



February 14, 2014

Lenoir County Board of Commissioners  
Post Office Box 3289  
Kinston, NC 28502  
Attn: Mr. Craig Hill, Chairman

Dear Commissioner Hill:

I recently received a copy of your proposed "Ordinance Regulating The Possession Of Deadly Weapons On County Property, and I write to inform you the ordinance is a blatant violation of North Carolina law which, if implemented, will cause my organization to recruit Lenoir County plaintiffs and file litigation.

Specifically, the proposed ordinance claims a county's right to regulate weapons, including concealed handguns carried with a permit issued under Article 54B of Chapter 14 of the North Carolina General Statutes, not only in county owned buildings and appurtenant premises, but also in county parks.

However, in its 2011-2012 Session, the North Carolina General Assembly passed House Bill 650 (S.L. 2011-268), which **restricted the ability of local governments to prohibit the lawful carry of concealed handguns in parks** to a limited number of "recreational facilities." In 2013, the legislature passed House Bill 937 (S.L. 2013-369), which further narrowed the definition of recreational facilities.

The ordinance's claim to power to regulated concealed handguns under § 153A-121 as "detrimental to the health, safety, or welfare of its citizens" is fallacious for many reasons, but foremost:

- 1) Although the ordinance correctly notes that § 14-409.40(f), our statewide firearms preemption law, exempts nine statutes under which local governments may still regulate firearms, it seems blissfully unaware that **§ 153A-121 is not one of the nine exempted statutes.**
- 2) The ordinance fails to acknowledge § 14-415.23 ("Statewide uniformity") contained in Article 54B ("Concealed Handgun Permit") which says:

*(a) It is the intent of the General Assembly to prescribe a uniform system for the regulation of legally carrying a concealed handgun. To insure uniformity, no political subdivisions, boards, or agencies of the State nor any county, city, municipality, municipal corporation, town, township, village, nor any department or agency thereof, may enact ordinances, rules, or regulations concerning legally carrying a concealed handgun. A unit of local government may adopt an ordinance to permit the posting of a prohibition against carrying a concealed handgun, in accordance with G.S. 14-415.11(c), on local government buildings and their appurtenant premises.*

*(b) A unit of local government may adopt an ordinance to prohibit, by posting, the carrying of a concealed handgun on municipal and county recreational facilities that are specifically identified by the unit of local government. If a unit of local government adopts such an ordinance with regard to recreational facilities, then the concealed handgun permittee may, nevertheless, secure the handgun in a locked vehicle within the trunk, glove box, or other enclosed compartment or area within or on the motor vehicle.*

*(c) For purposes of this section, the term "recreational facilities" includes only the following:*

- (1) *An athletic field, including any appurtenant facilities such as restrooms, during an organized athletic event if the field had been scheduled for use with the municipality or county office responsible for operation of the park or recreational area.*
- (2) *A swimming pool, including any appurtenant facilities used for dressing, storage of personal items, or other uses relating to the swimming pool.*
- (3) *A facility used for athletic events, including, but not limited to, a gymnasium.*
- (d) *For the purposes of this section, the term "recreational facilities" does not include any greenway, designated biking or walking path, an area that is customarily used as a walkway or bike path although not specifically designated for such use, open areas or fields where athletic events may occur unless the area qualifies as an "athletic field" pursuant to subdivision (1) of subsection (c) of this section, and any other area that is not specifically described in subsection (c) of this section. (1995, c. 398, s. 1; 2011-268, s. 21(b); 2013-369, s. 6.)*

The operant principle is "*Expressio unius est exclusio alterius*" ("the express mention of one thing excludes all others"). When a statute, by express language, preempts all county and municipal ordinances on a topic, except for an enumerated list, only the statutes on that list are exempt. All else is preempted.

Even if it weren't preempted, since the Sheriff of Lenoir County issues concealed handgun permits, pursuant to the law of the State of North Carolina, it is legally impossible that the carrying of a handgun pursuant to that permit is an act "detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the county," and no judge will rule that it is, particularly with clear North Carolina Supreme Court case law directly on point.

That decision, in *State vs. Robert S. Huntly*, concluded: "*...it is to be remembered that the carrying of a gun per se constitutes no offence. For any lawful purpose-either of business or amusement-the citizen is at perfect liberty to carry his gun.*"

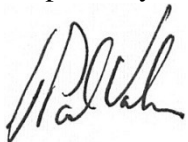
Recently, the City of Winston-Salem refused to obey state law until GRNC's sister organization, Rights Watch International, initiated legal action. The city has recently conceded and is in the process of correcting their signage. Other North Carolina cities which have removed "no firearms" signs from parks under penalty of litigation include Asheville, Blowing Rock, Greensboro, Kernersville, Morrisville, and Wilmington. A number of more enlightened cities, including Charlotte and Hickory, elected to impose no restrictions whatsoever on lawful carry of concealed handguns in parks.

Lenoir County is in the process of making the same mistake Winston-Salem made by refusing to comply with state law. GRNC cannot and will not allow the county's non-compliance to go unchallenged.

Accordingly, I strongly urge you to shelve the ordinance in question, not only to avoid wasting taxpayer money on litigation you cannot win, but to preserve whatever modicum of citizens' respect the Commission might still claim.

If I can answer questions or be of help in any way, please contact me at [President@GRNC.org](mailto:President@GRNC.org) or (704) 907-9206.

Respectfully,



F. Paul Valone  
President, Grass Roots North Carolina  
Executive Director, Rights Watch International