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Memorandum

TO: Mayor & Commissioners
FROM: Shawn D. Smith, City Attorney
RE: State Preemption of Local Gun Control Ordinances
DATE: 25 September 2011

Mayor and Commissioners

As you may recall, the Florida Legislature passed new gun control laws last session that eviscerated local regulation of firearms. Chapter 790 of the Florida Statutes operates to regulate the entire field of firearms and ammunition, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, and transportation thereof.

Section 790.33(1), Florida Statutes, as amended last legislative session states:

"Except as expressly provided by the State Constitution or general law, the Legislature hereby declares 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 government relating thereto. Any such existing ordinances, rules, or regulations are hereby declared null and void."

As such, the City is precluded from regulating the area occupied by the State. As indicated in the prior memo to you on the subject, City legal staff has reviewed our code of ordinances in light of the state legislation. The ordinances for amendment or repeal concerning gun control before you for first reading on October 5 are intended to insure consistency with state law.

I encourage you to contact me with any questions or comments.

A handwritten signature in black ink, appearing to read "Shawn D. Smith", is written over a horizontal line.

Shawn D. Smith