

RESOLUTION OF THE TOWN OF WESTERLY
IN OPPOSITION TO RHODE ISLAND 2021 GUN CONTROL LEGISLATION

WHEREAS, the Town Council of the Town of Westerly pursuant to Rhode island statute and the Town of Westerly Charter, is vested with the authority of administering the affairs of the Town of Westerly, RI; and

WHEREAS, the Second Amendment to the United States Constitution, ratified on December 15, 1791 as part of the Bill of Rights, protects the inalienable and individual right of the people to keep and bear arms; and

WHEREAS, the United States Supreme Court in *District of Columbia v. Heller*, 554 U.S.570 (2008), affirmed an individuals' right to possess firearms, unconnected with service in a militia, for traditionally lawful purposes, such as self-defense within the home; and

WHEREAS, the United States Supreme Court in *McDonald v. Chicago*, 561 U.S. 742 (2010), affirmed that the right of an individual to **"keep and bear arms,"** as protected under the Second Amendment, is incorporated by the Due Process Clause of the Fourteenth Amendment and is applicable to the states; and

WHEREAS, the United State Supreme Court in *United States v. Miller*, 307 U.S. 174 (1939), opined that firearms that are part of ordinary military equipment, or with use that could contribute to the common defense are protected by the Second Amendment; and

WHEREAS, Article I, Section 22 of the Rhode Island Constitution adopted in 1842, provides that **"The right of the people to keep and bear arms shall not be infringed."**; and

WHEREAS, Article I, Section 6 of the Rhode Island Constitution provides that **"The right of the people to be secure in their persons, papers and possessions, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue, but on complaint in writing, upon probable cause, supported by oath or affirmation and describing as nearly as many as may be, the place to be searched and the person or things to be seized."**; and

WHEREAS, as a matter of general principle, and in recognition of over 230 years of lawmaking under the guidance of the Constitution for the United States of America having properly established numerous laws regarding criminal use of firearms that are wholly adequate when judiciously enforced such that additional laws are unneeded, any law which upon passage renders a life-long law-abiding citizen a felon through no action of their own, is an unjustified law and should be unconstitutional under multiple amendments in the Bill of Rights; and

WHEREAS, it is the desire of the Town Council of the Town of Westerly to declare its support of the Second Amendment to the United States Constitution and to the provisions of the Rhode Island Constitution which protect the citizens of the State of Rhode Island's inalienable and individual right to keep and bear arms; and

WHEREAS, the Westerly Town Council members each took an oath to support and defend the United States Constitution, the Rhode Island Constitution, and the law of the State of Rhode Island which are not deemed unconstitutional by a court of competent jurisdiction, and the Charter of the Town of Westerly; and

WHEREAS, the Westerly Town Council members give great weight to and adhere to the belief of James Madison, Jr., the fourth President of these great United States that: "Oppressors can tyrannize only when they achieve a standing army, an enslaved press, and a disarmed populace"; and

WHEREAS, many of the bills being considered by the General Assembly would require the confiscation and storage of otherwise lawfully owned firearms, and make the Towns and Cities of Rhode Island, responsible for these costs; and

WHEREAS, the Rhode Island General Assembly, in its 2021 legislative session has pending before it numerous bills regulating and restricting the rights afforded the citizens of the State of Rhode Island through the Second Amendment to the United State's Constitution and the Constitution of the State of Rhode Island, including, but not limited to:

Senate Bill 73, the Harold Metts School Safety Act of 2021 and its companion bill, House Bill 5555, prohibiting the possession of firearms on school grounds, which prohibition extends to individuals with lawful, legitimate carry permits;

Senate Bill 129 which repeals the authority of local authorities to issue conceal carry permits to eligible individuals and repeals the right of minors to obtain carry permits; and repeals provisions allowing permits to be issued to law enforcement officers who have retired in good standing after at least twenty (20) years of service;

House Bill 5381 which would require a purchase of a firearm to execute a medical authorization for release of medical records related to substance abuse and mental health records for a period of five (5) years preceding the purchase of any firearm;

House Bill 5386 which prohibits a purchaser from purchasing a firearm for a prohibited person, a regulation already covered by federal law; and requires a specification of the number of firearms the individual is seeking to purchase;

House Bill 5553 which would require all firearms within a home to be kept in a locked container or equipped with a tamper resistant or mechanical lock;

House Bill 5554 which would ban large capacity feeding devices, i.e., those holding more than ten (10) rounds unless the owner modified the magazine so that it holds ten (10) or less rounds, surrenders the device or transfers the device to a federally license firearm dealer outside the State of Rhode Island;

House Bill 5556, the Rhode Island Assault Ban Weapon Act of 2021, would prohibit the possession of "assault weapons," defined as any shotgun that holds more than six (6) rounds or a rifle that holds more than 10 rounds. In order to be exempt, the weapon must, within twelve (12) months of the bill's passage, be registered, be rendered inoperable, be surrendered to a registered firearm dealer or police department, or be transferred to a person in another jurisdiction where such firearms are allowed. It would also require any heirs of a decedent to surrender or transfer the firearm. If registered,

the lawful owner would be required to submit fingerprints and pay a fee for registering the firearm.

NOW THEREFORE, BE IT RESOLVED: That the Town Council of the Town of Westerly hereby takes the following position on state legislation that potentially abridges our Second Amendment rights. We find and declare that these gun restriction bills, if enacted by the Rhode Island General Assembly, infringe upon the rights of the People of the Town of Westerly and the People of the State of Rhode Island to keep and bear arms. We are collectively opposed to the infringement of these rights established by our Founding Fathers; and

BE IT FURTHER RESOLVED: That these bills impose unfunded mandates upon local governments; and the Town Council of the Town of Westerly will not appropriate funds for capital construction of building space and/or the purchase of storage systems to store weapons seized, pursuant to any requirements set forth in the legislation if enacted by the General Assembly for the purpose of enforcing any law, that unconstitutionally infringes upon the rights of the People of the Town of Westerly to keep and bear arms; and

BE IT FURTHER RESOLVED: That a copy of this Resolution be forwarded to every Rhode Island Municipality, the State Senators and State Representatives representing the Town of Westerly, the Governor and the Lt. Governor respectfully requesting their support.

ADOPTED: April 12, 2021