

SAMPLE ORDINANCE NO. 2024-
AN ORDINANCE OF THE BOARD OF COUNTY
COMMISSIONERS OF BREVARD COUNTY, FLORIDA,
ESTABLISHING BREVARD COUNTY AS A BILL OF RIGHTS
SANCTUARY COUNTY

PROVIDING FOR FINDINGS AND LEGISLATIVE INTENT;

PROVIDING DEFINITIONS;

PROHIBITING THE FURTHERANCE OF CERTAIN DEFINED

UNLAWFUL ACTS; PROVIDING FOR ENFORCEMENT AND

PENALTIES; PROVIDING FOR CONFLICTS, SEVERABILITY, AND

CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Brevard County Board of County Commissioners has growing concerns

over the federal government's encroachment on the rights and privileges of its citizens; and,

WHEREAS, of particular concern are those edicts 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 a]n 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(g) of the Florida Constitution vests counties operating under county charters with “all powers of local self-government not inconsistent with general law, or with special law approved by the vote of the electors.”; and,

WHEREAS, Section 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, Section 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, the Federal Government may not command the States’ officers, or those of their political subdivisions, to enforce federal regulatory programs (see, e.g., *Murphy v. National Collegiate Athletic Ass’n*, 584 U.S. 453 (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 Brevard County, Florida:

Section 1. Title. This ordinance shall be known as the "Bill of Rights Sanctuary County Ordinance".

Section 2. Legislative Findings and Intent. The foregoing recitals are hereby ratified and incorporated as findings of the Board of County Commissioners and as the legislative intent of this ordinance. In addition to the foregoing whereas clauses, the Board of County Commissioners of Brevard County, Florida, hereby finds and declares:

In order to secure the rights of the citizens of Brevard 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.

Brevard 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 County.

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

Section 3. Definitions.

A. An "Unlawful Act" shall consist of:

1. Any federal act, law, order, rule, or regulation, which has been held by a court of

competent jurisdiction in a decision binding upon the Circuit Court in and for Brevard County, Florida, to be facially unconstitutional.

2. Any such "Unlawful Act" is invalid in Brevard County and shall not be recognized by Brevard County, and shall be considered null, void and of no effect in Brevard County, Florida.

Section 4. Prohibitions.

A. Notwithstanding any other law, regulation, rule, or order to the contrary, no agent, employee, or official of Brevard County, a political subdivision of the State of Florida, while acting in their official capacity and having actual knowledge that a federal act, law, order, rule, or regulation is an Unlawful Act as defined herein, shall:

1. Intentionally participate in any way in the enforcement of such Unlawful Act; or,
2. Intentionally utilize any Brevard County assets, funds, or funds allocated by any entity to Brevard County, in whole or in part, to engage in any activity that aids in the enforcement of such Unlawful Act.

Section 5. Penalties.

A. Any person injured by a violation of this ordinance may commence a civil action in the Circuit Court in and for Brevard County for declaratory relief, injunctive relief, and such other relief as may be appropriate under the laws of this state against a person who violates this ordinance.

B. In addition to the civil liability provided for by Section A above, violation of this Ordinance shall be punishable in accordance with Section 1-7 of the Brevard County Code of Ordinances (General Penalty).

C. Nothing herein is intended nor shall be construed to waive, alter, abrogate, or circumvent any provision of qualified immunity, sovereign immunity, or the limitations on liability set forth in Section 768.28, Florida Statutes.

Section 5. Conflicts. In the event this Ordinance conflicts with any other ordinance of Brevard County or other applicable law, the more restrictive shall apply.

Section 6. Severability. The provisions of this ordinance are declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held by a court of competent jurisdiction to be invalid or unenforceable, such decision shall not affect the validity of the remaining terms, provisions, clauses, sentences, or sections of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

Section 7. Inclusion in Code. It is the intention of the Board of County Commissioners that the provisions of this ordinance shall be made a part of the Brevard County Code of Ordinances, and that the sections of this ordinance may be renumbered to accomplish such intention.

Section 8. Effective Date. This ordinance shall take effect immediately upon its adoption.

DONE, ORDERED, AND ADOPTED by the Board of County Commissioners of Brevard County, Florida this ____ day of _____, 2024.

ATTEST: BOARD OF COUNTY COMMISSIONERS

BREVARD COUNTY, FLORIDA

By: By:

Rachel Sadoff, Clerk Rob Feltner, Chairman

(as approved by the Board on _____)

(SEAL)