ORDINANCE NO. 11-45

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA; REPEALING AND RESCINDING HIALEAH CODE § 58-11 ENTITLED "WEAPONS-DISCHARGING IN GENERAL" AND HIALEAH CODE § 62-10 ENTITLED "HUNTING AND FIREARMS"; ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature recently adopted legislation imposing civil penalties on governments, elected officials or staff that adopt policies or take enforcement action that would violate the state law preemption of firearms and ammunition regulation; and

WHEREAS, under current law, section 790.33, Florida Statutes, the State of Florida has preemption the whole field of regulation of firearms and ammunition to the exclusion of any municipal ordinances, regulations or rules; and

WHEREAS, the City of Hialeah, in order to avoid any future civil penalties and to further comply with state preemption, finds it necessary to repeal two Hialeah Code provisions involving hunting and the discharge of firearms.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The City Council of the City of Hialeah hereby repeals and rescinds Hialeah Code § 58-11 entitled "Weapons—Discharging in General" in its entirety.

Section 2: The City Council of the City of Hialeah hereby repeals and rescinds Hialeah Code § 62-10 entitled "Hunting and Firearms" in its entirety.

Section 3: **Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: **Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed $500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty described above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 5: **Severability Clause.**

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: **Effective Date.**

This ordinance shall become effective when passed by the City council and signed by the Mayor or after the next regularly scheduled City Council meeting if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 26th day of July, 2011.

THE FOREGOING ORDINANCE OF THE CITY OF HIALEAH WAS PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF FLORIDA STATUTE 166.041 PRIOR TO FINAL READING.

Isis Garcia-Martinez
Council Vice President

Attest:

Approved on this ___ day of _____, 2011.

David Concepcion, Acting City Clerk

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

William M. Grodnick, City Attorney

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Ordinance was adopted by a 6-0 vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Hernandez and Yedra voting "Yes", Councilmember Gonzalez absent.