Agenda Item #: 7A-3

PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date:	August 16, 2011	[]	Consent Workshop	[X]	Regular Public Hearing
Department:	County Attorney				•
Submitted By:	County Attorney				
Submitted For:	County Attorney				
	<u> </u>	. EXECUT	IVE BRIEF		
Motion and Title: Staff recommends motion to approve on preliminary reading and advertise for public hearing on September 13, 2011 at 9:30 a.m.: AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 28, ARTICLE 2, DIVISION 1, SECTION 28-22 OF THE PALM BEACH COUNTY CODE; PROVIDING FOR DISCHARGE OF FIREARMS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.					
Summary: The subject ordinance deletes the prohibition of discharging a firearm east of the line that was delineated in the ordinance, or west within three hundred (300) yards of any structure. This amendment is necessary due to a change in state law, which prohibits a county from adopting any ordinance, rule, or regulation relating to the regulation of firearms and ammunition. Any existing ordinances, rules, or regulations not specifically authorized by the legislature are in violation of state law and must be amended. (AH, Countywide)					
Background and Policy Issues: Chapter 2011-109 Laws of Florida, which amends Florida Statute, section 790.33, provides a preemption by the legislature that it is occupying the whole field of regulation of firearms and ammunition including the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, and transportation thereof, to the exclusion of all existing and future county, city, town, or municipal ordinances or any administrative regulations or rules adopted by local or state governments. Any such existing ordinances, rules or regulations are declared null and void. Additionally, Chapter 2011-109 Laws of Florida created penalties if any person, county, municipality, district or other entity violates the Legislature's occupation of the whole field of regulation of firearms and ammunition. Such penalties extend to elected or appointed local government officials under whose jurisdiction the violation occurred, and includes a civil fine up to \$5,000 against the elected or appointed local government official and could be cause for removal from office by the Governor. The above amendment is necessary to bring Chapter 28, Article 2, Division 1, Section 28-22 of the Palm Beach County Code into statutory compliance.					
Attachments:	Proposed ordinance.	^			

Recommended by: _

Approved by: _____N/A

Date

Date

II. FISCAL IMPACT ANALYSIS

Fiv	e Year	Summary	of Fi	scal Im	nact:
	rc icai	Ourilliar y	0111	ocai III	pact.

Fiscal Years	2011	2012	2013	2014	2015
Capital Expenditures Operating Costs External Revenues Program Income (County) In-Kind Match (County)	-0- -0- -0-	-0- -0- -0- -0-	-0- -0- -0- -0- -0-	-0- -0- -0 -0- -0-	-0- -0- -0- -0- -0-
NET FISCAL IMPACT	~0~ See bel	-0-	0	0	
# ADDITIONAL FTE POSITIONS (Cumulative)	_				
Is Item Included in Current E Budget Account No.:	Budget? Yes Fund Object	Depart Program	No Unit		

- B. Recommended Sources of Funds/Summary of Fiscal Impact:
- C. Departmental Fiscal Review:

Department Director

	III. REVIEW COMMENTS:
A .	OFMB Fiscal and/or Contract Dev. and Control Continents: * No fiscal and/or Contract Dev. and Control OFMB VA
В.	Legal Sufficiency:
	Assistant County Attorney
C.	Other Department Review:

ORDINANCE NO. 2011-____

AN ORDINANCE OF THE BOARD OF COUNTY **COMMISSIONERS** OF **PALM BEACH** COUNTY. FLORIDA, AMENDING PALM BEACH COUNTY CODE, CHAPTER 28, ARTICLE II, FIREARMS; **AMENDING DISCHARGE** SECTION 28-22. **FIREARMS**; OF PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR **INCLUSION OF** IN THE **CODE LAWS** ORDINANCES; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners has determined that Chapter 28, Article II of the Palm Beach County Code, Firearms, needs to be amended in order to comply with Chapter 2011-109 Laws of Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that: Chapter 28 of the Palm Beach County Code of Law and Ordinances, Article II, Firearms is hereby amended as follows:

Section 1.

Sec. 28-22. Discharge of firearms.

- (a) Prohibited activity: No person shall discharge a firearm east of the boundary described in Exhibit "A" attached hereto and made part of hereof. Further, no person shall discharge a firearm west of said boundary within three hundred (300) yards of any structure.
- (b) Exceptions: The prohibitions set forth in subsection (a) above shall not apply to a person lawfully defending life or property or performing official duties requiring the discharge of firearms. Further, this article shall not apply to the discharge of firearms within the confines of approved and licensed shooting ranges as provided for in article 6 of the Palm Beach County Unified Land Development Code, law enforcement agency ranges, existing commercial and private shooting ranges and gun clubs, and official hunting areas. The prohibition is also not applicable to the discharge of shotguns utilizing shot shells on land which is zoned agricultural and which has a minimum parcel size of five (5) acres so long as no discharge of firearms is conducted within three hundred (300) yards of any structure situated on another's property. Further, the discharge of blank or non lethal shells or cartridges is not prohibited by this article.

Section 2. REPEAL OF LAWS IN CONFLICT:

All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 3. SEVERABILITY:

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Section 4. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:

The provisions of this Ordinance shall become and be made a part of the Palm Beach County Code. The sections of this Ordinance may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. CAPTIONS:

The captions, section headings, and section designations used in this Ordinance are for convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

Section 6. EFFECTIVE DATE:

The provisions of this Ordinance shall become effective on filing with the Department of State.

APPROVED and ADOPTED by	the Board of County Commissioners of Palm Beach
County, Florida, on this the day of _	, 20
SHARON R. BOCK, CLERK AND COMPTROLLER	PALM BEACH COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS
By:	By: Karen T. Marcus, Chair
APPROVED AS TO FORM AND LEGAL SUFFICIENCY	
By: Owne delgand County Attorney	

Filed with the Department of State on the _____ day of _________, 20____