


2011 OCT 11 PM 6:05

**TO:** City Manager Jorge M. Gonzalez  
**FROM:** Commissioner Jerry Libbin   
**DATE:** October 6, 2011  
**SUBJECT:** Referral to Neighborhoods/Community Affairs Committee of Draft Amendments to the City Code to Repeal All Provisions in Conflict with New Statutory Provisions Preempting the Regulation of the Firearms to the State

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Please place an item on the October 19<sup>th</sup> City Commission agenda referring to the Neighborhoods/Community Affairs Committee consideration of a proposed ordinance amending the City Code to comply with the new state law preempting the regulation of firearms to the State of Florida. Based upon prior City Attorney opinions that the City Code provisions regarding firearms were preempted by state law, the Administration was proactive in changing the City's beach "no firearms" signs prior to the enactment of the new state law. Due to the amendments to Section 790.33, Fla. Stat., the Florida legislature has now made clear that local governments are preempted from regulating firearms. (See enclosure). The new State law further provides penalties for officials and local governments that enforce any such preempted local ordinances or administrative rules or regulations.

JL/er  
Attachment

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Agenda Item C4F  
Date 10-19-11

# The Miami Herald

Posted on Fri, Sep. 30, 2011

## New state law puts bullet in local gun ordinances

By Eileen Soler  
For The Miami Herald

Heading to the beach, but hate to leave your gun behind?

That's no longer a problem — as long as you have the required permits — thanks to a new state law taking effect Saturday that punishes local municipalities that enforce their own public safety ordinances.

Now null and void: A Miami Gardens law prohibiting guns in parks; a Miramar law restricting firearms from cars parked on city property; and a law in Dania Beach making it illegal to bring guns to the beach or into the ocean.

"It's the new bring-your-gun-to-the park law," said Weston Mayor Eric Hersh during a recent commission meeting in which the city law was dissolved.

The state has had complete control over gun laws since 1987, although until now lawmakers looked the other way when local municipalities enacted their own public safety ordinances.

That changed in the most recent Legislative session, when the state law was amended to allow penalties.

"If you do not follow that regulation, you are exposed to things unheard of," City Attorney Jamie Cole warned at a recent Miramar commission meeting.

Now the state has the power to punish local government officials who continue enforcing their own firearm laws. That means if a city commissioner, city manager or even a police chief upholds a gun restriction law that differs from the state's, they can be fined personally up to \$5,000 and be fired or removed from office.

Further, a person charged with breaking a local gun law — not a state law — can take the municipality to court and be awarded damages up to \$100,000.

That left many officials smoking angry.

"It looks like we might have to pack and load," said Dania Beach Commissioner Bobbie Grace.

Since June, local governments have been scrambling during their commission meetings to repeal their own gun laws.

In some cases, amendments were made by striking through the words "guns," "firearms" and

"ammunition" in all city code. City to city, elected leaders voted yes across the board for the deletions or risk breaking the law themselves.

"I don't think this is best for our children, but we have no choice," said Hersh, the Weston mayor.

Pembroke Pines Commissioner Iris Siple called the state statute "horrible."

"All I can think of is that movie with Bill Murray running around saying 'this is crazy, this is crazy,'" Siple said.

Of all the local municipalities, Pembroke Pines' changes were among the most minimal: No longer does the police chief have the authority to issue gun permits. (Under state law, only the Department of Agriculture and Consumer Services can issue permits.) Pembroke Pines also rescinded a law that made it illegal to shoot firearms within city limits under any circumstance — think no target practice in the backyard or no shooting into the air on New Year's Eve.

Pines resident Cyril Tony said he thinks it makes sense that there be one law, statewide, so people can be sure of it from city to city.

"People move around a lot. Most people don't even know when they leave a municipality, much less its rules," Tony said.

The new statute does not loosen state laws. Florida law still prohibits shooting guns in public places, on paved roadways including highways and streets, or over occupied buildings.

Guns are also still not permitted in schools, courthouses, at government meetings, sporting events, airports or privately-owned businesses. It is still also illegal to bring a gun into a workplace — although it is legal to keep the gun stored in the parking lot.

Miami Herald reporters Gideon Grudo and Silvana Ordoñez contributed to this report.

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