

RESOLUTION NO. 2019-2624

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AUTHORIZING AND DIRECTING THE TOWN TO JOIN IN THE FILING OF A BRIEF AT THE FLORIDA SUPREME COURT SUPPORTING THE PLACEMENT ON THE BALLOT OF THE INITIATIVE PETITION ENTITLED “PROHIBITS POSSESSION OF DEFINED ASSAULT WEAPONS”; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the sponsoring political committee Ban Assault Weapons NOW has proposed an amendment to the Constitution of the State of Florida that would prohibit the possession of semiautomatic rifles and shotguns capable of holding more than ten rounds of ammunition at once, either in fixed or detachable magazine, with certain exceptions (“Proposed Constitutional Amendment”); and

WHEREAS, the sponsoring political committee Ban Assault Weapons NOW has met the registration, petition form submission and signature criteria set forth in section 15.21, Florida Statutes; and

WHEREAS, on June 26, 2019, the Attorney General of the State of Florida requested an advisory opinion from the Florida Supreme Court as to the validity of the initiative petition; and

WHEREAS, the Attorney General requested the opportunity to present argument in opposition to placement of the Proposed Constitutional Amendment on a ballot; and

WHEREAS, the Attorney General argued that the title and summary of the Proposed Constitutional Amendment should not be submitted to Florida voters because the title and summary fail to inform voters of the chief purpose of the proposed amendment and are affirmatively misleading; and

WHEREAS, the Town Commission and its members respectfully disagree with the Attorney General and believe that the title and summary do inform the voters of the chief purpose of the Proposed Constitutional Amendment and are not misleading; and

WHEREAS, the Town Commission and its members support the placement of the Proposed Constitutional Amendment on a ballot so that the citizens of Florida have the opportunity to vote for or against the Proposed Constitutional Amendment, but do not take any position as to whether the Proposed Constitutional Amendment should be adopted; and

WHEREAS, on July 29, 2019, the Florida Supreme Court opened Case No. SC19-1266 in response to the Attorney General's request for advisory opinion; and

WHEREAS, then Town of Surfside has authorized and directed its Town Attorney, Weiss Serota Helfman Cole & Bierman (the "Firm"), to file in Case No. SC19-1266 a brief supporting the placement of the Proposed Constitutional Amendment on a ballot; and

WHEREAS, the Town of Surfside encourages other local governments to join in the filing of the brief; and

WHEREAS, the Firm has been retained for a flat fee of \$25,000 to draft and file the brief; and

WHEREAS, each local government who joins in filing the brief will pay their respective share of the \$25,000 flat fee, provided that enough local governments participate so that each local government's cost does not exceed \$3,000; and

WHEREAS, the Town is an interested person to Case No. SC19-1266; and

WHEREAS, the Town desires to join in the brief supporting the placement of the Proposed Constitutional Amendment on the ballot and to invite other local governments to participate.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AS FOLLOWS:

Section 1: That the foregoing “**WHEREAS**” clauses are ratified and confirmed as being true and correct and are made a specific part of this Resolution.

Section 2: The Town Commission hereby authorizes and directs the Town to join in the filing of a brief at the Florida Supreme Court in Case No. SC19-1266 supporting the placement of the Proposed Constitutional Amendment on the ballot.

Section 3: The Firm is hereby retained to represent the Town in this litigation. The Town agrees to pay its respective share of the \$25,000, provided that enough local governments participate so that the Town’s total cost does not exceed \$3,000. The Town also acknowledges that the Firm will be representing other local governments in this lawsuit and waives any conflicts related to such representation. In addition, the Town agrees that its joinder in the group of local governments filing the brief shall not, in and of itself, create a conflict of interest for the Firm.

Section 4: The Town Commission invites and urges other local to join the brief and to coordinate their efforts with the Town.

Section 5: The Town Clerk is directed to distribute this Resolution to all local governments in Miami-Dade County.

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

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

PASSED AND ADOPTED on this 10th day of September, 2019.

Moved By: Commissioner Karukin

Second By: Vice Mayor Gielchinsky

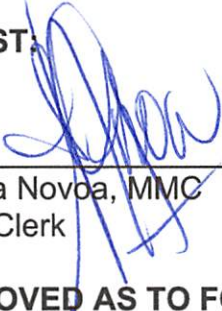
FINAL VOTE ON ADOPTION

Commissioner Barry Cohen	<u>Absent</u>
Commissioner Michael Karukin	<u>Yes</u>
Commissioner Tina Paul	<u>Yes</u>
Vice Mayor Daniel Gielchinsky	<u>Yes</u>
Mayor Daniel Dietch	<u>Yes</u>



Daniel Dietch
Mayor

ATTEST:



Sandra Novoa, MMC
Town Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**



Weiss Serota Helfman Cole & Bierman, P.L.
Town Attorney

CONSTITUTIONAL AMENDMENT FULL TEXT

Ballot Title:

Prohibits possession of defined assault weapons

Ballot Summary:

Prohibits possession of assault weapons, defined as semiautomatic rifles and shotguns capable of holding more than 10 rounds of ammunition at once, either in fixed or detachable magazine, or any other ammunition-feeding device. Possession of handguns is not prohibited. Exempts military and law enforcement personnel in their official duties. Exempts and requires registration of assault weapons lawfully possessed prior to this provision's effective date. Creates criminal penalties for violations of this amendment.

Article and Section Being Created or Amended:

Article I, Section 8

Full Text of the Proposed Amendment:

ARTICLE I, SECTION 8. Right to Bear Arms.—

- (a) The right of the people to keep and bear arms in defense of themselves and of the lawful authority of the state shall not be infringed, except that the manner of bearing arms may be regulated by law.
- (b) There shall be a mandatory period of three days, excluding weekends and legal holidays, between the purchase and delivery at retail of any handgun. For the purposes of this section, "purchase" means the transfer of money or other valuable consideration to the retailer, and "handgun" means a firearm capable of being carried and used by one hand, such as a pistol or revolver. Holders of a concealed weapon permit as prescribed in Florida law shall not be subject to the provisions of this paragraph.
- (c) The legislature shall enact legislation implementing subsection (b) of this section, effective no later than December 31, 1991, which shall provide that anyone violating the provisions of subsection (b) shall be guilty of a felony.
- (d) This restriction shall not apply to a trade in of another handgun.
- (e) The possession of an assault weapon, as that term is defined in this subsection, is prohibited in Florida except as provided in this subsection. This subsection shall be construed in conformity with the Second Amendment to the United States Constitution as interpreted by the United States Supreme Court.
- 1) Definitions – a) Assault Weapons - For purposes of this subsection, any semiautomatic rifle or shotgun capable of holding more than ten (10) rounds of ammunition at once, either in a fixed or detachable magazine, or any other ammunition-feeding device. This subsection does not apply to handguns.

Initiative Information

Date Approved 01/11/2019

Serial Number 19-01

Sponsor Name: Ban Assault Weapons Now

Sponsor Address: 6619 South Dixie Highway #148, Miami, FL 33143

CONSTITUTIONAL AMENDMENT FULL TEXT

b) Semiautomatic - For purposes of this subsection, any weapon which fires a single projectile or a number of ball shots through a rifled or smooth bore for each single function of the trigger without further manual action required.

c) Ammunition-feeding device - For purposes of this subsection, any magazine, belt, drum, feed strip, or similar device for a firearm.

2) Limitations – a) This subsection shall not apply to military or law enforcement use, or use by federal personnel, in conduct of their duties, or to an assault weapon being imported for sale and delivery to a federal, state or local governmental agency for use by employees of such agencies to perform official duties

b) This subsection does not apply to any firearm that is not semiautomatic, as defined in this subsection.

c) This subsection does not apply to handguns, as defined in Article I, Section 8(b), Florida Constitution.

d) If a person had lawful possession of an assault weapon prior to the effective date of this subsection, the person's possession of that assault weapon is not unlawful (1) during the first year after the effective date of this subsection, or (2) after the person has registered with the Florida Department of Law Enforcement or a successor agency, within one year of the effective date of this subsection, by providing a sworn or attested statement, that the weapon was lawfully in his or her possession prior to the effective date of this subsection and by identifying the weapon by make, model, and serial number. The agency must provide and the person must retain proof of registration in order for possession to remain lawful under this subsection. Registration records shall be available on a permanent basis to local, state and federal law enforcement agencies for valid law enforcement purposes but shall otherwise be confidential.

3) Criminal Penalties - Violation of this subsection is a third-degree felony. The legislature may designate greater, but not lesser, penalties for violations.

4) Self-executing - This provision shall be self-executing except where legislative action is authorized in subsection (3) to designate a more severe penalty for violation of this subsection. No legislative or administrative action may conflict with, diminish or delay the requirements of this subsection.

5) Severability - The provisions of this subsection are severable. If any clause, sentence, paragraph, section or subsection of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, other provisions shall continue to be in effect to the fullest extent possible.

6) Effective date - The effective date of this amendment shall be thirty days after its passage by the voters.

Initiative Information

Date Approved 01/11/2019

Serial Number 19-01

Sponsor Name: Ban Assault Weapons Now

Sponsor Address: 6619 South Dixie Highway #148, Miami, FL 33143