APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS

OCT 1 8 2011 NP/CMS

EFFECTIVE DATE
OCT 3 1 2011

ORDINANCE NO. 2011-13

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA, AMENDING OR REPEALING CERTAIN ORDINANCES RELATING TO FIREARMS, AMMUNITION AND COMPONENTS OF FIREARMS AS REQUIRED BY HOUSE BILL 45 (2011) AMENDING SECTION 790.33, FLORIDA STATUTES; DECLARING A STATEMENT OF COUNTY INTENT TO COMPLY WITH THE REFERENCED STATE LAW; AMENDING SECTION 2-305(b)(1)a. (ARTICLE IX) OF THE ORANGE COUNTY CODE (CODE) DEALING WITH EMERGENCY MANAGEMENT, ELIMINATING THE AUTHORITY OF THE COUNTY DIRECTOR OF EMERGENCY MANAGEMENT TO PROHIBIT OR REGULATE SALES OF FIREARMS AND AMMUNITION IN DECLARED EMERGENCIES; REPEALING SECTIONS 26-91 THROUGH 26-98 OF THE CODE DEALING WITH A THREE DAY WAITING PERIOD FOR THE PURCHASE OF A HANDGUN; REPEALING SECTION 38-1423, OF THE CODE DEALING WITH SHOOTING GALLERIES AND FIREARM SALES IN THE TOURIST DISTRICT; AMENDING SECTION 38-77 OF THE CODE ENTITLED "USE TABLE" BY DELETING REFERENCES TO SECTION 38-1423; AMENDING SECTION 38-79, OF THE CODE, RELATING TO ZONING CONDITIONS FOR PERMITTED USES AND SPECIAL EXCEPTIONS BY DELETING REFERENCE TO SECTION 38-1423; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature amended Section 790.33, Florida Statutes to preempt the regulation of firearms, ammunition and components thereof (hereafter "state law preemption"); and

WHEREAS, certain County ordinances could be perceived as in violation of the state law preemption; and

WHEREAS, certain resolutions, rules and regulations of the County could be perceived to be in violation of the state law preemption; and

WHEREAS, it is the purpose of this ordinance to amend specified provisions of the Orange County Code to avoid conflict with the state law preemption; and

WHEREAS, it is the intention of this Board to express the intent that resolutions, rules and regulations in conflict with the state law preemption as defined by the County Administration and the County Attorney's Office are hereby superseded and will not be enforced so to avoid conflict with the state law preemption.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS AS FOLLOWS:

Section 1. ***Intent.*** It is hereby declared to be the intent of the Board of County Commissioners of Orange County, Florida to avoid enforcement of County ordinances, rules and regulations in a manner that could be construed as in violation of the state law preemption. To that end, certain ordinances are specifically repealed by this ordinance. Resolutions, rules and regulations of County government that could be in violation of the state law preemption are hereby superseded by this ordinance and will not be enforced in such a way as to violate the state law preemption. The County Administrator and the County Attorney are authorized and assigned the task of reviewing County resolutions, rules and regulations and modifying same, provided, however, that before formal modification of these resolutions, rules and regulations, said provisions shall not be enforced in Orange County if declared to be in conflict with the state law preemption.

Section 2. ***Emergency Management.*** The provisions of Section 2-305 dealing with emergency management powers are hereby amended to deleted reference to restriction on the purchase, sale, transfer or possession of firearms by amending Section 2-305(b)(1)a. The amended section shall read as follows, with additions being shown by underlines and deletions being shown by strike-throughs:

Sec. 2-305. Emergency management powers of director of emergency management.

(a) *Evacuation.* Upon declaration of a state of local emergency, the director of emergency management has the power and authority to direct and compel the evacuation of all or part of the population from the stricken or threatened area within the county if the director deems this action necessary for the preservation of life or other emergency mitigation, response or recovery.

(b) *Restrictions.*

(1) During the existence of a state of local emergency, the director of emergency management has the power and authority to impose by executive order any or all of the following restrictions:

a. Prohibit or regulate the purchase, sale, transfer or possession of explosives, combustibles, ~~firearms~~, dangerous weapons of any kind, other than firearms, or alcoholic beverages.

* * *

Section 3. Handgun Purchase Waiting Period. To comply with the state law preemption, Article V, Division 2, Chapter 26, consisting of Sections 26.91 through 26.98 of the Orange County Code entitled "Handgun Purchase Waiting Period" are hereby repealed in their entirety.

Section 4. Shooting galleries and firearm sales in tourist district. In order to comply with the state law preemption regarding shooting galleries and firearm sales in the tourist district, Section 38-1423 of the Orange County Code is hereby repealed in its entirety as of the effective date of this ordinance.

Section 5. Zoning Map Use Tables. In order to comply with the firearms regulation and the state law preemption, Section 38-77 entitled "Use Table" is amended twice to read as shown on Appendix "A," attached hereto and incorporated herein by this reference, once at the line entitled "Indoor gun ranges, shooting galleries and ranges," and once at the line entitled

"Outdoor gun ranges/private cubs, shooting galleries and ranges, by deleting reference to note number 136, which incorporated into the Use Table reference to Section 38-1423 of the Orange County Code, which is also being repealed by this ordinance. Except as specifically shown thereon, Section 38-77 shall remain unchanged.

Section 6. ***Conditions for permitted uses and special exceptions.*** The provisions of Section 38-79 are hereby amended to delete reference subsection number (136). Section 38-79 contains 156 numbered conditions related to zoning permits and special exceptions. One such condition, Condition number 136, is repealed by this Ordinance. The amended section shall read as written, except that condition number 136 is repealed as shown below, with deletions being shown by strike-throughs:

Section 38-79. Conditions for permitted uses and special exceptions.

* * *

~~(136) Shooting galleries, shooting ranges, firearms sales and rental, gun ranges and gun clubs shall be in accordance with section 38-1423 of this chapter.~~

All other Conditions for permitted uses and special exceptions, except as specifically shown above, shall remain unchanged.

* * *

Section 7. ***Severability.*** If any word, phrase, sentence or section of this ordinance is stricken by a court of competent jurisdiction, the balance of the ordinance shall remain in full force and effect.

Section 8. ***Effective date.*** This ordinance shall become effective as provided by general law.

ADOPTED THIS _____ DAY OF OCT 18 2011, 2011.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: _____
Teresa Jacobs
County Mayor

ATTEST: Martha O. Hayne, County Comptroller
As Clerk of the Board of County Commissioners

By: _____
Deputy Clerk

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APPENDEX "A"

§ 33-77 Orange County Code

Uses Per Zoning Code	SIC Group	Land Use	A-1	A-2	A-R	RCE-5	RCE-2	RCE	R-1AAAA	R-1AAA	R-1AA	R-1A	R-1	R-2	R-3	Cluster	RT	RT-1	RT-2	P-O	C-1	C-2	C-3	I-1A	I-1, I-5	I-2, I-3	I-4	U-V (see 29)	R-L-D	UR-3	NC	NAC	NR	Conditions
* * *																																		
Indoor gun ranges, shooting galleries and ranges	7997	Membership Sports & Recreation Clubs (Indoor uses)	~~136~~ S	~~136~~ S																		P	P	~~136~~ P	~~136~~ P	~~136~~ P	~~136~~ P							
* * *																																		
Outdoor gun ranges/private clubs, shooting galleries and ranges	7997	Membership Sports & Recreation Clubs (Outdoor uses)	~~136~~ S	~~136~~ S																					~~136~~ P	~~136~~ P	~~136~~ P							*