

ORDINANCE NO. 03-02-2020

**AN ORDINANCE OF WAYNE COUNTY, UTAH ENACTING WAYNE COUNTY AS A  
SECOND AMENDMENT SANCTUARY COUNTY**

**WHEREAS**, Acting through the United States Constitution, the people created government to be their agent in the exercise of a few defined powers, while reserving to the citizens the right to decide on matters which concern their lives, liberty, and property in the ordinary course of affairs; and

**WHEREAS**, the Second Amendment of the United States Constitution reads, “A well regulated Militia, being necessary to the security of a free state, the right of the people to keep and bear Arms, shall not be infringed.” and

**WHEREAS**, The right of the people to keep and bear arms is further protected from infringement by State and Local Governments under the Ninth, Tenth, and Fourteenth Amendments to the Constitution of the United States of America; and

**WHEREAS**, the United States Supreme Court in *District of Columbia v. Heller*, 554 U.S. 570 (2008), affirmed an individual’s right to possess firearms, unconnected with service in a militia, for traditionally lawful purposes, such as self-defense within the home, and

**WHEREAS**, Section 1 of the Fourteenth Amendment to the Constitution of the United States of America states, “ No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws”;

**WHEREAS**, The Supreme Court of the United States recognized in *McDonald v. City of Chicago* that the Second Amendment to the Constitution was incorporated by the Fourteenth Amendment and thereby made applicable to the States; and

**WHEREAS**, Justice Thomas M. Cooley in the *People v. Hurlbut* 24 Mich. 44, page 108 (1871), states: “The State may mould local institutions according to its views of policy or expediency; but local government is a matter of absolute right; and the State cannot take it away”;

**WHEREAS**, The right to be free from the commandeering hand of government has been recognized by the United States Supreme Court in *Printz v. United States*. The Court held: “The Federal Government may neither issue directives requiring the States to address particular problems, nor command the States’ officers, or those of their political subdivisions, to administer or enforce a federal regulatory program”; and

**WHEREAS**, Therefore, the right to keep and bear arms is a fundamental individual right that shall not be infringed; and all local, state and federal acts, laws, orders, rules or regulations restricting the fundamental right to keep and bear arms that are not narrowly tailored to protect a compelling state purpose are in violation of the Second Amendment; and

**WHEREAS**, Local governments have the legal authority to refuse to cooperate with state and federal firearm laws that violate those rights and to proclaim a Second Amendment Sanctuary for law-abiding citizens in their local jurisdiction;

**WHEREAS**, the Wayne County Board of Commissioners wishes to express its intent to stand as a Sanctuary County for Second Amendment rights and to oppose, within the limits of the Constitution of the United States and the State of Utah, any efforts to unconstitutionally restrict such rights, and to use such legal means at its disposal to protect the rights of the citizens of Wayne County, Utah to keep and bear arms, including through legal action, the power to appropriate public funds, the right to petition for redress of grievances, and the power to direct the law enforcement and employees of Wayne County to not enforce any unconstitutional law.

**NOW, THEREFORE, BE IT RESOLVED**, the County Legislative Body of Wayne County ordains as follows:

Notwithstanding any other law, regulation, rule or order to the contrary, no agent, department, employee or official of Wayne County, a political subdivision of the State of Utah, while acting in their official capacity, shall:

1. Knowingly and willingly, participate in any way in the enforcement of any Unlawful Act, as defined herein, regarding personal firearms, firearm accessories, or ammunition.
2. Utilize any Wayne County assets, funds, or funds allocated by any entity to Wayne County, in whole or in part, to engage in any activity that aids in the enforcement or investigation relating to an Unlawful Act in connection with personal firearms, firearm accessories, or ammunition.

### **UNLAWFUL ACT**

An "Unlawful Act" shall consist of any federal or state act, law, order, rule, or regulation, which restricts an individual's constitutional right to keep and bear arms, including any federal or state act, law, order, rule, or regulation which bans or effectively bans, registers or effectively registers, or limits the lawful use of firearms, firearm accessories or ammunition (other than a fully automatic firearm which is made unlawful by federal law). Any such "Unlawful Act" is invalid in Wayne County and shall not be recognized by Wayne County, shall be considered null, void and of no effect and this includes, but shall not be limited to the following:

1. Any tax, levy, fee, or stamp imposed on firearms, firearm accessories, or ammunition not common to all other goods and services on the purchase or ownership of those items by citizens;
2. Any registration or tracking of firearms, firearm accessories, or ammunition;
3. Any registration (except for those requirements associated with the point of sale) or tracking of the owners of firearms, firearm accessories, or ammunition;
4. Any act forbidding the possession, ownership, or use of any type of firearm, firearm accessory, or ammunition by citizens of the legal age of eighteen and over, other than pursuant to federal law background check requirements for transfers or purchases through FFL dealers;

5. Any prohibition, regulation, and/or use restriction related to ownership or the constitutionally guaranteed lawful use or carry of non-fully automatic firearms; and

6. Any prohibition, regulation, and/or use restriction limiting hand grips, stocks, flash suppressors, bayonet mounts, magazine capacity, clip capacity, internal capacity, or types of ammunition available for sale, possession or use by citizens.

### **EXCEPTIONS**

1. The protections provided to citizens by this ordinance do not apply to persons who have been convicted of felony crimes or who are prohibited from possessing firearms under federal law and state law by a finding of a court of competent jurisdiction that such individual is incompetent.

2. This ordinance is not intended to prohibit or affect in any way the prosecution of any crime for which the use of, or possession of, a firearm is an aggravating factor or enhancement to an otherwise independent crime.

3. This ordinance does not prohibit individuals in Wayne County from voluntarily participating in assisting in permitting, licensing, registration or other processing of applications for concealed carry permits, or other firearm, firearm accessory, or ammunition licensing or registration processes that may be required by law.

### **PENALTIES**

1. Any person violating any provisions of this ordinance shall be guilty of a Class B misdemeanor.

2. In addition, anyone within the jurisdiction of Wayne County, Utah, accused to be in violation of this ordinance may be sued in the Sixth District Court of the State of Utah for declaratory and injunctive relief, damages, and attorneys' fees.

### **SEVERABILITY**

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent

jurisdiction, such provision shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

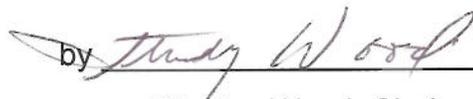
**AMENDMENT OF CONFLICTING ORDINANCES**

To the extent that any ordinances, resolutions, or policies of Wayne County conflict with the provisions of this ordinance, they are hereby amended to comply with the provisions hereof.

**BE IT FURTHER ORDAINED** that this Ordinance shall become effective 15 days after passage. The County Clerk is ordered to post this Ordinance forthwith pursuant to Utah Code Annotated S17-53-208.

**PASSED AND ORDERED POSTED** by unanimous vote of the Board of County Commissioners of Wayne County at the regularly scheduled meeting of the Board on the 2<sup>nd</sup> day of March, 2020.

**WAYNE COUNTY COMMISSION**

by  \_\_\_\_\_  
Stanley Wood, Chairman

ATTEST:

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Ryan Torgerson, Clerk/Auditor