

2019 Harney County State of Oregon
Second Amendment Sanctuary Ordinance

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w/ County Court meeting
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HARNEY COUNTY CLERK
BY DR DEPUTY

SECTION 1. TITLE

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

SECTION 2. FINDINGS

The people of Harney County Oregon 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 the citizen's right to decide on matters, which concern their lives, liberties, and properties 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 rights of the people to keep and bear arms are further protected from infringement by State and Local Governments under the Ninth and Tenth Amendments to the Constitution of the United States of America as well as Article 1 of the Constitution of the Great State of Oregon;
- D. Article 1, Section 27 of the Constitution of the Great State of Oregon states, "*The people shall have the right to bear arms for the defense of themselves, and the State, but the Military shall be kept in strict subordination to the civil power*";
- E. Article 1, Section 33 of the Constitution of the Great State of Oregon states, "*This enumeration of rights and privileges shall not be construed to impair or deny others retained by the people*";
- F. The Supreme Court of the United States of America in *District of Columbia v. Heller* upheld the individual's right to bear arms as protected by the Second Amendment of the Constitution of the United States of America. Justice Scalia's opinion stated that the Second Amendment protects an individual's right to possess a firearm unconnected with service in a militia, and to use that firearm for traditionally lawful purposes, such as self-defense within the home;
- G. Justice Thomas M. Cooley in the *People v. Hurlbut* 24 Mich. 44, page 108 (1871) he surmises: "*The State may mould local institutions according to its views of policy or expediency: but local government is matter of absolute right; and the state cannot take it away*";
- H. The Fourteenth Amendment to the Constitution of the United States of America Section 1 it 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*";

- I. There is a right to be free from the commandeering hand of government that has been most notably 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 anticommandeering 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;
- J. It should be self-evident from the compounding evidence that 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;
- K. 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;
- L. Therefore, through the enactment of this ordinance Harney County Oregon is hereby a Second Amendment Sanctuary County;

SECTION 3. PROHIBITIONS

- A. No agent, employee, or official of Harney County, a political subdivision of the State of Oregon, while acting in their official capacity, shall:
 - 1) Knowingly and willingly, participate in any way in the enforcement of any Extraterritorial Act, as defined herein; or
 - 2) Utilize any assets, county funds, or funds allocated by any entity to the county, in whole or in part, to engage in any activity that violates this ordinance by aiding in the enforcement or investigation of Extraterritorial Acts relating to personal firearms, firearm accessories, or ammunition.

SECTION 4. PENALTIES

- 1) All local, state and federal acts, laws, rules, or regulations, originating from jurisdictions outside of Harney County, which restrict or affect an individual person’s general right to keep and bear arms, including firearms, firearm accessories or ammunition are, for all purposes under this ordinance, defined as Extraterritorial Acts. Such Extraterritorial Acts shall not be enforced by Harney County agents, employees, or officers and are specifically rejected by the voters of this county, and shall be treated as if they are null, void and of no effect in Harney County Oregon. Extraterritorial Acts prohibited by Section 3 include:

- 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; and
 - b. Any registering or tracking of firearms, firearm accessories, or ammunition;
 - c. Any registering or tracking of the owners of firearms, firearm accessories, or ammunition;
 - d. Any registration and background check requirements on firearms, firearm accessories, or ammunition for citizens; and
 - e. Any Extraterritorial 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; and
 - f. Any Extraterritorial Act ordering the confiscation of firearms, firearm accessories, or ammunition from citizens; and
 - g. Any prohibitions, regulations, and/or use restrictions related to ownership of non-fully automatic firearms, including but not limited to semi-automatic firearms; including semiautomatic firearms that have the appearance or features similar to fully automatic firearms and/or military "assault-style" firearms by citizens; and
 - h. Any prohibition, regulations, and/or use restrictions 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; and
 - i. Any restrictions prohibiting the possession of open carry or concealed carry, or the transport of lawfully acquired firearms or ammunition by adult citizens or minors supervised by adults.
- 2) Anyone within the jurisdiction of Harney County Oregon accused to be in violation of this ordinance may be made a defendant in a civil proceeding pursuant to ORS 203.065.
 - 3) Fines recovered under ORS 203.030 to 203.075 shall be paid to the clerk of the court in which recovery is had. After first deducting court costs in the proceedings, the clerk shall pay the remainder to the treasurer of the county for the general fund of the county, pursuant to ORS 203.065.
 - 4) A civil offense against this ordinance is a Class A violation, per ORS 203.065, with a maximum fine of \$2,000 for an individual, and \$4,000 for a corporation, per ORS 153.018.
 - 5) Any peace officer, as defined by ORS 161.015, may enforce this ordinance, adopted under ORS 203.035.
 - 6) Exceptions:

- a. The protections provided in Harney County by Section 3(A)(1-2) of this ordinance do not apply to persons who have been convicted of felony crimes.
- b. 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.
- c. This ordinance does not permit or otherwise allow the possession of firearms in State or Federal buildings or courthouses.
- d. This ordinance does not prohibit individuals in Harney 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 in other legal jurisdictions outside Harney County or by any other municipality inside Harney County.
- e. Actions in compliance with a judgment or order of a District or Circuit court, based upon any Extraterritorial Act, are exempt from this ordinance.
- f. This ordinance does not prohibit Harney County from enacting any other legislation to govern its own residents.

SECTION 5. PRIVATE CAUSE OF ACTION

- A. Any entity, person, official, agent, or employee of the Harney County who knowingly violates this ordinance, while acting under the color of any state or federal law, shall be liable to the injured party in an action at law, suit in equity, or other proper proceeding for redress.
- B. In such actions, the court shall award the prevailing party, other than the government of Harney County Oregon or any political subdivision of the county, reasonable attorney fees and costs.
- C. Neither sovereign nor governmental immunity shall be an affirmative defense of agent, employee or official of Harney County in cases pursuant to Section 4 or 5 of this ordinance.

SECTION 6. 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 7. EFFECTIVE DATE

- A. The effective date of this ordinance, The Second Amendment Sanctuary Ordinance or SASO shall be effective immediately upon certification of approval by the voters of Harney County.