

ORDINANCE NO. 2858-11

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, REPEALING SECTIONS 62-51 AND 62-53 OF THE CITY CODE, AND AMENDING SECTION 62-52 OF THE CODE, AS REQUIRED BY CHAPTER 2011-109, LAWS OF FLORIDA; PROVIDING FOR REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, in the 2011 Legislature, the State preempted all local regulations concerning firearms and ammunition; and

WHEREAS, the preemption is expressly provided for in Chapter 2011-109, Laws of Florida (House Bill 45); and

WHEREAS, the express preemption by the State provides for penalties in the event of local regulations of ammunition or firearms; and

WHEREAS, the courts of Florida have consistently allowed the State to expressly preempt by statute certain matters that might otherwise properly be the subject of local regulation; and

WHEREAS, Chapter 2011-109 does not preempt, amend or repeal the authority of local government as provided in Section 823.16(7), Florida Statutes, to regulate the location and construction of shooting ranges; and

WHEREAS, the law expressly exempts from the preemption zoning regulations, except for zoning regulations that are designed to restrict or prohibit the sale, purchase, transfer or manufacture of firearms or ammunition, or where the zoning regulation in effect is a method of regulating firearms and ammunition as opposed to being a bona fide zoning regulation; and

WHEREAS, the City shall preserve to the fullest extent allowed by the law, including Section 823.16(7), the authority to engage in appropriate zoning in the interest of the City and its residents, including the authority in Section 823.16(7), Florida Statutes to regulate the location and construction of shooting ranges.

NOW, THEREFORE, the City Commission of the City of Winter Park, Florida, hereby ordains as follows:

Section 1. Recitals. The recitals set forth above are hereby adopted and incorporated herein by reference as legislative findings and a statement of the intent and purpose of the City Commission of the City of Winter Park.

Section 2. Repeal of Sections 62-51 and 62-53 of the City Code. Sections 62-51 and 62-53 of the Code of Ordinances, City of Winter Park, Florida, are hereby repealed in their entirety.

Section 3. Amendment of Section 62-52 of the City Code. Section 62-52 is amended as follows:

Sec. 62-52. - Same—Airguns, slingshots.

It shall be unlawful for any person to discharge any airgun, slingshot or slungshot within the corporate limits of the city. The provisions of Chapter 2011-109, Laws of Florida, are hereby expressly acknowledged, and the State has preempted all regulations concerning firearms and ammunition. Therefore, no interpretation of this Section, 62-52, shall be permitted or applied that regulates any firearm or ammunition.

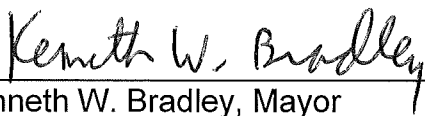
Section 4. Repeal of Prior Inconsistent Ordinances and Resolutions. All prior inconsistent Ordinances and Resolutions adopted by the City Commission or parts thereof in conflict herewith, are hereby repealed to the extent of the conflict.

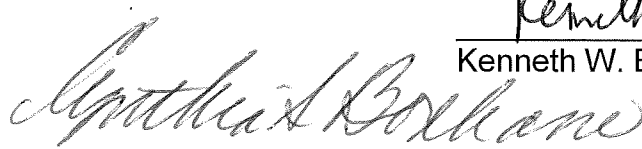
Section 5. Sections 2 and 3 hereof, which provide for repeal of Code Sections 62-51 and 62-53 and amendment to Section 62-52, shall be codified in the City Code as specified therein. Any section, paragraph number, letter or heading within the Code may be changed or modified as necessary to effectuate the codification. Grammatical, typographical and similar or like errors may be corrected in the Code, and additions, alterations, and omissions not affecting a material substantive change in the construction or meaning of this Ordinance may be freely made.

Section 6. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 7. Effective Date. This Ordinance shall become effective immediately upon adoption by the City Commission of the City of Winter Park, Florida at second reading.

ADOPTED by the City Commission of the City of Winter Park, Florida, in a regular meeting held on the 10th day of October, 2011.


Kenneth W. Bradley, Mayor

Attest: 
Cynthia S. Bonham, City Clerk