

**PIUTE COUNTY COMMISSION
ORDINANCE NO. 06.08.2020.1**

**AN ORDINANCE OF PIUTE COUNTY, UTAH ENACTING
PIUTE COUNTY CODE FOR 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 v. 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";

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;

NOW THEREFORE, The County Legislative Body of Piute County ordains as follows:

Second Amendment Sanctuary County Chapter of the Piute County Code shall be enacted to read as follows:

SECTION I

01.010 - 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 Piute County and shall not be recognized by Piute 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, noise suppressors, bayonet mounts, magazine capacity, clip capacity, internal capacity, bump stocks, suppressors, or types of ammunition available for sale, possession or use by citizens.

01.020 - Prohibitions

Notwithstanding any other law, regulation, rule or order to the contrary, no agent, department, employee or official of Piute 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 Piute County assets, funds, or funds allocated by any entity to Piute 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.

01.030 - 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 aggregating factor or enhancement to an otherwise independent crime.
3. This ordinance does not prohibit individuals in Piute 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.

01.040 - Penalties

1. Any person violating any provisions of this chapter shall be guilty of a Class B misdemeanor as set forth in the Piute County Code.
2. In addition to subsection 1, above, anyone within the jurisdiction of Piute County, Utah, accused to be in violation of this ordinance may be sued in the district court of the state of Utah for declaratory and injunctive relief, damages, and attorneys' fees.

SECTION II. 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.

SECTION III. AMENDMENT OF CONFLICTING ORDINANCES

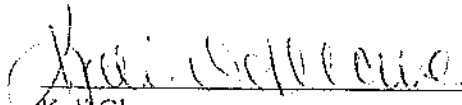
To the extent that any ordinances, resolutions, or policies of Piute County conflict with the provisions of this ordinance, they are hereby amended to comply with the provisions hereof.

SECTION IV. EFFECTIVE DATE

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

APPROVED AND ADOPTED by a duly the Board of County Commissioners of Piute County this 8th day of June, 2020.

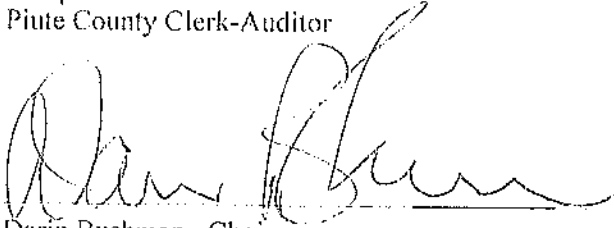
ATTEST:
PIUTE COUNTY:



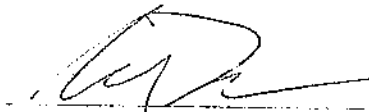
Kali Gleave

Piute County Clerk-Auditor

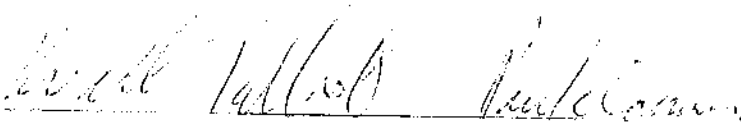
06/08/2020
Date:



Darin Bushman, Chair



Scott Dalton, Commissioner



Will Talbot, Commissioner



Scott Burns, County Attorney

06/08/2020