Agenda Item #:

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PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date:	September 13, 2011	[]	Consent Workshop	[X]	Regular Public Hearing
Department:	County Attorney				
Submitted By:	County Attorney				
Submitted For:	County Attorney				
	<u>I. E</u>	XECUT	IVE BRIEF		
Motion and Title: Staff recommends motion to adopt: AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 11, ARTICLE 11, DIVISION 1, SECTION 11-262 AND SECTION 11-271 OF THE PALM BEACH COUNTY CODE; PROVIDING FOR PROHIBITED ACTIVITIES; PROVIDING FOR PENALTIES; 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 using a firearm that is potentially inimical to wildlife and dangerous to human safety and from shooting into a natural area from beyond the boundaries of the natural area. The amendment also provides for the Groundwater Natural Resource Protection Board to enforce the provisions of the Ordinance. 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. The ordinance amendment also allows for enforcement of violations by the Groundwater and Natural Resources Protection Board or as provided in Chapter 162, Florida Statutes, Part II. (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 11, Article 11, Division 1, Section 11-262 of the Palm Beach County Code into statutory compliance. Additionally, all monies collected as a result of violations of the Ordinance shall be deposited in the county natural areas fund.					
Attachments:	Proposed ordinance.	/			
Recommended by	y:County At) \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	lum	د ====:	8 2 le 11 Date
Approved by:	N	<u>/A</u>			Data
					Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2011	2012	2013	2014	2015
Capital Expenditures	\$	0	0	0	0-
Operating Costs	0	0	<u>-0-</u>	0	<u>-0-</u>
External Revenues	0-	-0-	-0-	0	<u>-0-</u>
Program Income (County)	-0-	-0-	-0-	-0-	0- 0- 0- 0-
In-Kind Match (County)	0-	e below	-0-	0-	-0-
NET FISCAL IMPACT	~0~	<u>-0-</u>	<u>-0-</u>	0	<u>-0-</u>
# ADDITIONAL FTE					
POSITIONS (Cumulative)					
Is Item Included in Curren	t Dudget2	Voc	No		
	•	Yes	No		
Budget Account No.:	Fund Object	_ Depart _ Program	Unit		
D. Doogmanded Cours	oo of Funda	16	innel lumpante		

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

III. REVIEW COMMENTS:

A .	OFMB Fiscal and/or Contract Dev. and Control Comments: OFMB OFMB VA S 29 11 Contract Dev. and Control	3 0/1
B.	Legal Sufficiency:	
	Assistant County Altorney	

C. Other Department Review:

Department	Director	

ORDINANCE NO. 2011-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF **PALM** BEACH COUNTY. FLORIDA, AMENDING PALM BEACH COUNTY CODE, CHAPTER XI **NATURAL** ARTICLE 11, AREAS: **AMENDING SECTION** 11-262. **PROHIBITED ACTIVITIES: AMENDING SECTION** 11-271. PENALTIES; 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.

WHEREAS, the Board of County Commissioners has determined that Chapter 11, Article XI of the Palm Beach County Code, Natural Areas, Section 11-262, prohibited activities needs to be amended in order to comply with Chapter 2011-109 Laws of Florida; and

WHEREAS, the Board of County Commissioners has determined that Chapter 11, Article XI of the Palm Beach County Code, Natural Areas, Section 11-271, penalties needs to be amended in order to allow for enforcement of violations by the Groundwater and Natural Resources Protection Board or as provided in Chapter 162, Florida Statutes, Part II.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that: Chapter 11 of the Palm Beach County Code of Law and Ordinances, Article XI, Natural Areas is hereby amended as follows:

Section 1.

Sec. 11-262. Prohibited activities, is hereby amended as follows:

The following are prohibited in county-managed natural areas:

- (a) Hunting, trapping, or the possession of any kind of trapping device. Licensed hunters and trappers authorized by the county administrator or his designee to remove nuisance and exotic animals are exempt from this prohibition, as are licensed hunters authorized by the county administrator or his designee to reduce excessive populations of animals causing environmental damage in a natural area.
- (b) Use of firearms or other weapons All activities that are potentially inimical to wildlife and dangerous to human safety by persons other than authorized law enforcement personnel and persons authorized to remove nuisance and exotic animals. This prohibition includes shooting into a natural area from beyond the boundaries of the natural area.
- (c) The sale, purchase, consumption, or possession of alcoholic beverages as defined in section 561.01(4), Florida Statutes.
- (d) Use, discharge or possession of fireworks, explosives, or substances that could be combined into an explosive mixture.
- (e) Domestic animals and pets.
- (f) Placement of beehives or other apicultural practices.
- (g) Cultivation of plants.

- (h) Vehicle repair.
- (i) Use of airboats.
- (j) Loud, unnecessary noise that disturbs wildlife and produces physical discomfort or annoyance to other people.
- (k) Possession and release of inflated balloons.

Section 2.

Section 11-271. Penalties, is hereby amended as follows:

- (a) The violation of any provision of this article shall be enforced by the Groundwater Natural Resource Protection Board (GNRPB) pursuant to the procedures and penalties of F.S. Ch. 162, Local Government Code Enforcement Boards, and Article 10 of the County Unified Land Development Code, all as may be amended or recodified from time to time.
- (b) The violation of any provision of this article may also be enforced pursuant to the procedures and penalties of F.S. Ch. 162, Supplemental County or Municipal Code or Ordinance Enforcement Procedures, and shall be punishable by a fine not to exceed five hundred dollars (\$500.00).
- (c) The violation of any provision of this article may also be enforced pursuant to F.S. §125.69 and shall be punishable by a fine not to exceed five hundred dollars (\$500.00), or by imprisonment in the county jail not to exceed sixty (60) days, or by both such fine and imprisonment, or by such other penalty as may hereafter be provided in section 125.69, Florida Statutes.
- (d) In addition to the sanctions contained herein, the county may take any other appropriate legal action to enforce the provisions of this code, including, but not limited to, cease and desist orders, instituting civil action, and requesting temporary and permanent injunctions.
- (e) It is the purpose of this article to provide additional, cumulative remedies.
- (f) Each violation of this code shall constitute a separate offense and be punishable as such.
- (g) The board of county commissioners by resolution may establish fines to be imposed for violation of this article.
- (h) All monies collected as a result of violations of this article shall be deposited in the county natural areas fund.

Section 3. 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 4. 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 5. 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 6. 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 7. EFFECTIVE DATE:

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

APPROVED and ADOPTED by the	ne Board of County Commissioners of Palm Beach
County, Florida, on this the day of	
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: Onne Velgant County Attorney	

Filed with the Department of State on the _____ day of ________, 20__