

ORDINANCE NO. 2021-____

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS
OF COLLIER COUNTY, FLORIDA, ESTABLISHING COLLIER COUNTY
AS A BILL OF RIGHTS SANCTUARY COUNTY**

WHEREAS the Collier County Board of County Commissioners has growing concerns over the federal government’s increasing encroachment on the rights and privileges of its citizens; and,

WHEREAS of particular concern are those edicts being promulgated by the federal government in the form of executive orders, which circumvent the legislative process and arguably violate the fundamental American doctrine of separation of powers; and,

WHEREAS Article I, Section 1 of the Florida State Constitution recognizes that, “[a]ll political power is inherent in the people...”; and,

WHEREAS the Tenth Amendment to the Constitution of the United States of America states, “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”; and,

WHEREAS “... federalism protects the liberty of the individual from arbitrary power...[and] an individual has a direct interest in objecting to laws that upset the constitutional balance between the National Government and the States when the enforcement of those laws causes injury that is concrete, particular, and redressable. Fidelity to principles of federalism is not for the States alone to vindicate.” *Bond v. United States*, 564 U.S. 211, 222, 131 S. Ct. 2355, 2364-65 (2011); and,

WHEREAS “[t]he structural principles secured by the separation of powers protect the individual as well.” *Id.*; and,

WHEREAS the State of Florida is divided into various counties and municipalities and Article VIII, Section 1(f) of the Florida Constitution vests counties with “such power of self-government as is provided by general or special law.”; and,

WHEREAS Chapter 125.01, Florida Statutes specifically authorizes counties to “[a]dopt ordinances and resolutions necessary for the exercise of its powers... [and] Perform any other acts not inconsistent with law, which acts are in the common interest of the people of the county, and exercise all powers and privileges not specifically prohibited by law...”; and,

WHEREAS Chapter 125.01, Florida Statutes further provides that, “[t]he provisions of this section shall be liberally construed in order to effectively carry out the purpose of this section and to secure for the counties the broad exercise of home rule powers authorized by the State Constitution.”; and,

WHEREAS neither the United States Congress nor the Executive Branch of the federal government has the authority to commandeer the states to act (see, e.g., *Murphy v. National Collegiate Athletic Ass'n*, 138 S. Ct. 1461 [2018]); and,

WHEREAS the anti-commandeering principle is absolute and categorical. See *Printz v. United States*, 521 U.S. 898, 935 (1997) (“It matters not whether policymaking is involved, and no case-by-case weighing of the burdens or benefits is necessary; such commands are fundamentally incompatible with our constitutional system of dual sovereignty.”); and,

WHEREAS “[w]here Congress exceeds its authority relative to the States, therefore, the departure from the constitutional plan cannot be ratified by the "consent" of state officials” *New York v. United States*, 505 U.S. 144, 182, 112 S. Ct. 2408, 2431 (1992); and,

WHEREAS the Board of County Commissioners acknowledges and affirms that the Sheriff is an independent Constitutional officer and not under the authority of this Board, but the Sheriff is charged with the duty to enforce County Ordinances;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY

COMMISSIONERS OF COLLIER COUNTY, FLORIDA, that:

SECTION ONE: Title

This ordinance shall be known and cited as the “Bill of Rights Sanctuary County Ordinance”.

SECTION TWO: Findings

In addition to the foregoing whereas clauses, the Board of County Commissioners of Collier County, Florida, hereby finds and declares:

In order to secure the rights of the citizens of Collier County as enumerated, in part, by the United States Constitution including the first ten amendments thereto, which are commonly referred to as the Bill of Rights of that Constitution, and reads as follows:

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment II

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.

Amendment III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner; nor in time of war, but in a manner to be prescribed by law.

Amendment IV

The right of the people to secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and persons or things to be seized.

Amendment V

No person shall be held to answer for a capital, or infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in a militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed; which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

Amendment VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of common law.

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

Collier County has the right to be free from the commanding hand of the federal government and has the right to refuse to cooperate with federal government officials in response to unconstitutional federal government measures, and to proclaim a Bill of Rights Sanctuary for law-abiding citizens in its cities and County;

THEREFORE, through the enactment of this Ordinance, Collier County, Florida is hereby declared to be a Bill of Rights Sanctuary County.

SECTION THREE: Definitions

- A. An “Unlawful Act” shall consist of:
 - 1. Any federal act, law, order, rule, or regulation, which restricts, impedes, or impinges upon an individual’s Constitutional rights including, but not limited to, those enumerated in Amendments 1 through 10 to the United States Constitution.
 - 2. Any such “Unlawful Act” is invalid in Collier County and shall not be recognized by Collier County, and shall be considered null, void and of no effect in Collier County, Florida.

SECTION FOUR: Prohibitions

- A. Notwithstanding any other law, regulation, rule or order to the contrary, no agent, department, employee or official of Collier County, a political subdivision of the State of Florida, while acting in their official capacity, shall:
 - 1. Knowingly and willingly, participate in any way in the enforcement of any Unlawful Act; or,
 - 2. Utilize any assets, Collier County funds, or funds allocated by any entity to Collier County, in whole or in part, to engage in any activity that aids in the enforcement or investigation relating to an Unlawful Act.

SECTION FIVE: Penalties

- A. Anyone within the jurisdiction of Collier County, Florida, accused of being in violation of this ordinance may be sued in Circuit Court for declaratory and injunctive relief, damages and attorneys’ fees. Neither sovereign nor official or qualified immunity shall be an affirmative defense in cases brought pursuant to this section.
- B. In addition to the civil liability provided for by Section A above, violation of this Ordinance shall be punishable in accordance with Section 1-6 of the Collier County Code of Ordinances (General Penalty).

SECTION FIVE: Conflict and Severability

In the event this Ordinance conflicts with any other ordinance of Collier County or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION SIX: Inclusion in the Code of Laws and Ordinances

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Collier County, Florida. The sections of the Ordinance may be renumbered or relettered to accomplish such, and the word “ordinance” may be change to “section” or “article” or any other appropriate word.

SECTION SEVEN: Effective Date

This Ordinance shall become effective upon filing with the Florida Department of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida this ___ day of _____. 2021.