

**CITY OF CORAL GABLES, FLORIDA**

**RESOLUTION NO. 2018-98**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA, DIRECTING THE CITY ATTORNEY TO INITIATE/JOIN A LAWSUIT TO CHALLENGE THE CONSTITUTIONALITY OF FS 790.33, SPECIFICALLY THE PUNISHMENT AND PENALTY PROVISIONS OF 790.33(3) AGAINST ELECTED OFFICIALS FOR VIOLATING THE REGULATION OF FIREARMS AND AMMUNITIONS PREEMPTION.

**WHEREAS**, Florida Statute 790.33(1) “Preemption” declares that unless firearms or ammunition regulation is passed through Florida's Constitution or through its Legislature, all other laws, such as those passed by city governments, are "hereby declared null and void"; and

**WHEREAS**, Florida Statute 790.33(3) “Prohibitions; Penalties” declares that any person in an official capacity for any entity enacting or causing to be enforced a local ordinance that knowingly and willfully violates the Legislature’s occupation of the whole field of regulation of firearms and ammunition shall be assessed a civil fine of up to \$5,000 and be subjected to termination of employment or contract or removal from office by the Governor; and

**WHEREAS**, on February 27, 2018, a majority vote of the City Commission voted in favor of a conceptual ban on the sale of “assault weapons” in the City of Coral Gables; and

**WHEREAS**, on March 20, 2018, having before it a written Ordinance on first reading to ban the sale of “assault weapons” in the City of Coral Gables, the City Commission was barred from carrying out the will of a majority of the elected officials and was prevented from instituting an assault weapon ban to protect the citizens of Coral Gables because of the threat of personal liability under Florida Statute 790.33; and

**WHEREAS**, as a result of the preemption penalties, the City Commission and its members also fear taking any other steps that could even remotely be viewed as a violation of the preemption statute, creating a chilling effect upon City action and preventing the City Commission from responding to the petitions and requests of the City’s residents to do something to protect against the dangers of firearms; and

**WHEREAS**, the City Commission and its members desire to consider various other reasonable measures related to firearms, including the restriction of guns in City facilities and parks, the placing of signs related to guns in City facilities and parks, the regulation of gun accessories (such as holsters, high capacity magazines, or bump stocks),

the creation of “gun free zones” or “gun safe zones,” or other measures related to guns, but have refrained from doing so because they could possibly be viewed as falling under the preemption and be subjected to the preemption penalties; and

**WHEREAS**, on February 26, 2018, the City of Weston passed a resolution to direct its city attorney to file a lawsuit seeking a declaration that the provisions punishing elected officials set forth in Florida Statutes Section 790.33 for violating the preemption related to the regulation of firearms and ammunition are unconstitutional; and

**WHEREAS**, multiple other local municipalities in the South Florida area are uniting with the City of Weston in its impending lawsuit against the State of Florida to invalidate provisions of FS 790.33; and

**WHEREAS**, the City Commission desires to join the City of Weston, along with other local municipalities, in a lawsuit against the State of Florida challenging the constitutionality of provisions of FS 790.33, while retaining the City’s own independent counsel to protect and secure the City’s interest;

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF CORAL GABLES:**

**SECTION 1.** The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon adoption hereof.

**SECTION 2.** That the City Commission directs the City Attorney to collaborate with the City of Weston and the other cities to join the impending cause of action against the State and to develop the best approach to challenging the constitutionality of the prohibition and penalty sections of FS 790.33.

**SECTION 3.** That the City Commission directs the City Attorney to join the City of Weston lawsuit against the State of Florida and hire independent counsel to represent the City of Coral Gables in said impending lawsuit.

That this Resolution shall become effective upon the date of its passage and adoption herein.

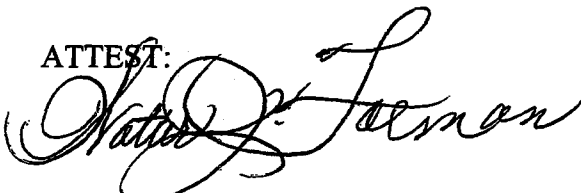
PASSED AND ADOPTED THIS TWENTIETH DAY OF MARCH, A.D., 2018.  
(Moved: Lago / Seconded: Mena)  
(Yeas: Lago, Mena, Quesada, Keon, Valdes-Fauli)  
(Unanimous: 5-0 Vote)  
(Agenda Item: H-3)

APPROVED:



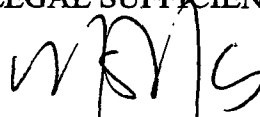
RAÚL VALDÉS-FAULI  
MAYOR

ATTEST:



WALTER J. FOEMAN  
CITY CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:



MIRIAM SOLER RAMOS  
CITY ATTORNEY