

PROPOSED

RESOLUTION NO. 2018-

1
2 A RESOLUTION OF THE BOARD OF COUNTY
3 COMMISSIONERS OF BROWARD COUNTY, FLORIDA,
4 EXPRESSING THE DESIRE AND INTENTION, BUT FOR
5 THE PRECLUSION AND PENALTIES SET FORTH IN THE
6 STATE GUN LAWS, TO ADOPT RESOLUTIONS AND
7 ENACT ORDINANCES TO RESTRICT AND REGULATE
8 FIREARMS AND AMMUNITION IN BROWARD COUNTY;
9 AUTHORIZING THE FILING OF LITIGATION
10 CHALLENGING THE CONSTITUTIONALITY OF THE
11 FLORIDA GUN LAWS AND SEEKING A JUDICIAL
12 DECLARATION AS TO THE SCOPE OF REGULATION AND
13 OTHER ACTION THAT MAY PERMISSIBLY BE TAKEN BY
14 BROWARD COUNTY; AND PROVIDING FOR
15 SEVERABILITY AND AN EFFECTIVE DATE.

16 WHEREAS, the Broward County Board of County Commissioners (the "Board")
17 desires to adopt and enact, to the greatest extent possible, such resolutions, ordinances,
18 regulations, and other action as may permissibly be taken under Florida law to restrict
19 access to firearms and ammunition in order to keep the children and adults residing in or
20 visiting Broward County safe from gun violence; and

21 WHEREAS, Section 790.33, Florida Statutes, declares that the State of Florida is
22 occupying the whole field of regulation of firearms and ammunition, including the
23 purchase, sale, transfer, taxation, manufacture, ownership, possession, transfer, and
24 transportation thereof, to the exclusion of all county ordinances, regulations, or rules; and

25 WHEREAS, Section 790.33, Florida Statutes, purports to prohibit the enactment
26 of any future ordinances or regulations "relating to firearms, ammunition, or components
27 thereof," and purports to create liability for any person, county, or other entity that enacts
28 or causes to be enforced any local ordinance or rule impinging upon such exclusive

1 occupation of the field, including actual damages, civil fines, and attorneys' fees, and
2 precludes the use of public funds to defend or reimburse any such person acting in an
3 official capacity for a local government; and

4 WHEREAS, the purported preemption by the State of Florida is extremely broad
5 and vague, and could be construed to apply to a panoply of measures that the Board
6 would like to adopt or enact, including action in a proprietary capacity to restrict firearms
7 or gun shows at County-owned or County-operated properties, regulation of accessories
8 to firearms such as large capacity magazines, generally applicable zoning ordinances
9 that have a material effect on the ownership, possession, storage, or transportation of
10 firearms and ammunition or the components thereof, and action to preclude firearms on
11 a year-round basis at certain exempted locations such as polling places and school
12 administration buildings; and

13 WHEREAS, the Board expresses its strong desire to adopt these measures to
14 protect the health, safety, and welfare of the children and adults who reside in or visit
15 Broward County, and would take such action but for the preclusive, prohibitive, and
16 chilling effect of the purported preemption and penalties of Section 790.33, Florida
17 Statutes, and related laws, NOW, THEREFORE,

18
19 BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF
20 BROWARD COUNTY, FLORIDA:

21
22 Section 1. The Board expresses its strong desire to adopt and enact
23 resolutions, ordinances, and other rules and regulations to protect the children and adults
24 who reside in and visit Broward County, including through the following actions:

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) Any other action to restrict access to or use of firearms and ammunition in
16 the interest of public health, safety, and welfare.

17 Section 2. The Board states that but for the purported prohibitions and penalties
18 of Section 790.33, Florida Statutes, and the Board's uncertainty as to the permissibility of
19 the intended actions, the Board would immediately take action to implement these
20 measures for the health, safety, and welfare of its residents and visitors.

21 Section 3. The Board authorizes the Office of the County Attorney to file a
22 lawsuit against the State of Florida and appropriate officials of the State of Florida
23 challenging the constitutionality of the Florida gun laws, including, without limitation,
24

1 Section 790.33, Florida Statutes, or, in the County Attorney’s discretion, to intervene into
2 any filed action that raises the same issues and concerns.

3 Section 4. SEVERABILITY.

4 If any portion of this Resolution is determined by any Court to be invalid, the invalid
5 portion shall be stricken, and such striking shall not affect the validity of the remainder of
6 this Resolution. If any Court determines that this Resolution, or any portion hereof, cannot
7 be legally applied to any individual(s), group(s), entity(ies), property(ies), or
8 circumstance(s), such determination shall not affect the applicability hereof to any other
9 individual, group, entity, property, or circumstance.

10 Section 5. EFFECTIVE DATE.

11 This Resolution shall become effective upon adoption.

12
13 ADOPTED this day of , 2018.

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

PROPOSED

18 By /s/ René D. Harrod 03/23/18
19 René D. Harrod (date)
 Deputy County Attorney

20
21
22
23 RDH/ab
24 03/23/18
 #285585.1