

**GARFIELD COUNTY, UTAH**  
**SECOND AMENDMENT SANCTUARY**  
**RESOLUTION NO. 2020-2**

**A RESOLUTION ESTABLISHING GARFIELD COUNTY, UTAH 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 to the Constitution of the United States of America states, "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 Supreme Court of the United States of America in *District of Columbia vs. Heller* recognized the individual's right to keep and bear arms, as protected by the Second Amendment of the Constitution of the United States of America. Justice Antonin Scalia's prevailing opinion in that case stated that the Second Amendment protects an individual's right to possess a firearm unconnected with service in a militia, and the right to use that firearm 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"; and

**WHEREAS**, The Supreme Court of the United States recognized in *McDonald vs. 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 vs. 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"; and

**WHEREAS,** The right to be free from the commandeering hand of government has been recognized by the United States Supreme Court in *Printz vs. 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.

It is hereby resolved by the Board of Commissioners of Garfield County, Utah as follows:

**Section 1 UNLAWFUL ACT**

1. 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 Garfield County and shall not be recognized by Garfield County, shall be considered null, void and of no effect and this includes, but shall not be limited to the following:
  - a. 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;
  - b. Any registration or tracking of firearms, firearm accessories or ammunition;
  - c. Any registration (except for those requirements associated with the point of sale) or tracking of the owners of firearms, firearm accessories or ammunition;
  - d. 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;
  - e. Any prohibition, regulation and/or use restriction related to ownership or the constitutionally guaranteed lawful use or carry of non-fully automatic firearms; and

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

## **Section 2      PROHIBITIONS**

1. Notwithstanding any other law, regulation, rule or order to the contrary, no agent, department, employee or official of Garfield County, a political subdivision of the State of Utah, while acting in their official capacity, shall:
  - a. Knowingly and willingly, participate in any way in the enforcement of any Unlawful Act, as defined herein, regarding personal firearms, firearm accessories or ammunition.
  - b. Utilize any Garfield County assets, funds or funds allocated by any entity to Garfield 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.

## **Section 3      EXCEPTIONS**

1. The protections provided to citizens by this Resolution 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 Resolution 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 aggregating factor or enhancement to an otherwise independent crime.
3. This Resolution does not prohibit individuals in Garfield 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.
4. This Resolution does not prohibit excise tax on guns and ammunition remitted for hunting, fishing and other conservation efforts.

**Section 4      CONFLICT**

This Resolution shall not nullify the more restrictive provisions of covenants, agreements, other Resolutions or laws but shall prevail notwithstanding such provisions which are less restrictive.

**Section 5      SEVERABILITY**

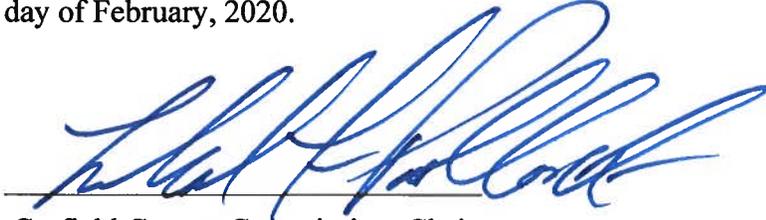
If any section of this Resolution should for any reason be found invalid, by a court of competent jurisdiction, the remaining sections nevertheless be carried into effect.

**Section 6      EFFECTIVE DATE**

This Resolution shall take effect upon its passage by a majority vote of the Garfield County Commission and following notice and publication as required by Utah State Code.

**Section 7      ADOPTION**

Passed and adopted by the Board of County Commissioners of Garfield County, Utah, this 10<sup>th</sup> day of February, 2020.



Garfield County Commission, Chair  
Leland F. Pollock

ATTEST:



Garfield County Auditor/Clerk  
Camille A. Moore

County Seal:

