

**PROPOSED ORDINANCE 21-08**

**(Sponsored by Justice John Allison)**

**BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF FAULKNER, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED: “A BILL OF RIGHTS COUNTY ORDINANCE”**, which seeks to affirm by ordinance Faulkner County's commitment to guard against any encroachment on individual liberty rights enumerated in the U.S. Bill of Rights and the Arkansas Declaration of Rights, including but not limited to the rights enumerated in the first ten amendments to the United States Constitution.

WHEREAS, Faulkner County residents have a long-standing belief in the Bill of Rights in the United States Constitution and the Declaration of Rights in the Arkansas Constitution.

WHEREAS, as elected officials, we are sworn to uphold both the U. S. Constitution and the Arkansas Constitution in our Oath of Office.

WHEREAS, there is community perception that time-honored, individual liberty rights, enumerated in the U.S. Constitution and the Arkansas Constitution, are under attack; particularly, the right to keep and bear arms.

WHEREAS, we the Quorum Court members of Faulkner County want to be counted among those who stand for the rights enumerated in the Bill of Rights in the U.S. Constitution, and those enumerated in the Declaration of Rights in the Arkansas Constitution, including the right to keep and bear arms for the purpose of preserving life and liberty – not destroying it – and do so with a firm reliance upon the origin of the right to keep and bear arms which is, first of all, the natural right and duty of preservation of self and others, and, secondly, in order that we may remain a government for the people and not subject to a government over the people.

WHEREAS, in adopting this ordinance we do so declaring not only our rights under the Constitutions of both the United States and the State of Arkansas but also declaring our natural, God-given rights in the same manner as did our founding fathers on July 4, 1776: “... that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.”

WHEREAS, (per Ark.Code Ann. 14-14-102) "A county is a political subdivision of the state for

the more convenient administration of justice and the exercise of local legislative authority related to county affairs and is defined as a body politic and corporate operating within specified geographic limitations established by law."

WHEREAS, (per Ark. Constitution, Am. 55) "A county acting through its Quorum Court may exercise local legislative authority not denied by the Constitution or by law."

WHEREAS, in Arkansas (per Arkansas Constitution, Article 2, Section 12): "No power of suspending or setting aside the law or laws of the State, shall ever be exercised, except by the General Assembly."

WHEREAS, (per Ark. Code Ann. 14-16-504) "a local unit of government [in Arkansas] shall not enact any ordinance or regulation pertaining to, or regulate in any other manner, the ownership, transfer, transportation, carrying, or possession of firearms, except as otherwise provided by state or federal law."

WHEREAS, the Quorum Court of Faulkner County wants to do what it legally can do to require/encourage the State of Arkansas to use its inherent authority as a sovereign state government within the United States, a republican-democracy, to nullify – treat as void and unenforceable – any act of the U.S. Congress that abrogates any of the Bill of Rights in the United States Constitution, including Amendment 2 to the U.S. Constitution or Article 2, Section 5, of the Arkansas Constitution, all in an effort to keep the federal government within its constitutionally limited/defined boundaries and thereby protect the people of Arkansas from deprivation of their natural and constitutional rights, including the right to keep and bear arms.

### **Rights Are Retained by the People & Excepted out of General Powers of Government**

WHEREAS, it is stated in U.S. Constitution, Amendment 9: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

WHEREAS, it is stated in the Arkansas Constitution, Article 2, Section 29: Enumeration of Rights of People Not Exclusive of Other Rights - Protection Against Encroachment - "This enumeration of rights shall not be construed to deny or disparage others retained by the people; and to guard against any encroachments on the rights herein retained, or any transgression of any of the higher powers herein delegated, we declare that everything in this article is excepted out of the general powers of the government; and shall forever remain inviolate; and that all laws contrary thereto, or to the other provisions herein contained, shall be void."

WHEREAS, it is stated in the U.S. Constitution, Amendment 14: "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States ... ."

## **Right to Keep and Bear Arms**

WHEREAS, it is stated in the U.S. Constitution, Amendment 2: “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.”

WHEREAS, it is stated in the Arkansas Constitution, Article 2, Section 5: Right to Bear Arms - “The citizens of this State shall have the right to keep and bear arms, for their common defense.”

WHEREAS, the Arkansas Constitution contemplates an armed citizenry and “[a] well regulated Militia, being necessary to the security of a free State” – for many Arkansans are members of the Arkansas militia *as a matter of law* – and, further, provides a mechanism for the county judge or county sheriff to request that the Governor, as commander-in-chief of the militia, make the presumably-armed citizens of the Arkansas Militia available to the county in the case of civil disturbance that overwhelms the county’s law enforcement capacity, to wit:

Arkansas Constitution, Article 11. Section 1 - Composition of Militia: "The [Arkansas] militia shall consist of all able-bodied male persons, residents of the State, between the ages of eighteen and forty-five years; except such as may be exempted by the laws of the United States, or this State; and shall be organized, officered, armed and equipped and trained in such manner as may be provided by law."

Arkansas Constitution, Article 11, Section 2 - Volunteer Companies: “Volunteer Companies of Infantry, Cavalry or Artillery may be formed in such manner and with such restrictions as may be provided by law.”

Ark. Code Ann. 12-61-101: (a) "The [Arkansas] militia shall be divided into two (2) parts: the organized, consisting of the active and inactive Army National Guard and Air National Guard; and the unorganized, consisting of all those persons of the militia not in the active or inactive Army National Guard or Air National Guard" and (b) “The militia shall consist of all able-bodied male residents of the state between the ages of seventeen (17) and forty-five (45) years who are, or intend to become, citizens of the United States, unless exempt by law, together with all other acceptable volunteers, waiving necessary requirements.

Ark. Code Ann. 12-61-111(b)(1): "Upon the request of either the judge or sheriff of a county or the mayor of a city, whenever it is made to appear to the Governor that there is a breach of the peace, riot, resistance to process of this state, or disaster or imminent danger thereof, the Governor may order into the active service of the state, for such period, to such extent, and in such manner as he or she may deem necessary, all or any part of the organized militia."

Ark. Code Ann. 12-61-117(b): "Whenever he shall deem it necessary, the Governor may direct the members of the unorganized militia to present themselves for and submit to

registration at such time and place and in such manner as may be prescribed by regulations."

Ark. Code Ann. 12-61-301: "The Arkansas State Defense Force [the unorganized/volunteer division of the Arkansas militia] may be called to active duty at the discretion of the Governor, when any part of the Arkansas National Guard shall have been called or ordered into federal service, or in any other emergency when the Governor shall deem it necessary to supplement the Arkansas National Guard."

### **Right Against Unreasonable Search and Seizure**

WHEREAS, it is stated in the U.S. Constitution, Amendment 4: "The right of the people to be 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 the persons or things to be seized."

WHEREAS, it is stated in the Arkansas Constitution, Article 2, Section 15: "Unreasonable Searches and Seizures - The right of the people of this State to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue, except upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized."

### **Right to Due Process**

WHEREAS, it is stated in the U.S. Constitution, Amendment 5: "No person shall be ... deprived of life, liberty, or property without due process of law ... ."

WHEREAS, it is stated in the U.S. Constitution, Amendment 14, Section 1: "... 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."

WHEREAS, it is stated in the Arkansas Constitution, Article 2, Section 8: Criminal Charges - Self-Incrimination - Due Process - Double Jeopardy - Bail: "No person shall be ... deprived of life, liberty or property, without due process of law. ... ."

WHEREAS, it is stated in the Arkansas Constitution, Article 2, Section 13: Redress of Wrongs - "Every person is entitled to a certain remedy in the laws for all injuries or wrongs he may receive in his person, property or character; he ought to obtain justice freely, and without purchase; completely, and without denial; promptly and without delay; conformably to the laws."

WHEREAS, it is stated in the Arkansas Constitution, Article 2, Section 21: Life, Liberty and

Property - Banishment Prohibited - “No person shall be ... deprived of his life, liberty or property; except by the judgment of his peers, or the law of the land ... .”

### **Right to Equal Protection**

WHEREAS, it is stated in the U.S. Constitution, Amendment 14, Section 1: “No State shall ... deny to any person within its jurisdiction the equal protection of the laws.”

WHEREAS, it is stated in the Arkansas Constitution, Article 2, Section 2: Freedom and Independence - “All men are created equally free and independent, and have certain inherent and inalienable rights; amongst which are those of enjoying and defending life and liberty; of acquiring, possessing and protecting property, and reputation; and of pursuing their own happiness. To secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.”

WHEREAS, it is stated in the Arkansas Constitution, Article 2, Section 3: “The equality of all persons before the law is recognized, and shall ever remain inviolate; nor shall any citizen ever be deprived of any right, privilege or immunity; nor exempted from any burden or duty, on account of race, color or previous condition.”

WHEREAS, it is stated in the Arkansas Constitution, Article 2, Section 18: Privileges and Immunities - Equality - “The General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities which, upon the same terms, shall not equally belong to all citizens.”

### **Powers Are Reserved to the States, or to the People**

WHEREAS, it is stated in U.S. Constitution, Amendment 10: “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.”

WHEREAS, it is stated in U.S. Constitution, Article 2, Section 1: Source of Power - “All political power is inherent in the people and government is instituted for their protection, security and benefit; and they have the right to alter, reform or abolish the same, in such manner as they may think proper.”

WHEREAS, it is stated in the Arkansas Constitution, Article 2, Section 12: Suspension of Laws - “No power of suspending or setting aside the law or laws of the State, shall ever be exercised, except by the General Assembly.”

### **Oath and Sworn Duty of County Officials and Officers Is to Support Constitutions**

WHEREAS, it is our sworn (Arkansas Constitution, Article 19, Section 20) duty as the elected representatives of the people, under U.S. Constitution Amendment 10 and under Arkansas

Constitution Article 2, Section 1, to do our part to guard against any unconstitutional denial of, disparagement of, or encroachment on any of the enumerated or unenumerated rights that the U.S. Constitution, Amendment 9, and Arkansas Constitution, Article 2, Section 29, promise are to be retained by the people, excepted from the general powers of the government, and forever remain inviolate.

**NOW, THEREFORE, BE IT ORDAINED BY THE QUORUM COURT OF FAULKNER COUNTY, ARKANSAS, THAT:**

**1. FAULKNER COUNTY IS DECLARED A “BILL OF RIGHTS COUNTY”:** As an expression of Faulkner County’s desire to join the present nationwide effort to affirmatively state county government support for the U.S. Constitution, Bill of Rights, Second Amendment, and the statewide effort to affirmatively state county government support for the Arkansas Constitution, Article 2, Declaration of Rights, Section 5, as written and historically interpreted and applied, Faulkner County, Arkansas, is hereby officially designated as a "Bill of Rights County."

**2. RIGHT TO KEEP AND BEAR ARMS IS PROTECTED BY OUR CONSTITUTIONS:** Faulkner County officials and employees shall uphold each and every provision of the Bill of Rights in the U.S. Constitution and the Declaration of Rights in the Arkansas Constitution and, specifically, Faulkner County officials and employees shall uphold the right of the citizens of this county to “keep and bear arms” as guaranteed by the U.S. Constitution, Amendment 2, and the Arkansas Constitution, Article 2, Declaration of Rights, Section 5.

**3. UNCONSTITUTIONAL LAWS ARE VOID:** It is declared to be the official policy of Faulkner County that the U.S. Constitution’s Bill of Rights, including the Second Amendment right and the Arkansas Constitution’s Article 2, Section 5, right of citizens to keep and bear arms will be honored by the officials and employees of Faulkner County as constitutionally-protected individual liberty rights and that any act of any legislature that abrogates the Bill of Rights, including Amendment 2 to the U.S. Constitution and/or Article 2, Section 5, of the Arkansas Constitution will be treated as void and unenforceable in Faulkner County.

**4. LIBERTY RIGHTS BELONG TO THE PEOPLE:** Since it is clear from both the U.S. Constitution, Amendment 9, and the Arkansas Constitution, Article 2, Section 29, that individual liberty rights (including the right to keep and bear arms) belong to the people and are to be forever retained by the people, Faulkner county officials and employees shall neither interpret nor construe any legislation in any manner that would deny or disparage the Bill of Rights or the Declaration of Rights and shall guard against any encroachments on the U.S. Bill of Rights and the Arkansas Declaration of Rights (including the right to keep and bear arms).

**5. LIBERTY RIGHTS SHALL FOREVER REMAIN INVIOLETE:** Faulkner County officials and employees shall support the U.S. Constitution, Amendment 9, and the Arkansas Constitution, Article 2, Section 29, concepts that the individual liberty rights enumerated in the U.S. Bill of Rights and the Arkansas Declaration of rights (including the right to keep and bear

arms) are excepted out of the general powers of the government and shall forever remain inviolate.

**6. DUE PROCESS OF LAW:** Faulkner County officials and employees shall use the county's state political subdivision police powers, reserved to the states by the Tenth Amendment to the U.S. Constitution, as is necessary and constitutionally justified in order to maintain order, ensure security, and keep the peace in the county – all to be done in a manner that both recognizes the people's individual liberty rights which shall forever remain inviolate and complies with the constitutional requirements of due process, including:

a. "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated. U.S. Bill of Rights, Fourth Amendment, and the Arkansas Declaration of Rights, Article 2, Section 15.

b. "[N]o warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." U.S. Bill of Rights, Fourth Amendment, and the Arkansas Declaration of Rights, Article 2, Section 15.

c. "[N]or shall any State deprive any person of life, liberty, or property, without due process of law. U.S. Bill of Rights, Fourteenth Amendment, Section 1, and Arkansas Declaration of Rights, Article 2, Section 8.

d. "[No State shall ... deny to any person within its jurisdiction the equal protection of the laws." U.S. Constitution, Amendment 14, Section 1, and Arkansas Constitution, Article 2, Sections 2, 3 and 18.

**7. REDRESS OF WRONGS:** In addition to asserting his or her rights of due process, any person who believes his or her rights, including the right to keep and bear arms, as enumerated by the Bill of Rights of the U.S. Constitution, including the Second Amendment and/or the Declaration of Rights of the Arkansas Constitution, including Article 2, Section 5, have been violated may seek redress through the civil process for, in Arkansas, "[e]very person is entitled to a certain remedy in the laws for all injuries or wrongs he may receive in his person, property or character; he ought to obtain justice freely, and without purchase; completely, and without denial; promptly and without delay; conformably to the laws." Arkansas Constitution, Article 2, Section 13.

**CERTIFICATION OF ADOPTION OF ORDINANCE**

The undersigned Clerk of the County Court of Faulkner County, Arkansas, hereby certifies that the Ordinance set forth above was adopted by the Quorum Court during an open meeting on \_\_\_\_\_, 2021.

**Dated:** \_\_\_\_\_, 2021

**Dated:** \_\_\_\_\_, 2021

**Attest:** \_\_\_\_\_

**Margaret Darter**  
**Quorum Court Secretariat**  
**Faulkner County, Arkansas**

**Affirm:** \_\_\_\_\_

**Jim B. Baker**  
**Faulkner County Judge**  
**Faulkner County Arkansas**