

FOUNDATION FOR FREEDOM | CONSTITUTIONAL COUNTY TOOLKIT

MODEL CONSTITUTIONAL COUNTY ORDINANCE

2026 Florida Model

A Framework for Constitutional Review, Due Process, Lawful County Non-Participation, Citizen Redress, and Public Accountability

2026 RESOURCE LIBRARY

PROTECT RIGHTS • RESPECT LAWFUL AUTHORITY • PROVIDE DUE PROCESS • BUILD ACCOUNTABILITY

Important Use Note

This is a model for discussion and legal review, not a ready-to-enact ordinance. It is drafted for adaptation by Florida counties and should be reviewed line-by-line by the county attorney and, where appropriate, independent qualified counsel before introduction.

The 2026 model deliberately distinguishes between: (1) county actions the Board may regulate directly; (2) requests to use county-controlled personnel, funds, facilities, contracts, technology, or data; (3) powers assigned independently to constitutional officers; and (4) disputes that require judicial or other lawful resolution.

Key drafting principle: The ordinance does not purport to give a county unilateral power to invalidate controlling state or federal law. It instead creates procedures for constitutional review and citizen redress and directs county-controlled action only to the extent permitted by controlling law.

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ORDINANCE NO. [20__-____]

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF [COUNTY NAME], FLORIDA, ESTABLISHING A BILL OF RIGHTS AND CONSTITUTIONAL COMPLIANCE FRAMEWORK; PROVIDING FOR PURPOSE, FINDINGS, DEFINITIONS, CONSTITUTIONAL REVIEW, DUE PROCESS, LAWFUL USE OF COUNTY RESOURCES, FEDERAL ANTI-COMMANDEERING PRINCIPLES, CITIZEN PETITIONS AND COMPLAINTS, AN OPTIONAL

CONSTITUTIONAL COMPLIANCE COMMITTEE, TRANSPARENCY, TRAINING, REMEDIES, CONSTRUCTION, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS CLAUSES

WHEREAS, the Declaration of Independence recognizes unalienable rights and the principle that governments are instituted to secure those rights; and

WHEREAS, the Constitution of the United States establishes a government of limited and enumerated powers, separation of powers, federalism, and constitutional supremacy; and

WHEREAS, the Bill of Rights and subsequent amendments protect freedom of speech, press, religion, assembly, petition, the right to keep and bear arms, security against unreasonable searches and seizures, due process, equal protection, property rights, and other liberties; and

WHEREAS, the Constitution of the State of Florida protects individual rights and establishes the structure and authority of state and local government; and

WHEREAS, Article VIII of the Florida Constitution establishes counties and independently elected county constitutional officers; and

WHEREAS, section 125.01, Florida Statutes, authorizes county governing bodies to carry on county government, adopt ordinances and resolutions necessary to exercise county powers, investigate county affairs, and perform acts not inconsistent with law in the common interest of county residents; and

WHEREAS, section 125.691, Florida Statutes, prohibits a county from creating or expanding a governmental unit for the purpose of exercising powers allocated exclusively to the Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, or Clerk of the Court; and

WHEREAS, the United States Supreme Court has recognized through the anti-commandeering doctrine that the federal government generally may not require states or state officers to enact, administer, or enforce a federal regulatory program, subject to the particular law and facts involved; and

WHEREAS, constitutional rights remain important during emergencies and periods of public controversy, when governmental action may substantially affect liberty, property, privacy, worship, assembly, livelihood, and other protected interests; and

WHEREAS, the Board desires to create a lawful, transparent, and fair county process for constitutional review and citizen redress without assuming judicial powers or powers assigned exclusively to another constitutional officer;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF [COUNTY NAME], FLORIDA:

SECTION 1. SHORT TITLE

This Ordinance may be cited as the “[COUNTY NAME] Constitutional Rights and Compliance Ordinance.”

SECTION 2. PURPOSE AND INTENT

The purposes of this Ordinance are to:

Affirm the Board's commitment to the United States Constitution, Bill of Rights, Florida Constitution, and controlling law.

Establish procedures for identifying and reviewing substantial constitutional concerns arising from county-controlled action.

Protect due process and fair procedure when county action may materially affect protected rights.

Provide citizens an orderly means to petition and submit documented constitutional concerns.

Guide decisions concerning voluntary use of county-controlled resources in programs that present constitutional or legal concerns.

Promote constitutional education, transparency, and accountable local government.

Preserve the independent authority of constitutional officers, courts, prosecutors, and other officials whose powers are established by law.

SECTION 3. DEFINITIONS

Board — The Board of County Commissioners of [COUNTY NAME], Florida.

County-controlled action — An ordinance, resolution, policy, program, contract, procurement, administrative practice, technology, use of data, or use of personnel, funds, facilities, or equipment that is subject to the lawful authority or control of the Board.

Constitutional concern — A good-faith, articulable question whether county-controlled action materially burdens a right protected by the United States Constitution or Florida Constitution, or exceeds the county's lawful authority.

Constitutional officer — An independently elected county officer whose powers and duties are established by the Florida Constitution or general law.

Committee — The Constitutional Compliance Committee, if established under this Ordinance.

Due process — The notice, opportunity to be heard, impartial review, and other procedural protections required by controlling law under the circumstances.

Federal regulatory program — A federal program for which state or local legislative or executive implementation or enforcement is requested or required.

Legal review — Review by the county attorney or other counsel lawfully authorized to advise the county.

Person — A natural person or legal entity, as the context requires.

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SECTION 4. CONSTITUTIONAL COMPLIANCE POLICY

It is the policy of [COUNTY NAME] that county-controlled actions shall be administered consistently with the United States Constitution, the Florida Constitution, controlling statutes, binding court decisions, and other applicable law.

When a substantial constitutional concern is timely raised concerning proposed county-controlled action, the responsible county department or the Board should obtain appropriate factual and legal review before final action when practicable.

SECTION 5. CONSTITUTIONAL REVIEW PROCEDURE

For a substantial constitutional concern involving county-controlled action, review may include:

A written description of the proposed or challenged county action.

Identification of the right, constitutional provision, statute, or legal principle implicated.

Identification of the county's legal authority for the action.

Consideration of less restrictive or less constitutionally burdensome alternatives where required or appropriate.

Review of applicable state or federal preemption.

Review of due-process requirements.

Consultation with affected county departments and, when appropriate, independent constitutional officers without infringing their authority.

Written legal advice where authorized and appropriate.

Referral to a court or other lawful forum when authoritative adjudication is required.

SECTION 6. DUE PROCESS

County-controlled enforcement or adjudicative procedures under this Ordinance shall provide the process required by controlling law. Where a person may be deprived of liberty, property, a license, a county benefit, or another protected interest, county procedures shall provide constitutionally sufficient notice and opportunity to be heard.

No complaint, allegation, committee recommendation, or citizen petition shall by itself establish guilt, civil liability, criminal liability, or a constitutional violation.

SECTION 7. EMERGENCY MEASURES

To the extent permitted by law, county emergency measures that materially restrict constitutionally protected activity should be narrowly tailored to a lawful objective, supported by the authority relied upon, limited in duration, periodically reviewed, and terminated when the legal or factual basis no longer exists.

Nothing in this section limits emergency powers that controlling law expressly requires or authorizes, nor does it create authority the county does not otherwise possess.

SECTION 8. COUNTY RESOURCES AND LAWFUL NON-PARTICIPATION

Before voluntarily committing county-controlled personnel, funds, facilities, equipment, contracts, technology, or data to assist another governmental entity in implementing or enforcing a program that presents a substantial constitutional or legal concern, the county may obtain legal review and determine whether participation is required by controlling law.

Where participation is not legally required, the Board may decline, limit, condition, or terminate voluntary use of county-controlled resources when authorized by law and consistent with contractual obligations, funding conditions, public safety, and other applicable requirements.

This section applies only to resources within the Board's lawful control and does not direct the exercise of powers allocated exclusively to an independent constitutional officer.

SECTION 9. FEDERAL ANTI-COMMANDEERING

The county recognizes the anti-commandeering principle reflected in *New York v. United States*, *Printz v. United States*, and *Murphy v. NCAA*. Nothing in this Ordinance shall be construed to require county participation in a federal regulatory program when the Constitution and controlling law permit the county to decline such participation.

Nothing in this section authorizes violation of a valid federal law that directly regulates the county or private persons, authorizes obstruction of federal officers, or resolves disputed questions of federal preemption without appropriate legal review.

SECTION 10. STATE LAW, PREEMPTION, AND CONTROLLING AUTHORITY

This Ordinance shall not be construed to authorize county officials or employees to disregard a duty imposed by controlling Florida law or binding court order. When a substantial question exists concerning state preemption, mandatory duties, constitutional validity, or the county's authority, the matter shall be referred for legal review and, when necessary, judicial resolution.

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SECTION 11. CONSTITUTIONAL OFFICERS

Nothing in this Ordinance creates an office, unit, committee, or authority for the purpose of exercising powers allocated exclusively to the Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, Clerk of the Court, or any other constitutional officer.

The Board may communicate, request information where lawfully available, invite cooperation, and coordinate on matters of shared concern, but this Ordinance shall not be interpreted to command an independent constitutional officer in the exercise of exclusive constitutional or statutory powers.

SECTION 12. JUDICIARY, PROSECUTION, AND PENDING PROCEEDINGS

Nothing in this Ordinance authorizes the Board, Committee, county staff, or a complainant to direct a judge, prosecutor, grand jury, law-enforcement investigation, or pending judicial or administrative proceeding.

A complaint involving a pending case, investigation, election contest, administrative appeal, ethics matter, or other formal proceeding may be deferred, limited, or referred to avoid interference with the lawful process.

SECTION 13. CITIZEN PETITION FOR REDRESS

Residents may petition the Board regarding a constitutional concern affecting county-controlled action. Petitions should identify the facts, constitutional or legal issue, supporting documents, prior efforts to resolve the matter, and the specific lawful relief requested.

Receipt of a petition does not require the Board to grant relief outside its lawful authority and does not toll or extend any independent legal deadline.

SECTION 14. CITIZEN CONSTITUTIONAL COMPLAINT PROCESS

The county may maintain a standardized Citizen Constitutional Complaint Form for documented concerns involving county-controlled action. The process shall include initial screening for completeness, jurisdiction, pending proceedings, conflicts, appropriate referral, and public-record considerations.

Possible dispositions include:

Request for additional information.

Referral to the Board, county administration, or authorized county counsel.

Referral to an independent constitutional officer or agency having jurisdiction.

Referral to an ethics, inspector-general, administrative, or judicial process.

Policy review recommendation.

Education or training recommendation.

No further county action, with an explanation when practicable.

SECTION 15. OPTIONAL CONSTITUTIONAL COMPLIANCE COMMITTEE

[OPTIONAL — retain only after county-attorney review.] The Board hereby establishes a Constitutional Compliance Committee as an advisory body to receive or review matters referred by the Board or authorized county process, promote constitutional education, identify appropriate forums for citizen concerns, and make nonbinding recommendations concerning county-controlled action.

The Committee:

Shall have five to seven members appointed as provided by Board resolution or implementing rules.

Shall operate in compliance with applicable Sunshine, public-record, ethics, conflict-of-interest, and records-retention requirements.

May review facts and identify legal questions but shall not exercise judicial, prosecutorial, law-enforcement, or election-administration powers.

Shall not exercise powers allocated exclusively to a county constitutional officer.

Shall use written screening, recusal, due-process, recommendation, and referral procedures approved by the Board.

May request legal guidance only through procedures authorized by the Board and county attorney.

Shall issue periodic public reports, subject to lawful confidentiality and public-record exemptions.

SECTION 16. NOTICE AND FAIRNESS IN COMMITTEE REVIEW

Before issuing a formal recommendation that materially criticizes an identifiable county official or employee, the Committee shall provide such notice and opportunity to respond as required by law and as reasonably necessary for a fair advisory process.

Committee findings shall distinguish verified facts, disputed facts, legal questions, and recommendations. Committee action shall not be represented as a binding judicial determination.

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SECTION 17. CONSTITUTIONAL EDUCATION AND TRAINING

The Board may provide or encourage periodic education concerning the United States Constitution, Bill of Rights, Florida Constitution, due process, open government, public records, federalism, anti-commandeering, emergency powers, privacy, and the lawful responsibilities of county government.

Training should use reliable primary authorities and should distinguish binding law from historical, political, or academic interpretations.

SECTION 18. TECHNOLOGY, PRIVACY, AND DATA

Before the county acquires or materially expands surveillance, biometric, artificial-intelligence, automated license-plate recognition, location-tracking, or large-scale data-sharing technology, the Board may require a written assessment of legal authority, privacy impacts, data retention, access controls, sharing practices, due-process implications, security, auditing, and available alternatives.

This section applies to county-controlled procurement and use and does not purport to regulate conduct preempted to the state or federal government.

SECTION 19. PROPERTY AND REGULATORY ACTION

County departments should administer county-controlled regulatory and code-enforcement programs consistently with applicable notice, hearing, warrant, search, property, takings, and due-process requirements.

SECTION 20. RELIGIOUS LIBERTY, SPEECH, ASSEMBLY, AND PETITION

County-controlled policies governing public forums, meetings, facilities, permitting, grants, contracts, or emergency measures shall be administered consistently with applicable First Amendment and Florida constitutional requirements, including viewpoint neutrality where required by law.

SECTION 21. FIREARMS AND OTHER PREEMPTED SUBJECTS

Nothing in this Ordinance authorizes county regulation in a field preempted by Florida law, including firearms or ammunition regulation to the extent preempted by state law. Constitutional concerns involving a preempted subject should be addressed through lawful advocacy, litigation, state legislative action, or other available remedies rather than unauthorized county regulation.

SECTION 22. TRANSPARENCY AND REPORTING

The county may publish an annual or periodic Constitutional Compliance Report summarizing, as permitted by law:

Number and general categories of citizen submissions.

Referrals and dispositions.

Policy changes or training resulting from review.

Pending recommendations.

Committee activity, if a Committee is established.

Significant constitutional-review procedures adopted by the Board.

SECTION 23. REMEDIES AND ENFORCEMENT

The primary remedies under this Ordinance are administrative review, policy correction, referral, declaratory or injunctive relief where otherwise authorized by law, and other remedies available under controlling law.

This model does not create a new county criminal offense or civil cause of action. If a county wishes to add ordinance penalties, code-enforcement remedies, or other sanctions, those provisions should be separately drafted and reviewed for statutory authority, due process, preemption, immunity, prosecutorial authority, and consistency with sections 125.69 and other applicable Florida law.

SECTION 24. NO PRIVATE CAUSE OF ACTION CREATED

Except to the extent independently provided by federal or state law, this Ordinance does not create a private cause of action, waive sovereign or official immunity, create a right to damages, or establish a new basis for criminal prosecution.

SECTION 25. NONRETALIATION

No county employee acting within the Board's lawful authority shall retaliate against a person solely for making a good-faith petition, complaint, public-record request, or public comment protected by law. This section does not protect knowingly false statements, threats, unlawful harassment, disruption, or conduct otherwise unprotected by law.

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SECTION 26. IMPLEMENTING PROCEDURES

The Board may adopt resolutions, administrative procedures, forms, and rules necessary to implement this Ordinance, provided they are consistent with controlling law and do not expand county authority beyond that lawfully possessed by the Board.

SECTION 27. ANNUAL REVIEW

At least annually for the first [three] years after adoption, the Board should review implementation of this Ordinance, including legal developments, complaint procedures, constitutional-officer concerns, administrative burdens, and recommended amendments.

SECTION 28. CONFLICT WITH CONTROLLING LAW

If a provision of this Ordinance conflicts with controlling federal or state law, the controlling law governs. County officials should seek legal review and, where appropriate, judicial clarification rather than knowingly acting in violation of controlling authority.

SECTION 29. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or application of this Ordinance is held invalid or unenforceable by a court of competent jurisdiction, the remaining provisions and applications shall remain in effect to the fullest extent permitted by law, unless the invalid provision is essential to the Ordinance as a whole.

SECTION 30. CODIFICATION

It is the intention of the Board that the substantive provisions of this Ordinance be incorporated into the Code of Ordinances of [COUNTY NAME], and the codifier is authorized to renumber or reletter sections as necessary without changing substantive meaning.

SECTION 31. EFFECTIVE DATE

This Ordinance shall become effective as provided by Florida law following lawful adoption and filing.

ADOPTION

DULY ADOPTED by the Board of County Commissioners of [COUNTY NAME], Florida, after lawful notice and public hearing, this ____ day of _____, 20 ____.

BOARD OF COUNTY COMMISSIONERS
[COUNTY NAME], FLORIDA

By: _____
Chair / Vice Chair

ATTEST:

Clerk / Authorized Official

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

County Attorney / Authorized Counsel

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APPENDIX A — OPTIONAL IMPLEMENTATION PLAN

Within 30 days: designate administrative contact and publish citizen submission instructions.

Within 60 days: adopt intake, screening, referral, records, conflict, and due-process procedures.

Within 90 days: provide initial constitutional/open-government training and launch public resource page.

If a Committee is authorized: appoint members only after operating procedures and legal training are complete.

Within 180 days: review county emergency policies, major surveillance/data programs, and citizen complaint channels.

Annually: publish an implementation report and consider amendments required by new law.

APPENDIX B — COUNTY ATTORNEY REVIEW CHECKLIST

- ☐ County home-rule authority and charter limitations
- ☐ State preemption
- ☐ Section 125.691 constitutional-officer limitations
- ☐ Ordinance enactment procedure under section 125.66
- ☐ Penalties and enforcement under section 125.69 if any sanctions are added
- ☐ Sunshine Law and public-record requirements
- ☐ Due process and notice
- ☐ Sovereign and official immunity
- ☐ Collective bargaining / employee rights
- ☐ Procurement and contract obligations
- ☐ Federal funding conditions
- ☐ Emergency-management statutes
- ☐ Firearms preemption

- ☐ Election-law jurisdiction
- ☐ Data/privacy statutes
- ☐ Judicial and prosecutorial independence
- ☐ Standing, causes of action, and remedies
- ☐ Severability and codification

APPENDIX C — CORE LEGAL AUTHORITIES FOR REVIEW

U.S. Constitution and Bill of Rights

Florida Constitution, including Article I and Article VIII

Section 125.01, Florida Statutes — county powers and duties

Section 125.66, Florida Statutes — ordinance enactment procedure

Section 125.69, Florida Statutes — ordinance penalties/enforcement

Section 125.691, Florida Statutes — prohibition against duplicating constitutional-office powers

New York v. United States, 505 U.S. 144 (1992)

Printz v. United States, 521 U.S. 898 (1997)

Murphy v. NCAA, 584 U.S. 453 (2018)

Other issue-specific Florida and federal preemption and constitutional authorities

APPENDIX D — OPTIONAL STRONGER ENFORCEMENT MODULE

Some counties may wish to consider stronger enforcement provisions. Those provisions should not simply be copied from an older model. Before adding civil fines, misdemeanor penalties, personal liability, injunctions, mandatory Sheriff enforcement, or citizen causes of action, counsel should identify the precise statutory authority and evaluate due process, immunity, preemption, prosecutorial authority, constitutional-officer independence, and litigation risk.

A stronger module can be drafted separately after the county determines which specific county-controlled duties it wants to make enforceable. This modular approach helps preserve the legally supportable core of the ordinance if a particular enforcement provision is challenged.

Educational & Legal Notice

This document is a policy-development model and is not legal advice. It should not be introduced or adopted without current legal review. Florida statutes, state preemption, county charters, judicial decisions, constitutional-officer authority, and federal law can change. The adopting county should verify every citation and tailor each provision to the county's actual legal authority and administrative structure.

CONSTITUTIONAL GOVERNMENT IS STRONGEST WHEN RIGHTS, AUTHORITY, AND DUE PROCESS ARE ALL RESPECTED.

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