

Town of Grant-Valkaria, Florida

ORDINANCE NO. 2011-10

AN ORDINANCE OF THE TOWN OF GRANT-VALKARIA, BREVARD COUNTY, FLORIDA RELATING TO FIREARMS REGULATIONS; REPEALING PROVISIONS OF THE TOWN'S CODE OF ORDINANCES INCONSISTENT WITH 2011-109, LAWS OF FLORIDA; REPEALING PORTIONS OF SECTIONS 78-76, 78-115, 238-1, AND 62-2271 OF THE BREVARD COUNTY CODE OF ORDINANCES AS ADOPTED BY THE TOWN; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WITNESSETH:

WHEREAS, the Town's Charter provides, in part, that "*...all codes and ordinances... of Brevard County in effect on the day of adoption of this Charter shall... remain in force and effect as municipal codes, ordinances... of the town; and*

WHEREAS, at the time of adoption of the Town's Charter, Sections 78-76, 78-115, 238-1, and 62-2271 were and continue to be in effect in the Town; and

WHEREAS, the Florida Legislature adopted 2011-109, Laws of Florida, effective October 1, 2011 preempting local governments from enacting or causing to be enforced any local ordinance or administrative rule or regulation impinging upon the exclusive occupation of the field of firearms and ammunition regulation; and

WHEREAS, such legislation imposes severe penalties upon a local government and local officials for enacting or causing to be enforced any local ordinance or administrative rule or regulation prohibited by 2011-109, Laws of Florida; and

WHEREAS, the Town Council desires to comply with the provisions of 2011-109, Laws of Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF GRANT-VALKARIA, BREVARD COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. In accordance with the Charter of the Town of Grant-Valkaria the Town Council hereby repeals sections 78-76, 78-115, 238-1, and 62-2271 (a) (2) i Brevard County Code of Ordinances as adopted by the Town in effect on the date of the adoption of the Town's Charter to read as follows:

Sec. 78-76. - Definitions.

Firearm shall mean any weapon (including a starter gun) which will, is designed to, or may readily be converted to expel a projectile; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any machine gun, air gun, sling or slingshot.

Weapon shall mean any dirk, metallic knuckles, slingshot, billie, tear gas gun, chemical weapon or device, any deadly weapon other than a common pocketknife, or any item, object or instrument wielded with an intent to do or threaten bodily injury of physical harm. This definition shall not include any matter preempted as provided for in 2011-109, Laws of Florida.”

“Sec. 78-115. - Firearms, Fireworks, weapons.

No person shall carry, fire or discharge any weapon ~~or firearm~~ or any rocket, torpedo or fireworks of any description in any park, recreational facility or department managed lands without a permit from the department except in areas designated for such purpose. Nothing herein is intended to regulate any matter preempted by 2011-109, Laws of Florida”

“Sec. 238-1. - Discharge of firearms upon highways prohibited.

~~(a) It shall be unlawful for any person to discharge or cause to be discharged any shotgun, rifle, pistol or revolver from, upon, across or within 100 feet of either side of the center line of any federal, state or county highway in Brevard County located in county commissioner district number 2. On and after the effective date of this section, the same shall be enforced in the same manner as other violations of the penal statutes are enforced and by the same peace officers. This section shall not apply to any person discharging any rifle, pistol or revolver while standing within the immediate curtilage of his residence, nor shall it apply to any law enforcement officer in the discharge of his duty; nor to any person acting in self defense, nor to any person who is a member of or in any way connected with any branch of the Armed Forces of the United States while in the discharge of any services or duties in connection with the national defense.~~

~~(b) In the event the board of county commissioners shall fail to pass the necessary resolution to put this section into effect, it shall then be mandatory for the board to adopt such resolution provided a petition is filed with the board signed by at least ten percent of the qualified electors who are freeholders and reside within county commissioner district number 2, requesting the board to call a special election to be held in the district on a date fixed by the board, which date can be on the same date that any primary, general or other special election is held in the district. Such special election shall be conducted in the same manner as is provided by law for holding special elections in the state of Florida. If a majority of the votes cast in the special election shall be in favor of this section becoming effective, then it shall be the duty of the board of county commissioners to adopt its resolution as provided herein. All qualified electors who, on said date, are qualified to vote in any primary, general or special election and who are freeholders shall be qualified to vote in the special election.~~

~~(c) This section shall become a law immediately upon its passage and approval by the governor, or by becoming a law without such approval by the governor, and it shall take effect immediately after the board of county commissioners of Brevard County has adopted an appropriate resolution naming the highways in county commissioner district number 2, on which the discharge of any shotgun, rifle, pistol or revolver from, upon, across or within 100 feet on either side of the center line thereof is prohibited and by posting notice that by provision of this section it is unlawful to discharge any shotgun, rifle, pistol or revolver from, upon, across or within either side of the center line of any highway where the discharge of firearms is prohibited by this section. Three notices posted along the edge of the right-of-way lines of any~~

of said highways where the same are clearly visible to the general public shall be sufficient to comply with the terms of this section.

~~(d) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$100.00 or by imprisonment in the county jail for a term not to exceed 60 days, or by both such fine and imprisonment.~~

Sec. 62-2271. - Noise.

(2) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, unless the context clearly indicates a different meaning:

i. *Impulsive sound* shall mean a sound of short duration, usually less than one second and of high intensity, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include pile drivers, drop forge impacts, ~~the discharge of firearms~~, the barking of dogs, and the beating of drums. Nothing herein is intended to regulate any matter preempted by 2011-109, Laws of Florida.

SECTION 2. Severability.

In the event a court of competent jurisdiction shall hold or determine any or part of this ordinance invalid or unconstitutional, the remainder of this ordinance shall not be affected.

SECTION 3. Effective Date.

This ordinance shall take effect in accordance with the Town Charter; provided however the effective date shall be no sooner than October 1, 2011.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF GRANT-VALKARIA, BREVARD COUNTY, FLORIDA, ON THIS 14th DAY OF SEPTEMBER, 2011.

(Signature on File)

Del Yonts, Mayor

ATTEST:
(Signature on File)

Jessica Williams,CMC, IIMC
Deputy Town Clerk

First Reading: August 24, 2011
Second Reading: September 14, 2011

Roll Call Vote:	Del Yonts	<u>AYE</u>	Dan Faden	<u>Absent</u>
	Joe Hackford	<u>AYE</u>	Jason Mahaney	<u>AYE</u>
	Lisette Kolar	<u>AYE</u>	Pat Bryan	<u>AYE</u>
	Cathy DeMott	<u>AYE</u>		