

RESOLUTION NO. R-2018-064

A RESOLUTION OF THE CITY OF HOLLYWOOD, FLORIDA, URGING THE FLORIDA LEGISLATURE TO STRENGTHEN THE REQUIREMENTS TO OBTAIN GUNS AND COMPLETELY BAN ASSAULT WEAPONS EXCEPT FOR LAW ENFORCEMENT; URGING THE ENACTMENT OF LEGISLATION WHICH WILL REQUIRE STRONGER COMPREHENSIVE BACKGROUND CHECKS FOR EVERY FIREARM APPLICATION AND SALE; RAISING THE AGE FOR THE LEGAL PURCHASE OF FIREARMS, MAGAZINES AND AMMUNITION TO 21; SUPPORTING THE PASSAGE OF LEGISLATION THAT WOULD KEEP MILITARY-STYLE WEAPONS AND HIGH-CAPACITY MAGAZINES AWAY FROM OUR SCHOOLS; AUTHORIZING THE CITY CLERK TO TRANSMIT THIS RESOLUTION TO VARIOUS LEGISLATIVE AND EXECUTIVE AUTHORITIES.

WHEREAS, National and State leaders continue to fail to act to implement sensible gun law reforms that are supported by a majority of the nation; and

WHEREAS, an increase in the amount of hate groups, international and lone wolf domestic terrorism, underfunded community mental health programs, and easy access to military grade, high capacity magazine assault weapons have created circumstances which have led to an unprecedented number of mass shootings in American communities in recent years; and

WHEREAS, in recent years, mass shootings involving military grade-high capacity magazine assault weapons have occurred in 2007 at a college in Virginia, and in 2012 at a Century 16 Movie Theater in Aurora, Colorado; and

WHEREAS, in February 2013, in the wake of numerous mass shootings culminating in the Sandy Hook Elementary School shooting in Newtown, Connecticut, various governmental entities passed resolutions to urge the federal government to reduce gun violence in America through the "Fix Gun Checks Act;" and

WHEREAS, further mass shootings occurred in the 2015 attack at the Inland Regional Center in San Bernardino, California; the 2016 attack on the Pulse nightclub in Orlando, Florida; and the 2017 attack at the Route 91 Harvest Festival in Las Vegas, Nevada; and

WHEREAS, on November 5, 2017, a mass shooting occurred at the First Baptist Church in Sutherland Springs, Texas in which 26 were killed and injured 20 others. As

has been noted, "the attack was the deadliest mass shooting by one person in Texas and the fifth-deadliest mass shooting in the United States. It was the deadliest shooting in an American place of worship in modern history, surpassing the Charleston church shooting of 2015[3] and the Waddell Buddhist temple shooting of 1991."; and

WHEREAS, on February 14, 2018, a mass shooting occurred at Marjory Stoneman Douglas High School in Parkland, Florida killing 17 students, teachers and coaches and wounding 14 others, five with life-threatening injuries; and

WHEREAS, an AR-15-style rifle was used in the mass shootings in Newton, Connecticut; Aurora, Colorado; San Bernardino, California; Las Vegas, Nevada; Sutherland Springs, Texas; and Parkland, Florida; and

WHEREAS, the City of Hollywood supports background checks for all firearm applicants relating to the purchase, sale and transfer of firearms; and

WHEREAS, according to Everytown For Gun Safety, which is an independent, non-partisan 501(c)(3) organization dedicated to understanding and reducing gun violence in America:

- Background checks are a central component of America's efforts to keep guns from criminals: since their inception, they have blocked over 3 million gun sales to prohibited purchasers.
- According to a study by the Department of Justice, between 1994 and 2014, federal, state, and local agencies conducted background checks on more than 180 million firearm applications and denied 2.82 million gun sales to prohibited purchasers.

; and

WHEREAS, despite this success, the system is undermined by legal loopholes and missing records that enable too many dangerous individuals to obtain weapons they later use in crimes; and

WHEREAS, it is estimated that state and federal agencies have failed to report more than one million records of persons with dangerous mental illness into the National Instant Criminal Background Check System ("NICS") which initiates background checks into three databases: the National Crime Information Center (NCIC), the Interstate Identification Index, and the NICS Index; and

WHEREAS, under federal law, licensed gun dealers are mandated to conduct NICS checks before proceeding with a sale, but this requirement does not apply to so-called private sellers who are present in large numbers at gun shows and sell guns over the internet; and

WHEREAS, it is estimated that 6.6 million guns were sold privately in the U.S. between November 2011 and November 2012, and undercover investigations have shown that many private sellers at gun shows and online will proceed with sales even when they are made aware that prospective purchasers cannot pass a background check; and

WHEREAS, more than 12,000 Americans are murdered with guns every year, and too many of these crimes are committed by individuals who are barred from purchasing or possessing guns under federal law; and

WHEREAS, the Fix Gun Checks Act was introduced in the U.S. Congress, and this legislation would have addressed the two major flaws in the nation's gun background check system by improving compliance with federal record reporting requirements, and by requiring background checks for all U.S. gun sales; and

WHEREAS, 90 percent of Americans and 90 percent of gun owners support fixing gaps in the gun background check database, and 86 percent of Americans, 82 percent of gun owners nationwide, and 74 percent of National Rifle Association ("NRA") members support mandatory criminal background checks for all gun sales; and

WHEREAS, the City of Hollywood is a strong advocate for common-sense policies that keep guns out of dangerous hands while respecting the rights of law-abiding gun owners, and strongly believes that Congress and state governments should take action to close deadly gaps in the NICS; and

WHEREAS, more than 50 national organizations support closing gaps in the gun background check database and requiring a background check for all gun sales, including the U.S. Conference of Mayors, National Urban League, National Association for the Advancement of Colored People, and the National Coalition Against Domestic Violence, the International Association of Chiefs of Police, the Major Cities Chiefs Association and the Police Executive Research Forum; and

WHEREAS, implementation of RED FLAG LAWS allows the community to protect itself; and

WHEREAS, according the Giffords Law Center to Prevent Gun Violence:

- Laws imposing minimum age requirements for the possession and purchase of firearms are intended to decrease access to firearms by young people and, correspondingly, to decrease the number of suicides, homicides, and unintentional shootings among that population;
- In 2014, 21,101 people under the age of 21 were shot by guns. 3,265 died from those gunshot wounds. Of these deaths, 1,925 were

classified as homicides, 1,145 as suicides, and 122 as the result of unintentional shootings;

- Firearms were used in 41% of suicide deaths among individuals under age 21 in 2014.

; and

WHEREAS, according the Giffords Law Center to Prevent Gun Violence:

- Federal law in this area distinguishes between long guns (assault style rifles, rifles and shotguns) and handguns, and between gun possession and gun sales. Federal law also provides stronger age restrictions for sales by licensed gun sellers.
- Licensed firearms dealers may not sell or deliver a handgun or ammunition for a handgun to any person the dealer has reasonable cause to believe is under age 21.
- Dealers may not sell or deliver a long gun, or ammunition for a long gun, to any person the dealer knows or has reasonable cause to believe is under age 18.
- Unlicensed persons may not sell, deliver or otherwise transfer a handgun or handgun ammunition to any person the transferor knows or has reasonable cause to believe is under age 18, with certain exceptions.
- Unlicensed persons may not sell, deliver, or otherwise transfer a long gun or long gun ammunition to a person of any age.

; and

WHEREAS, in summary, with some exceptions, federal law prohibits the possession of a handgun or handgun ammunition by any person under the age of 18 but does not set a minimum age for the possession of long guns or long gun ammunition; and

WHEREAS, under Florida law, the purchase of a long gun is allowed for a person under 21 years of age; and

WHEREAS, in order to restrict such purchase and/or possession of a long gun, high capacity magazines and ammunition, the Florida Legislature would need to amend Fla. Stat. §§ 790.17(2), 790.18; Fla. Stat. § 790.22(3), (5); and

WHEREAS, Maryland, Connecticut and New York, in response to mass shootings resulting in the massacre of students, teachers and others, passed similar

prohibitions on sales of assault weapons and large capacity magazines and such laws were upheld by the U.S. Federal Courts as constitutional; and

WHEREAS, presently pending in Florida is legislation, Senate Bill 196/House Bill 219 which would prohibit "the sale or transfer of an assault weapon or large-capacity magazine; specifying circumstances in which the manufacture or transportation of assault weapons or large-capacity magazines is not prohibited; providing enhanced criminal penalties for certain offenses when committed with an assault weapon or large-capacity magazine, etc."; and

WHEREAS, following the lead of other states, and having had Federal Courts consistently hold that such restrictions are constitutional, it is time to implement such restrictions; and

WHEREAS, in 1987, the Florida Legislature passed Chapter 87-23, Laws of Florida, which created Section 790.33, Florida Statutes, and declared the preemption of the whole field of regulation of firearms and ammunition, reserving the exclusive right to regulate and/or enforce any laws involving firearms and ammunition to the Florida Legislature and the State of Florida; and

WHEREAS, in 2011, the Florida Legislature passed and Governor Scott signed Chapter 2011-109, Laws of Florida to allow the Governor to remove from office, without due process of law, any person acting in an official capacity for a local authority, including an elected official, who passes an ordinance or causes to be enforced a local ordinance, administrative rule or regulation impinging on the exclusive authority of Florida legislature to regulate firearms and ammunition in all respects; and

WHEREAS, the 2011 Amendment to Section 790.33, Florida Statutes, provides for personal liability of any person who enacts or causes to be enforced any local ordinance impinging upon the Legislature's occupation of the whole field of regulation of firearms and ammunition; and

WHEREAS, the 2011 Amendment to Section 790.33, Florida Statutes, also provides that if a Court finds a willful or knowing violation of the prohibition on the ability of local government to regulate or enforce firearms or ammunition in any regard, the Court may impose a personal fine of up to \$5,000 on the elected or appointed local government official(s) or administrative agency head and cause the county, agency, municipality, district or other entity to reimburse the legal cost of those who sue to overturn the ordinance, rule, regulation and/or enforcement effort and to pay their actual damages; and

WHEREAS, pursuant to Section 790.33, Florida Statutes, local communities appear powerless to enumerate elements of the standard of care which should be met to protect the community; and

WHEREAS, the City Commission of the City of Hollywood urgently requests the Governor and Legislature of the State of Florida to address this deficit in law by enacting legislation that would allow municipalities the ability to address these public health, safety and welfare items by enacting local legislation without fear of removal from office, in accordance with the unique local characteristics of a community and with due respect to the risk to public; and

WHEREAS, local governments have a duty to protect their residents, visitors, tourists and businesses and that such duty should not be infringed upon by State government.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That the foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are incorporated in this Resolution.

Section 2: That the City supports federal legislation that would require a background check for every firearm application and sale whether the legislation is enacted by passage of the Fix Gun Checks Act in the United States Congress or some other legislation.

Section 3: That the City urges the Florida Legislature to strengthen the requirements for obtaining guns and completely ban assault weapons except for law enforcement purposes.

Section 4: That the City urges that the Florida Legislature to enact legislation which will require stronger comprehensive background checks for every firearm application and sale of such firearms.

Section 5: That the City urges the Florida Legislature to immediately pass House Bill 231/ Senate Bill 530, popularly described as a "Red Flag Law," to protect our community from those who are identifiable as a threat to safety and security.

Section 6: That the City urges immediate amendments to Florida law to raise the age for legal purchase of guns, including long guns, high capacity magazines, and ammunition to 21 years of age.

Section 7: That the City urges immediate passage of legislation that would get military-style weapons and high-capacity magazines away from our community and especially our schools and that would increase the minimum age to purchase and possess a weapon from age 18 to age 21.

Section 8: That the City urges the Florida Legislature to repeal the draconian punitive punishments of elected officials set forth in Section 790.33, Florida Statutes.

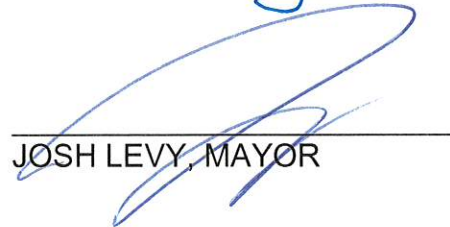
Section 9: That the City urges Florida Governor Rick Scott to take action to pass gun reform, even if it means extending the 2018 legislative session, to:

- a. Raise the minimum age to allow the purchase of guns and ammunition to 21;
- b. Eliminate the loopholes in the private transfer of weapons and require full background checks for all sales and transfers of firearms;
- c. Repeal the prohibitions and penalties in Section 790.33(3), Florida Statutes;
- d. Enact legislation regarding Red Flag Law to allow Extreme Risk Protection Orders such as those proposed in House Bill 231 and Senate Bill 530; and
- e. Enact the Gun Safety legislation set forth in Senate Bill 196 and House Bill 219 to place constitutional restrictions on the sale and transfer of assault-style weapons and high-capacity magazines.

Section 10: That the City Clerk is directed to distribute this Resolution to President Donald Trump, Governor Rick Scott, the United States Congressional Delegations from Florida, the Broward County Legislative Delegation, the Broward League of Cities, and the Florida League of Cities.

Section 11: That this Resolution shall be effective immediately upon its passage and adoption.

PASSED AND ADOPTED This 21 day of February, 2018.



JOSH LEVY, MAYOR

ATTEST:


PATRICIA A. CERNY, MMC, CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY for the use and reliance of the City of Hollywood, Florida, only.



DOUGLAS R. GONZALES, CITY ATTORNEY 