

Home Rule and Firearm Safety

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Residents deserve to be heard by their local elected leaders who live in the same community with them and with whom they have easy access (as opposed to the representatives elected to the Florida legislature, ensconced in Tallahassee, a virtual day's travel away given the dearth of direct flights from South Florida to the capitol) or in our Nation's capital.

Under the principle of "Home Rule," embodied in the Florida Constitution, local governments (cities, towns, villages and counties) are empowered to address local issues, locally.

While there has been no outcry from residents or small business owners to ignore the mandate of the 1968 amendment to the Florida Constitution wherein the citizens of this state ratified the principle of Home Rule, the legislature has continued to chip away at the subjects locally elected leaders can address.

After the murder of 17 innocent students and faculty at Parkland's Marjory Stoneman Douglas High School, much attention has been directed at how our local leaders can protect our children from these horrors being visited on our own community. It is left to the county school boards and host communities to collaborate on a plan to keep our students safe.

While the argument can be made that the licensing of firearms is best left to the state to ensure a uniform system for their regulation from county to county and from town to town, when it comes to identifying areas within a city within which the locality believes it is best to be free of firearms (e.g. entertainment and/or recreational venues) locally elected leaders are powerless to act.

Fla. Stat. 790.33(3) states that if any county, city, town, or other local government attempts to regulate where firearms can be carried, the ordinance, rule, or regulation shall be declared null and void. The statute goes on to state that if the violation in the statute is deemed to be "knowing and willful," the court shall assess a civil fine of up to \$5,000 against the elected or appointed local government official(s) or administrative agency head under whose jurisdiction the violation occurred.

As if this were not enough, the statute goes on to declare that a knowing and willful violation of thereof, by a person acting in an official capacity for any entity enacting or causing to be enforced a local ordinance or administrative rule or regulation to restrict the carrying of firearms under color of law shall be cause for removal from office by the Governor.

In the aftermath of the shooting, it is clear that municipalities, school boards and law enforcement agencies will need to collaborate in the development of plans to protect our residents and our children from harm. Legal impediments to that effort cannot be accepted.

The City of Weston has announced it will file a lawsuit to challenge the "gag law" on local firearm regulations. Cities and towns throughout the state are being invited to join the effort and it is anticipated many within Palm Beach County will accept that invitation.

Home Rule offers the best model for responding to the unique issues of each municipality. Residents need to communicate their disdain for the continuing attempts by the legislature to make municipalities dependent on the legislature for permission to address local issues or, as in the case of regulating where firearms can be lawfully carried, preempt the locally elected officials from any action aimed at protecting its residents.