

# PROPOSED

## RESOLUTION NO. 2014-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO REGULATION OF FIREARMS AND AMMUNITION; AMENDING SECTION 14.189 OF THE BROWARD COUNTY ADMINISTRATIVE CODE TO ENSURE FACIAL CONSISTENCY WITH STATE PREEMPTION OF THE REGULATION OF FIREARMS AND AMMUNITION; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE BROWARD COUNTY ADMINISTRATIVE CODE, AND AN EFFECTIVE DATE.

WHEREAS, Section 790.33, Florida Statutes, occupies the entire field of regulation of firearms, ammunition, or components thereof; and

WHEREAS, Section 790.33, Florida Statutes, declares all local government ordinances and regulations that regulate firearms, ammunition, or components thereof, null and void unless specifically authorized by general law; and

WHEREAS, Section 790.33, Florida Statutes, prohibits the future enactment of any local government ordinances or regulations relating to firearms, ammunition, or components thereof, unless specifically authorized by general law; and

WHEREAS, Broward County has not enforced local firearms and ammunition regulations where preempted by state law; and

WHEREAS, on June 2, 2011, an amended version of Section 790.33, Florida Statutes, was signed into law; and

WHEREAS, the amended version of Section 790.33, Florida Statutes, became effective on October 1, 2011; and

WHEREAS, Section 790.33, Florida Statutes, as amended, imposes penalties for the enactment or enforcement of local ordinances, administrative rules, and

1 regulations that impinge on state law's occupation of the field of regulation of firearms,  
2 ammunition, or components thereof; and

3 WHEREAS, in response to the amended version of Section 790.33, Florida  
4 Statutes, Palm Beach County initiated an action for declaratory and injunctive relief on  
5 December 6, 2011, challenging the amended statute (the "Declaratory Judgment  
6 Action"); and

7 WHEREAS, on February 6, 2012, the County, at the direction of this Board,  
8 moved to intervene in the Declaratory Judgment Action; and

9 WHEREAS, on October 10, 2012, the Second Judicial Circuit Court in and for  
10 Leon County, Florida, issued an Order dismissing the Declaratory Judgment Action in  
11 part, and Palm Beach County appealed that Order; and

12 WHEREAS, on June 27, 2013, the Second Judicial Circuit Order was affirmed by  
13 the First District Court of Appeal; and

14 WHEREAS, the remaining issues in the Declaratory Judgment Action do not  
15 involve the validity of the state's express statutory preemption of the field of firearms,  
16 ammunition, and components thereof, but instead only the penalties for improper local  
17 enactments; and

18 WHEREAS, certain litigation was filed in state court on May 2, 2014, challenging  
19 Broward County's existing firearms and ammunition regulations, notwithstanding that  
20 these regulations were previously declared null and void and have not been  
21 enforced; and

22 WHEREAS, the Board of County Commissioners has determined that  
23 Section 14.189 of the Administrative Code should now be amended, as appropriate, to  
24 ensure facial consistency with the statutory preemption, NOW, THEREFORE,

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underscored type are additions.



1 BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF  
2 BROWARD COUNTY, FLORIDA:

3  
4 Section 1. Section 14.189, Broward County Administrative Code, "Reasons for  
5 Disciplinary Action," is hereby amended to read as follows:

6 **14.189. Reasons for Disciplinary Action.**

7 a. Disciplinary action may be taken for any one (1) or more of the following:

8 ...

9 19. Possession, use, or threat of use, of deadly weapons, ~~including all~~  
10 ~~firearms in or on County property, unless carrying such weapons is~~ except  
11 to the extent preempted by Chapter 790, Florida Statutes, or where such  
12 possession or use is otherwise a necessary or approved requirement of  
13 the job.

14 ...

15 Section 2. SEVERABILITY.

16 If any portion of this Resolution is determined by any Court to be invalid, the  
17 invalid portion shall be stricken, and such striking shall not affect the validity of the  
18 remainder of this Resolution. If any Court determines that this Resolution, or any  
19 portion hereof, cannot be legally applied to any individual(s), group(s), entity(ies),  
20 property(ies), or circumstance(s), such determination shall not affect the applicability  
21 hereof to any other individual, group, entity, property, or circumstance.

22 Section 3. INCLUSION IN THE ADMINISTRATIVE CODE.

23 It is the intention of the Board of County Commissioners that the provisions of  
24 this Resolution shall become and be made a part of the Broward County Administrative

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1 Code; and that the sections of this Resolution be renumbered or relettered and the word  
2 "resolution" may be changed to "section," "article," or such other appropriate word or  
3 phrase in order to accomplish such intentions.

4 Section 4. EFFECTIVE DATE.

5 This Resolution shall become effective upon adoption.

6  
7 ADOPTED this day of , 2014.  
8  
9

10  
11  
12 Approved as to form and legal sufficiency:  
Joni Armstrong Coffey, County Attorney

13  
14 By /s/Tricia D. Brissett 05/08/14  
15 Tricia D. Brissett (date)  
16 Assistant County Attorney  
17  
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19 **PROPOSED**  
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23 TDB/mm  
05/08/14  
24 Regulation of Firearms AdminCodeReso.doc  
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