

Item # 49₍₂₎

ADDITIONAL MATERIAL

10:00 a.m. Regular Meeting

APRIL 10, 2018

SUBMITTED AT THE REQUEST OF

COMMISSIONER STEVE GELLER

1 (a) Acting in its capacity as a proprietor to restrict firearms and gun shows from
2 County-owned or County-operated facilities and locations;

3 (b) Amending County ordinances to retain the permitted local option of a five-
4 day waiting period for firearms sales but to also enforce recent state legislation requiring
5 the completion of criminal history records checks prior to the purchase of firearms;

6 (c) Regulating accessories and other items related to firearms or ammunition
7 but not inherent in the initial purchase of firearms, such as aftermarket large capacity
8 magazines;

9 (d) Adopting generally applicable zoning ordinances that impact the ownership,
10 possession, storage, and transportation of firearms, ammunition, and components
11 thereof;

12 (e) Adopting rules and regulations to preclude firearms on a year-round basis
13 in certain areas specified as statutory exceptions to permissible concealed weapons,
14 including polling places or school administration buildings; ~~and~~

15 (f) Adopting rules and regulations to exercise the full scope of the County's
16 constitutional authority under Article VIII, Section 5, of the Florida Constitution, and all
17 necessary and related powers inherent in that constitutional grant of local government
18 authority, and imposing record retention requirements on licensed importers,
19 manufacturers, and dealers for any firearm sold or delivered from inventory to any other
20 person, including requiring documentation of the date and hour of the firearm sale, the
21 date and hour of the firearm transfer or receipt, the unique approval number obtained
22 from the inquiry to the Department of Law Enforcement, and the serial number of the
23 firearm at issue, in addition to any records required under state or federal law; and

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Commissioner Geller. Words in underscored type are proposed additions
by Commissioner Geller.

1 (f) (g) Any other action to restrict access to or use of firearms and ammunition in
2 the interest of public health, safety, and welfare.

3
4 Section 2. The Board states that but for the purported prohibitions and penalties
5 of Section 790.33, Florida Statutes, and the Board's uncertainty as to the permissibility of
6 the intended actions, the Board would immediately take action to implement these
7 measures for the health, safety, and welfare of its residents and visitors, including through
8 enactment of an Ordinance in substantially the form attached hereto as Exhibit A.

9
10 Section 3. The Board authorizes the Office of the County Attorney to file a
11 lawsuit against the State of Florida and appropriate officials of the State of Florida
12 challenging the constitutionality of the Florida gun laws, including, without limitation,
13 Section 790.33, Florida Statutes, or, in the County Attorney's discretion, to intervene into
14 any filed action that raises the same issues and concerns.

15
16 Section 4. SEVERABILITY.

17 If any portion of this Resolution is determined by any Court to be invalid, the invalid
18 portion shall be stricken, and such striking shall not affect the validity of the remainder of
19 this Resolution. If any Court determines that this Resolution, or any portion hereof, cannot
20 be legally applied to any individual(s), group(s), entity(ies), property(ies), or
21 circumstance(s), such determination shall not affect the applicability hereof to any other
22 individual, group, entity, property, or circumstance.

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Exhibit A

ORDINANCE NO. 2018-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, AMENDING SECTIONS 18-96 THROUGH 18-98, SECTION 18-100, AND SECTION 18-101 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE"); PROVIDING FOR ENFORCEMENT OF STATE LAWS AND CONSTITUTIONALLY PERMITTED LOCAL OPTION FIREARMS REGULATIONS INCLUDING THROUGH REQUIRING RETENTION OF CERTAIN RECORDS; RESTRICTING FIREARMS AT COUNTY-OWNED AND COUNTY-OPERATED FACILITIES; PROHIBITING FIREARMS IN CERTAIN LOCATIONS AND BUILDINGS; PROHIBITING ACCESSORIES AND OTHER ITEMS RELATED TO, BUT NOT INHERENT IN, THE PURCHASE OF FIREARMS; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

WHEREAS, the Broward County Board of County Commissioners (the "Board") has determined that regulating firearms and ammunition to the broadest extent permissible under the Florida Constitution and consistent with constitutionally valid laws enacted by the Florida Legislature is one of the foremost priorities of the Board and necessary to the health, welfare, and public safety of the residents and visitors of Broward County; and

WHEREAS, amending Sections 18-96 through 18-98, Section 18-100, and Section 18-101 of the Broward County Code of Ordinances ("Code"), to provide additional constitutionally permitted regulation and to support and facilitate the enforcement of the laws enacted by the Florida Legislature as set forth in Chapter 790, Florida Statutes, is appropriate at this time,

1 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
2 BROWARD COUNTY, FLORIDA:

3
4 Section 1. Section 18-96 of the Broward County Code of Ordinances is hereby
5 amended to read as follows:

6 **Sec. 18-96. Waiting period; required records; prohibition.**

7 (a) . . .

8 (b) For every sale of a firearm subject to section (a) above, the seller must
9 retain documentation of at least the following information:

10 (1) The date and hour of the firearm sale;

11 (2) The date and hour of the firearm transfer or receipt;

12 (3) The unique approval number obtained from the inquiry to the Department
13 of Law Enforcement;

14 (4) The serial number of the firearm at issue; and

15 (5) Any other records required under state or federal law.

16 All such records must be retained by the seller for a minimum of three (3) years
17 after the date of sale and available for inspection upon request by any law enforcement
18 or code enforcement official, unless otherwise prohibited under existing law.

19
20 Section 2. Section 18-97 of the Broward County Code of Ordinances is hereby
21 amended to read as follows:

22 **Sec. 18-97. Criminal history records check; requirement; prohibition.**

23 (a) . . .
24

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underscored type are additions.

1 (b) Requirement; prohibition. There shall be a mandatory national criminal
2 history records check ~~done~~ requested and completed in connection with the sale of
3 firearms occurring within Broward County. . . .

4
5 Section 3. Section 18-98 of the Broward County Code of Ordinances is hereby
6 amended to read as follows:

7 **Sec. 18-98. Non-applicability to holders of Florida concealed weapon**
8 **permits.**

9 Pursuant to the Florida Constitution, when purchasing a firearm, holders of a
10 Florida concealed weapon permit or license, as prescribed by general law, shall not be
11 subject to the prohibitions and penalties of ~~this article~~ Section 18-96 or Section 18-97.

12
13 Section 4. Section 18-100 of the Broward County Code of Ordinances is hereby
14 amended to read as follows:

15 **Sec. 18-100. ~~Reserved~~ Restricted location and facilities; prohibition.**

16 (a) The sale, transfer, possession, storage, transportation, marketing, and
17 demonstration of firearms and ammunition, including any components thereof, shall be
18 prohibited on any property or facility owned or operated by Broward County. Some
19 examples of properties and facilities to which this prohibition is applicable are the Broward
20 County Convention Center, Broward County parks and recreation centers, Broward
21 County libraries, Broward County buses, trolleys, or other County-owned or
22 County-operated vehicles, Port Everglades, Fort Lauderdale-Hollywood International
23 Airport, and any County-owned property leased to any other tenant or operator.

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1 (b) No person or entity shall lease, rent, or otherwise use any County-owned or
2 County-operated property or facility for the primary purpose of the sale, marketing, or
3 promotion of firearms or ammunition, including, without limitation, conducting or engaging
4 in trade shows, conventions, or other commercial events for which the primary purpose
5 is the sale, marketing, or promotion of firearms or ammunition.

6 (c) The carrying of a concealed firearm is prohibited, consistent with the
7 exceptions stated in Section 790.06(12)(a), Florida Statutes, at all times in the following
8 places and facilities:

9 (1) All facilities used as a polling place in the current or prior calendar year,
10 including, without limitation, all public, tax-supported buildings that are
11 requested by the Broward County Supervisor of Elections for use as polling
12 places at any time in the current or prior calendar year;

13 (2) All career centers, including any location that offers or hosts educational
14 courses of a technical nature, courses for out-of-school youth or adults, job
15 training, career training, or assistance with obtaining a job; and

16 (3) Any place of nuisance as defined in Section 823.05, Florida Statutes,
17 including, without limitation, any building, booth, tent, or place that tends to
18 annoy the community or injure the health of the community, or that has been
19 used as a location on two (2) or more occasions by a criminal gang, criminal
20 gang members, or criminal gang associates for the purpose of engaging in
21 criminal gang-related activity.

22 (d) A person who violates any prohibition of this section is guilty of a violation
23 of a County ordinance, punishable as provided in Section 125.69, Florida Statutes, and
24 the violation shall be prosecuted in the same manner as misdemeanors are prosecuted.

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 underscored type are additions.

1 Section 5. Section 18-101 of the Broward County Code of Ordinances is hereby
2 amended to read as follows:

3 **Sec. 18-101. ~~Reserved~~ Accessories and aftermarket items; prohibition.**

4 (a) The possession, purchase, sale, import, transfer, storage, transportation, or
5 the offer for purchase, sale, import, transfer, storage, or transportation, of any bump fire
6 stock or large-capacity magazine within Broward County is prohibited. "Bump fire stock"
7 shall have the meaning set forth in Section 790.222, Florida Statutes. "Large-capacity
8 magazine" shall mean: for a handgun, an ammunition feeding device that extends beyond
9 the bottom of the grip; for any firearm other than a handgun, an ammunition feeding
10 device with the capacity to accept more than ten (10) rounds; and includes any conversion
11 kit, part, or combination of parts from which such a device can be assembled.

12 (b) A person who violates any prohibition of this section is guilty of a violation
13 of a County ordinance, punishable as provided in Section 125.69, Florida Statutes, and
14 the violation shall be prosecuted in the same manner as misdemeanors are prosecuted.

15
16 Section 6. SEVERABILITY.

17 If any portion of this Ordinance is determined by any Court to be invalid, the invalid
18 portion shall be stricken, and such striking shall not affect the validity of the remainder of
19 this Ordinance. If any Court determines that this Ordinance, or any portion hereof, cannot
20 be legally applied to any individual(s), group(s), entity(ies), property(ies), or
21 circumstance(s), such determination shall not affect the applicability hereof to any other
22 individual, group, entity, property, or circumstance.

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1 Section 7. INCLUSION IN CODE.

2 It is the intention of the Board of County Commissioners that the provisions of this
3 Ordinance shall become and be made a part of the Broward County Code; and that the
4 sections of this Ordinance may be renumbered or relettered and the word "ordinance"
5 may be changed to "section," "article," or such other appropriate word or phrase in order
6 to accomplish such intentions.

7
8 Section 8. EFFECTIVE DATE.

9 This Ordinance shall become effective as provided by law.

10
11 ENACTED

12 FILED WITH THE DEPARTMENT OF STATE

13 EFFECTIVE

14
15 Approved as to form and legal sufficiency:
16 Andrew J. Meyers, County Attorney

17
18 By /s/ _____ 00/00/18
19 René D. Harrod (date)
20 Deputy County Attorney

21
22
23 RDH/ab
24 04/05/18
Firearms Local Option Ordinance
#289329.2

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