
transport. The term “locked container” does not include the utility  
compartment, glove compartment, or trunk of a motor vehicle; and
  - (5) Report the loss or theft of a certified assault weapon to the appropriate law  
enforcement agency within 48 hours of the time the discovery was made or  
should have been made.
- (d) If a certified assault weapon is used in the commission of a crime, the owner shall be  
civilly liable for any damages resulting from that crime. The liability imposed by this  
subsection shall not apply if the assault weapon was stolen and the certified owner

1 reported the theft of the firearm to law enforcement within 48 hours of the time the  
2 discovery was made or should have been made.

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

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

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

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

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Suzanne Jones

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Mayor

Attest:

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Lynnette Beck  
City Clerk

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

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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