

2020 Second Amendment Sanctuary Ordinance #20-2 for Elk Ridge City, State of Utah

SECTION 1. TITLE

The title of this ordinance shall be known as the Second Amendment Sanctuary Resolution or "SASO."

SECTION 2. FINDINGS

The people of Elk Ridge City, Utah, find and declare:

- A. 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;
- B. 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";
- C. 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.
- D. 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 Anton in 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;
- E. 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';

- F. 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;
- G. Justice Thomas M. Cooley in the *People v. Hurl* but 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";
- H. 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. " The anti-commandeering principles recognized by the U.S. Supreme Court in *Printz v. United States* are predicated upon the advice of James Madison, who in Federalist #46 advised "a refusal to cooperate with officers of the Union" in response to either unconstitutional federal measures or constitutional but unpopular federal measures;
- I. 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 regarding firearms, firearms accessories, and ammunition are a violation of the Second Amendment;
- J. 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 cities and counties;
- K. Therefore, through the enactment of this document, Elk Ridge City, Utah, is hereby a Second Amendment Sanctuary city.

SECTION 3. PROHIBITIONS

A. Notwithstanding any other law, regulation, rule or order to the contrary, no agent, department, employee or official of Elk Ridge City, 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 assets, Elk Ridge City funds, or funds allocated by any entity to the Elk Ridge City, 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 4. PENALTIES

A. 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 Elk Ridge City and shall not be recognized by Elk Ridge City, is specifically rejected by the voters of Elk Ridge City, and shall be considered null, void and of no effect in, Elk Ridge City, Utah 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 or tracking of the owners of firearms, firearm accessories, or ammunition;

4. Any act forbidding the possession, ownership, or use or transfer 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 act ordering the confiscation of firearms, firearm accessories, or ammunition from citizens;
6. Any prohibition, regulation, and/or use restriction related to ownership or the constitutionally guaranteed lawful use or carry of non-fully automatic firearms; and
7. Any prohibition, regulation, and/or use restriction limiting hand grips, stocks, flash suppressors, bayonet mounts, magazine capacity, clip capacity, internal capacity, bump stocks, suppressors, or types of ammunition available for sale, possession or use by citizens.

B. Anyone within the jurisdiction of Elk Ridge City, 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. Neither sovereign nor official or qualified immunity shall be an affirmative defense in cases pursuant to this section.

C. Any peace officer may enforce this ordinance.

D. A civil offense against this ordinance is a Class A violation, per _____, with a maximum fine of \$2,000 for an individual, and \$4, 000 for a corporation, per_____.

E. 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.
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 permit or otherwise allow the possession of firearms in Federal buildings.

4. This ordinance does not prohibit individuals in Elk Ridge City 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.

SECTION 5. SEVERABILITY

A. The provisions of this act are hereby declared to be severable, and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

SECTION 6. EFFECTIVE DATE

A. The effective date of this ordinance, The Second Amendment Sanctuary Ordinance, or SASO, shall be immediately upon approval by the Elk Ridge City Council.

Approved:

Mayor Ty Ellis

Past and duly accepted this ___ day of _____, 2020

Councilmember Nelson Abbott	Voted	___
Councilmember Tricia Thomas	Voted	___
Councilmember Jim Chase	Voted	___
Councilmember Jared Peterson	Voted	___
Councilmember Cory Thompson	Voted	___

ATTEST: _____
ROYCE SWENSEN
Elk Ridge City Recorder

STATE OF UTAH)
 ss.
COUNTY OF UTAH)

I, ROYCE SWENSEN, City Recorder of the City of Elk Ridge, Utah, do hereby certify and declare that the above and foregoing is a true, full, and correct copy of

Ordinance # 20-2, passed by the City Council of the City of Elk Ridge, Utah, on the _____ day of _____, 2020, entitled

"AN ORDINANCE OF THE ELK RIDGE CITY COUNCIL ADOPTING 2019 SECOND AMENDMENT SANCTUARY RESOLUTION 20-2 FOR ELK RIDGE CITY, STATE OF UTAH"

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of Elk Ridge City Utah this _____ day of _____, 2020.

ROYCE SWENSEN
Elk Ridge City Recorder

AFFIDAVIT OF POSTING

STATE OF UTAH)
 ss.
COUNTY OF UTAH)

I, ROYCE SWENSEN, City Recorder of the City of Elk Ridge, Utah, do hereby certify and declare that I posted in three (3) public places Ordinance # 20-2 , which is attached hereto on the _____ day of _____, 2020

The three places are as follows:

1. The Elk Ridge City Office, 80 E Park Drive
2. The Elk Ridge City Public Works Building 645 West Goosenest Dr.

3. The pole on 11200 South and North Twilight Way.

I further certify that copies of the ordinance so posted were true and correct copies of said ordinance.

ROYCE SWENSEN
Elk Ridge City Recorder

The foregoing instrument was acknowledged before me this _____ day
of _____, 2020, by ROYCE SWENSEN.

My Commission Expires:

Notary Public

Residing at: Utah County