

RESOLUTION 18-06

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, CALLING ON THE STATE OF FLORIDA AND GOVERNOR RICK SCOTT TO REDUCE GUN VIOLENCE IN FLORIDA AND HELP PREVENT FUTURE SHOOTINGS BY CONSIDERING A BACKGROUND CHECK FOR EVERY FIREARM SALE, THE PASSAGE OF A RED FLAG LAW, RAISING THE AGE FOR LEGAL PURCHASE OF FIREARMS, MAGAZINES AND AMMUNITION TO 21, AND ALLOWING SCHOOL BOARDS TO DETERMINE THE APPROPRIATE NUMBER OF SCHOOL RESOURCE OFFICERS AT SCHOOLS, REPEALING THE PUNITIVE PUNISHMENTS OF ELECTED OFFICIALS SET FOR IN FLORIDA STATUTE SECTION 790.33; AUTHORIZING THE CITY CLERK TO TRANSMIT THIS RESOLUTION; AND PROVIDING 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, a mass shooting occurred at Marjory Stoneman Douglas High School in Parkland, Florida killing 17 students, teachers and coaches and wounding 14 others, 5 with life-threatening injuries; 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.

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, under federal law, licensed gun dealers are mandated to conduct National Instant Criminal Background Check System 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, 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, implementation of Red Flag Laws, allows the community to protect itself and according to Everytown For Gun Safety:

- Like many mass shooters, the 19-year-old suspected of shooting and killing at least 17 people and injuring at least 14 others at a high school in Parkland, Florida displayed warning signs prior to the shooting. Unfortunately, Florida does not have a Red Flag Law—a law increasingly being adopted by states that empowers 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. Five states have Red Flag Laws in place—and bills are currently pending in another 18 states.
- Red Flag Laws can save lives by creating a way for family members and law enforcement to act before warning signs escalate into tragedies.
- When a person is in crisis, loved ones and law enforcement are often the first to see signs that they pose a threat. Red Flag Laws allow them to seek help from a court to remove guns from dangerous situations.
- Red Flag Laws empower law enforcement and immediate family members to petition a court for an Extreme Risk Protection Order, sometimes called a Gun Violence Restraining Order.
- If a court finds that a person poses a significant danger of injuring themselves or others with a firearm, that person is temporarily prohibited from purchasing and possessing guns and is required to turn over their guns while the order is in effect.
- The alleged mass shooter who shot and killed 17 people and injured 14 others at a high school in Parkland, Florida on February 14, 2018 displayed warning signs prior to the shooting. He was expelled from school, and students and teachers reported that he displayed threatening behavior. His mother contacted law enforcement on multiple occasions regarding his behavior, and he was known to possess firearms.
- Final orders—which generally last for up to one year—can only be issued after notice and an opportunity to be heard. At the hearing, the person would

have the chance to respond to evidence that they are too dangerous to have a gun.

- A temporary order—which typically lasts 14 to 21 days—can be issued before a full hearing is held, but only if there is clear evidence that an order is necessary to prevent immediate danger.

WHEREAS, according to 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;

WHEREAS, according to 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 sell, deliver, or otherwise transfer a long gun or long gun ammunition to a person of any age.

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 1987, the Florida Legislature passed Chapter 87-23, Laws of Florida, which created Florida Statutes section 790.33 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 Florida Statutes section 790.33 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 Florida Statutes section 790.33 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 Florida Statutes section 790.33, local communities appear powerless to enumerate elements of the standard of care which should be met to protect the community; 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.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED:

Section 1. The foregoing Whereas clauses are hereby ratified and incorporated as the legislative intent of this Resolution.

Section 2. The City urges the Florida legislature to repeal the punitive punishments of elected officials set forth in Florida Statutes section 790.33.

Section 3. The City urges Florida Governor Rick Scott and the Florida Legislature to consider the following actions, even if it means extending the 2018 legislative session:

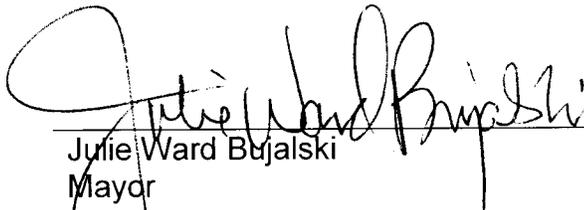
- a. Raising the minimum age to allow the purchase of guns and ammunition to 21;
- b. Allowing School Boards to determine the appropriate number of School Resource Officers at schools;

- c. Eliminating the loopholes in the private transfer of weapons and require full background checks for all sales and transfers of firearms;
- d. Enacting legislation regarding Red Flag Law to allow Extreme Risk Protection Orders;
- e. Enacting other Gun Safety legislation to place constitutional restrictions on the sale and transfer of assault-style weapons and high-capacity magazines.

Section 4. The City Clerk is hereby directed to distribute this Resolution to Governor Rick Scott, the Pinellas County Legislative Delegation, and the Florida League of Cities.

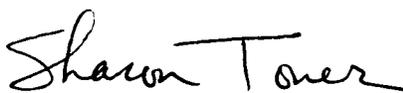
Section 5. Effective Date. This Resolution shall be effective immediately upon its passage.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, THIS 1st day of March, 2018.



Julie Ward Bujalski
Mayor

ATTEST:



Sharon Toner
Deputy City Clerk