

RESOLUTION NO. 2018-

A RESOLUTION OF THE TOWN OF CUTLER BAY, FLORIDA, CALLING ON THE STATE OF FLORIDA, GOVERNOR RICK SCOTT, PRESIDENT DONALD TRUMP, AND THE FEDERAL GOVERNMENT TO REDUCE GUN VIOLENCE IN AMERICA AND HELP PREVENT FUTURE MASS SHOOTINGS BY REQUIRING A BACKGROUND CHECK FOR EVERY FIREARM SALE; SUPPORTING THE PASSAGE OF LEGISLATION THAT WOULD KEEP MILITARY-STYLE WEAPONS AND HIGH-CAPACITY MAGAZINES AWAY FROM OUR SCHOOLS; URGING THE FLORIDA LEGISLATURE TO REPEAL THE PUNITIVE PUNISHMENTS OF ELECTED OFFICIALS SET FORTH IN SECTION 790.33, FLORIDA STATUTES; AUTHORIZING THE TOWN CLERK TO TRANSMIT THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

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, on February 14, 2018, Nikolas Cruz shot and killed 17 people, including students, teachers, and coaches, and wounded 14 others at Marjory Stoneman Douglas High School in Parkland, Florida; and

WHEREAS, on November 5, 2017, Devin Patrick shot and killed 26 people and injured 20 others at the First Baptist Church in Sutherland Springs, Texas; and

WHEREAS, on October 1, 2017, Stephen Paddock, who had an arsenal of 23 weapons and accessories, shot and killed 58 people and injured more than 500, at the Harvest Music Festival in Las Vegas, Nevada; and

WHEREAS, on June 12, 2016, Omar Saddiqui Mateen, using a legally purchased semi-automatic rifle, shot and killed 49 people and injured at least 50 people at the Pulse Nightclub in Orlando, Florida; and

WHEREAS, on December 14, 2012, Adam Lanza, using two semi-automatic handguns, shot and killed 27 people, including 20 children at Sandy Hook Elementary School in Newtown Connecticut; and

WHEREAS, on October 21, 2012, Radcliffe Haughton, using a semi-automatic handgun, shot and killed his estranged wife and 2 others in Milwaukee, Wisconsin; and though a restraining order had been issued against Haughton – making him a prohibited person under

federal law – Houghton was able to avoid a background check by purchasing the gun from a private seller through armslist.com; and

WHEREAS, on August 5, 2012, Wade Michael Page, using a semi-automatic handgun, shot and killed 6 people and injured 3 others at a Sikh temple in Oak Creek, Wisconsin; and

WHEREAS, on July 20, 2012, James Holmes, using a semi-automatic rifle and other guns, shot and killed 12 people and injured at least 58 others in a movie theater in Aurora, Colorado, using some of the thousands of rounds of ammunition that he had recently purchased online without a background check; and

WHEREAS, on January 8, 2011, Jared Loughner, someone with a reported history of drug abuse and serious mental illness who should have been in the National Instant Criminal Background Check System (NICS) database but was not, killed 6 people in Tucson, Arizona; and

WHEREAS, on April 16, 2007, Seung-Hui Cho shot and killed 32 people at Virginia Tech in Blacksburg, Virginia with guns that were legally purchased because records of his mental health status were missing from the NICS; 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, 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, 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, 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, other tragedies including the 1999 Columbine High School shooting in Littleton, Colorado, the 2010 attack on law enforcement at the Pentagon in Arlington County, Virginia, and the 2012 mass shooting at a Pittsburgh, Pennsylvania psychiatric clinic were perpetrated by individuals who obtained guns through unregulated private sales, with no paperwork required and no questions asked; 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, the Town 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, 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, in response to mass shootings resulting in the massacre of students, teachers and others, Maryland, Connecticut, and New York passed similar prohibitions on sales of assault weapons and large capacity magazines, these laws have been upheld as constitutional by Federal courts; and

WHEREAS, in the 2018 session the Florida legislature denied similar legislation, Senate Bill 196 and House Bill 219, which would have prohibited “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 2011, the Florida Legislature passed, and Governor Scott signed into law, Chapter 2011-109, Laws of Florida, amending Section 790.33, Florida Statutes, allowing elected or appointed local officials who pass an ordinance or cause an ordinance, administrative rule or regulation to be enforced which impinges on the exclusive authority of the Florida Legislature to regulate firearms and ammunition to be assessed court fines of up to \$5,000 as well as be subject to removal from office by the Governor, without due process; and

WHEREAS, in the recent 2018 session, the Florida Legislature passed Senate Bill 7026, which will raise the minimum age for all gun purchases to 21; create a three day waiting period for prospective gun buyers; ban bump stocks; arm school employees; fund additional school security; allow family members and law enforcement to seek an Extreme Risk Protection Order, a court order temporarily restricting a person’s access to guns when they pose a danger to self or others; and further expand mental health services and regulation; 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; and

WHEREAS, the Town Council acknowledges the efforts by the Governor and the Florida Legislature to improve existing gun laws, the Town Council insists that further measures need to be implemented; and

WHEREAS, the Town Council urgently requests the Governor and the Florida Legislature 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, the Town Council deems it to be in the best interest of the residents of the Town of Cutler Bay to call on the State of Florida Governor Rick Scott, President Donald Trump, and the Federal Government to reduce gun violence in America and help prevent future shootings by requiring a background check for every firearm sale; and to support the passage of legislation that would keep military style weapons and high-capacity magazines away from our schools.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA AS FOLLOWS:

Section 1: That the Town Council supports federal legislation that would require a background check for every firearm sale whether the legislation is enacted by passage of the Fix Gun Checks Act in the United States Congress or some other legislation.

Section 2: That the Town Council urges immediate passage of legislation that would get military-style weapons and high-capacity magazines away from our community and especially our schools.

Section 3: That Town Council urges the Florida legislature to repeal the draconian punitive punishments of elected officials set forth in Section 790.33, Florida Statutes.

Section 4: That Town Council urges Florida Governor Rick Scott to take action to pass gun reform, in the 2019 legislative session or any preceding special sessions, to:

- a. Eliminate the loopholes in the private transfer of weapons;
- b. Require full background checks for all sales and transfers of firearms; and
- c. Enact gun safety legislation to place constitutional restrictions on the sale and transfer of assault-style weapons and high-capacity magazines.

Section 5: The Town Clerk is hereby directed to distribute this Resolution to President Donald Trump, Governor Rick Scott, the United States Congressional Delegations from Florida, the Miami-Dade County Legislative Delegation, and the Miami-Dade County League of Cities.

Section 6: That the appropriate Town officials are authorized to do all things necessary and expedient in order to carry out the aims of this Resolution.

Section 7: That this Resolution shall take effect immediately upon adoption.

PASSED and ADOPTED this _____ day _____, 2018.

Attest:

PEGGY R. BELL,
Mayor

DEBRA E. EASTMAN, MMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN
COLE, & BIERMAN, P.L.
Town Attorney

Moved By: _____
Seconded By: _____

FINAL VOTE AT ADOPTION:

Mayor Peggy R. Bell	_____
Vice Mayor Sue Ellen Loyzelle	_____
Council Member Mary Ann Mixon	_____
Council Member Michael P. Callahan	_____
Council Member Roger Coriat	_____